Prevailing Wage and the DGLVR Program

If you are reading this, then you are successfully seeing the webinar video.

Use Chat box to ask Questions

Please use phone for audio today:
866-823-7699

We will have a guest speaker who will be on phone audio only.
(please mute your line until you need to speak to reduce background noise)
Steve Bloser, CDGRS

Guest Prevailing Wage Expert:
Holly Fishel, PSATS
Director of Research and Policy Development
Pennsylvania State Association of Township Supervisors
hfishel@psats.org

Please dial in to listen: 866-823-7699
We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
• $25K PW threshold explained
• PW in the DGLVR Program
• Q&A and Discussion
  • Pre-submitted Questions
  • Live Q&A

Please dial in to listen: 866-823-7699
We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
• What is Prevailing Wage?

– The prevailing wage rate is defined as the average wage paid to similarly employed workers in a specific occupation in the area of intended employment.

– In many rural areas, the PW rate is higher than standard rates for labor.

Please dial in to listen: 866-823-7699

We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
Prevailing Wage Threshold:

- Based on total project value.
- Has been $25,000 for 50+ years.
- 2013 Transportation bill raised threshold to $100K for some transportation projects.
- DGLVR Project threshold remains at $25,000.
  - Why???

Please dial in to listen: 866-823-7699
We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
Act 89 of 2013

Section 40.5. Title 75 is amended by adding a section to read: § 9023. Application of Prevailing Wage Act to locally funded highway and bridge projects.

(a) Public work.--For locally funded highway and bridge projects, the term "public work" as used in the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, shall mean construction, reconstruction, demolition, alteration and repair work, other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body if the estimated cost of the total project is in excess of $100,000. The term shall not include work performed under a rehabilitation or manpower training program.

(b) Applicability.--This section shall apply to a contract entered on or after the effective date of this section.

(c) Definition.--As used in this section, the term "locally funded" means a highway or bridge project that is funded entirely by funds:

1. paid to counties under section 9010(b) (relating to disposition and use of tax), including borrowed funds under section 9010(b)(2)(b), whether expended by the county or allocated or apportioned to political subdivisions;

2. allocated or appropriated to municipalities under the act of June 1, 1956 (1955 P.L.1944, No.555), referred to as the Liquid Fuels Tax Municipal Allocation Law;

3. made available to municipalities from the Highway Bridge Improvement Restricted Account within the Motor License Fund for expenditure on bridge rehabilitation, replacement and removal projects pursuant to the act of December 8, 1982 (P.L.848, No.235), known as the Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983, and its supplements;

4. awarded to municipalities as transportation enhancement grants under section 3116 (relating to automated red light enforcement systems in first class cities) or 3117 (relating to automated red light enforcement systems in certain municipalities);

5. allocated from municipal budgetary sources using revenues derived through municipal taxes or fees; or

6. allocated to municipalities under 58 Pa.C.S. (relating to oil and gas).
Act 89 of 2013

- Raises PW threshold to $100,000.
Act 89 of 2013

- Raises PW threshold to $100,000.
- **BUT**, defines six funding sources the change applies to.

Section 40.5. Title 75 is amended by adding a section to read:
§ 9023. Application of Prevailing Wage Act to locally funded highway and bridge projects.

(a) Public work.—For *locally funded* highway and bridge projects, the term "public work" as used in the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, shall mean construction, reconstruction, demolition, alteration and repair work, other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body if the estimated cost of the total project is in excess of $100,000. The term shall not include work performed under a rehabilitation or manpower training program.

(b) Applicability.—This section shall apply to a contract entered on or after the effective date of this section.

(c) Definition.—As used in this section, the term "locally funded" means a highway or bridge project that is funded entirely by funds:

1. paid to counties under section 9010(b) (relating to disposition and use of tax), including borrowed funds under section 9010(b)(2)(ii), whether expended by the county or allocated or apportioned to political subdivisions;
2. allocated or appropriated to municipalities under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law;
3. made available to municipalities from the Highway Bridge Improvement Restricted Account within the Motor License Fund for expenditure on bridge rehabilitation, replacement and removal projects pursuant to the act of December 8, 1982 (P.L.848, No.235), known as the Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983, and its supplements;
4. awarded to municipalities as transportation enhancement grants under section 3116 (relating to automated red light enforcement systems in first class cities) or 3117 (relating to automated red light enforcement systems in certain municipalities);
5. allocated from municipal budgetary sources using revenues derived through municipal taxes or fees; or
6. allocated to municipalities under 58 Pa.C.S. (relating to oil and gas).
Act 89 of 2013

- Raises PW threshold to $100,000.
- **BUT**, defines six funding sources the change applies to.
- Sine DGLVR funding source is not listed, legal interpretation is that it does not apply: **DGLVR Prevailing wage threshold remains at $25,000**

Section 40.5. Title 75 is amended by adding a section to read: § 9023. Application of Prevailing Wage Act to locally funded highway and bridge projects.

