

PREVAILING WAGE ADVISORY

December 1, 2009

Recent Legislation Aimed at Enhancing Compliance with the Prevailing Wage Act

Two separate prevailing wage laws, aimed at clarifying what work is covered and how contractors are to be notified that projects are subject to prevailing wage requirements, become effective **January 1, 2010**.

House Bill 163 (Public Act 96-0437) was enacted in order to enhance the notice requirements under the Prevailing Wage Act. Among the new notice requirements, Public Act 96-0437 requires public bodies awarding contracts to provide the contractor with written notice on the purchase order or other separate document that the project is subject to the Prevailing Wage Act when a public works project is awarded without a public bid, contract or project specification. **In addition, public bodies that fail to provide proper written notification to a contractor that a project is subject to the Act will be held financially responsible for any interest, penalties or fines. Similarly, contractors that fail to notify their subcontractors that a project is subject to prevailing wage requirements will be held responsible for any interest, penalties or fines.** However, regardless of whether they were properly notified, contractors that fail to pay the proper wages to their workers are still responsible for all back wages owed to those workers. The consequence of failure to notify applies to work performed pursuant to bids, contracts, purchase orders, or project specifications issued or entered into on or after January 1, 2010.

The following is an example of a statement that public bodies may wish to include in their contracts, purchase orders or bids in order to provide proper written notification as required under Public Act 96-0437:

This contract calls for the construction of a “public work,” within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 *et seq.* (“the Act”). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the “prevailing rate of wages” (hourly cash wages plus fringe benefits) in the county where the work is performed. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor’s website at: <http://www.state.il.us/agency/idol/rates/rates.HTM>. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, *including but not limited to*, all wage, notice and record keeping duties.

In addition, **Senate Bill 223 (Public Act 96-0058)** was enacted in order to clarify that “public works” includes all projects funded in whole or in part through **bonds, grants, loans or other funds made available by or through the State or any of its political subdivisions**. These political subdivisions include municipalities, counties and state agencies, such as the Illinois Finance Authority, the Illinois Housing Development Authority and regional economic development authorities.

For more information, please visit our website at: www.state.il.us/agency/idol/.