(a) Public work.--For **locally funded** highway and bridge projects, the term "public work" as used in the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, shall mean construction, reconstruction, demolition, alteration and repair work, other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body if the estimated cost of the total project is in excess of $100,000. The term shall not include work performed under a rehabilitation or manpower training program.

(b) Applicability.--This section shall apply to a contract entered on or after the effective date of this section.

(c) Definition.--As used in this section, the term "**locally funded**" means a highway or bridge project that is funded entirely by funds:

1. paid to counties under section 9010(b) (relating to disposition and use of tax), including borrowed funds under section 9010(b)(2)(ii), whether expended by the county or allocated or apportioned to political subdivisions;
2. allocated or appropriated to municipalities under the act of June 1, 1956 (1955 P.L.194, No.555), referred to as the Liquid Fuels Tax Municipal Allocation Law;
3. made available to municipalities from the Highway Bridge Improvement Restricted Account within the Motor License Fund for expenditure on bridge rehabilitation, replacement and removal projects pursuant to the act of December 8, 1982 (P.L.848, No.235), known as the Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983, and its supplements;
4. awarded to municipalities as transportation enhancement grants under section 3116 (relating to automated red light enforcement systems in first class cities) or 3117 (relating to automated red light enforcement systems in certain municipalities);
5. allocated from municipal budgetary sources using revenues derived through municipal taxes or fees; or
6. allocated to municipalities under 58 Pa.C.S. (relating to oil and gas).
- You will still pushback from local sources who think it is $100,000.
- Document available to explain (link at end)

Prevailing Wage and the PA Dirt, Gravel, and Low Volume Road Maintenance Program
5/4/2015

The threshold for paying Prevailing Wage for Dirt, Gravel, and Low Volume Road Maintenance Program projects remains at $25,000 (not $100,000).

Why:
Many people are under the impression that the Prevailing Wage (PW) threshold was increased from $25,000 to $100,000 for Dirt, Gravel, and Low Volume Road (DGLVR) Program projects as part of the PA Department of Transportation’s 2015 legislative changes. The following is a brief explanation of why this is not the case.

Section 40.5. Title 75 is amended by adding a section to read:
§ 9023. Application of Prevailing Wage Act to locally funded highway and bridge projects.
(a) Public work.—For locally funded highway and bridge projects, the term “public work” as used in the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act, shall mean construction, reconstruction, demolition, alteration and repair of public roads, streets, bridges, culverts, and other structures owned by a county, township, city, borough, school district or any public agency that is established by the General Assembly or by the laws of the Commonwealth.
Please dial in to listen: 866-823-7699

We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
• $25K PW threshold explained

• PW in the DGLVR Program

• Q&A and Discussion
  • Pre-submitted Questions
  • Live Q&A

Please dial in to listen: 866-823-7699

We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
• **PREVAILING WAGE:**

Does not apply to **Municipal** labor.

Please dial in to listen: 866-823-7699

We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
• **PREVAILING WAGE**: Projects where the estimated total project cost exceeds $25,000 (NOT $100,000) are subject to the prevailing wage act for contracted labor.

It is the responsibility of the grant recipient to obtain the Prevailing Wage Act scale for the area and include it in any proposal to solicit bids for the contract.

The Prevailing Wage scale can be obtained from the Prevailing Wage Division of the Pennsylvania Department of Labor and Industry. If the Prevailing Wage Act applies, the advertisement shall also note this fact.

More to come on “what is the CD responsibility”.
3.7.4.2 Contractor Costs

- **PREVAILING WAGE:** Projects where the estimated total project cost exceeds $25,000 (NOT $100,000) are subject to the prevailing wage act for contracted labor.

  - Cannot “split” projects to avoid PW.
  - PW Never applies to municipal labor.
  - **What is “Total Project Costs”:**

---

Please dial in to listen: 866-823-7699

We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
• “Total Project Costs” definition:
  – All contractor(s) plus municipal costs.

“How is the prevailing wage requirement interpreted if a township purchases $18,000.00 worth of aggregate (from one contractor) and then hires another contractor to place the stone for $10,000.00? Does PW have to be paid? -YES
“Total Project Costs” definition:
- All contractor(s) plus municipal costs.
- Include:
  - Material, equipment, labor, paid for by grant
  - Materials in-kind by applicant
  - Other grants and funding sources
3.7.4.2 Contractor Costs

- **“Total Project Costs” definition:**
  - All contractor(s) plus municipal costs.
  - **Include:**
    - Material, equipment, labor, paid for by grant
    - Materials in-kind by applicant
    - Other grants and funding sources
  - **Do Not Include** *(does not count towards $25K threshold):*
    - Engineering, Permits and other fees
    - In-kind applicant equipment
    - In-kind applicant labor.

**Please dial in to listen: 866-823-7699**
We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
• **PREVAILING WAGE EXAMPLES:**

• $25,001 Contract
  – PW applies to any **contracted** labor only.
3.7.4.2 Contractor Costs

- **PREVAILING WAGE EXAMPLES:**

- $25,001+ Contract
  - PW applies to any contracted labor only.

- $24,000 Contract + $2,000 in-kind (materials)
  - PW applies to any contracted labor only.
• **PREVAILING WAGE EXAMPLES:**
  
  • $25,001+ Contract
    – PW applies to any *contracted* labor only.
  
  • $24,000 Contract + $2,000 in-kind (materials)
    – PW applies to any *contracted* labor only.
  
  • $24,000 Contract + $5,000 outside grant
    – PW applies to any *contracted* labor only.

Please dial in to listen: 866-823-7699

We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
• **PREVAILING WAGE EXAMPLES:**

- $25,001+ Contract
  - PW applies to any contracted labor only.
- $24,000 Contract + $2,000 in-kind (materials)
  - PW applies to any contracted labor only.
- $24,000 Contract + $5,000 outside grant
  - PW applies to any contracted labor only.
- $24,000 Contract + $5,000 in-kind (eqip/lab)
  - PW does **NOT** apply.
• PREVAILING WAGE NOTE:

  – Be cautious of projects that are “just under” prevailing wage threshold of $25,000.

  – Amendments could increase it over the threshold.

  – Example: A $24,000 contract with a $4,800 amendment = $28,800 (PW would apply to any contracted labor on whole project)
3.7.4.2 Contractor Costs

Prevailing Wage Website:

http://www.portal.state.pa.us/portal/server.pt/community/prevailing_wage/10519
Prevailing Wage

• $25K PW threshold explained
• PW in the DGLVR Program
• **Q&A and Discussion**
  • Pre-submitted Questions
  • Live Q&A

Please dial in to listen: 866-823-7699

We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
Who’s responsibility is it to make sure PW is paid?

The entity hiring the contractor (grant recipient).

*note this could be CD on demo projects

Please dial in to listen: 866-823-7699
We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
Who’s responsibility is it to make sure PW is paid?

The entity hiring the contractor (grant recipient).

*note this could be CD on demo projects

What is the Conservation District’s responsibility?

Education and notification.
What is the “punishment” for failing to pay PW?

Backpay and/or fines.

Please dial in to listen: 866-823-7699
We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
What is the “punishment” for failing to pay PW?

Backpay and/or fines.

How are people “caught” not paying PW?

Complaint driven

Please dial in to listen: 866-823-7699
We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
Do truck drivers delivering stone, pipes, etc. need to be paid prevailing wage for jobs >$25K?

**No**: Delivery is not a “service”. If they are just delivering stone, that is just part of the cost of the material. Same applies to excavator loading stone at the quarry or shale pit, etc.

*note a contracted truck driver as a laborer moving material on a site WOULD fall under PW.*

Please dial in to listen: 866-823-7699

We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
Can I split projects into phases to avoid PW?

In general no. Only if they are legitimately different projects (multiple years, etc.).

Please dial in to listen: 866-823-7699
We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
How large of a cost increase is PW?

Not as bad as you may think for DGLVRP since most of our funds are spend on materials.

For a 1,000 ton paver placed DSA job, PW may increase the cost ~$1 per ton.

Please dial in to listen: 866-823-7699

We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
Is there any work going on to increase the PW threshold (for DGLVR or in general)?

Yes...
Other Questions:

Chat box

Phone line

Please dial in to listen: 866-823-7699

We will have a guest speaker who will be on phone audio only. Please mute your line until you need to speak to reduce background noise.
3.7.4 Eligible Expenses - Labor

**LINKS**

**Steve Bloser**, CDGRS

**Guest Prevailing Wage Expert:**

**Holly Fishel**, PSATS
Director of Research and Policy Development
Pennsylvania State Association of Township Supervisors

hfishel@psats.org 717-763-0930
Steve Bloser, CDGRS

Guest Prevailing Wage Expert:
Holly Fishel, PSATS
Director of Research and Policy Development
Pennsylvania State Association of Township Supervisors
hfishel@psats.org