

# Complying with the Illinois Prevailing Wage Act



Pat Quinn, Governor  
Joseph Costigan, Director  
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# **What is the Prevailing Wage Act?**

It is the policy of the State of Illinois that a wage of no less than the general prevailing hourly rate as paid for work of a similar character in the locality in which the work is performed, shall be paid to all laborers, workers and mechanics employed by or on behalf of any and all public bodies engaged in public works.

# What is a Public Body?

"Public body" means the State or any officer, board or commission of the State or any political subdivision or department thereof, or any institution supported in whole or in part by public funds, and includes every county, city, town, village, township, school district, irrigation, utility, reclamation improvement or other district and every other political subdivision, district or municipality of the state whether such political subdivision, municipality or district operates under a special charter or not.

# What is a Public Works?

"Public works" means all fixed works constructed or demolished by any public body, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects financed in whole or in part with bonds, grants, loans, or other funds made available by or through the State or any of its political subdivisions, including but not limited to: bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of the Illinois Municipal Code), the Industrial Building Revenue Bond Act, the Illinois Finance Authority Act, the Illinois Sports Facilities Authority Act, or the Build Illinois Bond Act;

# Public Works Continued

Loans or other funds made available pursuant to the Build Illinois Act; or funds from the Fund for Illinois' Future under Section 6z-47 of the State Finance Act, funds for school construction under Section 5 of the General Obligation Bond Act, funds authorized under Section 3 of the School Construction Bond Act, funds for school infrastructure under Section 6z-45 of the State Finance Act, and funds for transportation purposes under Section 4 of the General Obligation Bond Act.

# Public Works Continued

"Public works" also includes (i) all projects financed in whole or in part with funds from the Department of Commerce and Economic Opportunity under the Illinois Renewable Fuels Development Program Act for which there is no project labor agreement and (ii) all work performed pursuant to a public private agreement under the Public Private Agreements for the Illiana Expressway Act. "Public works" also includes all projects at leased facility property used for airport purposes under Section 35 of the Local Government Facility Lease Act. "Public works" also includes the construction of a new wind power facility by a business designated as a High Impact Business under Section 5.5(a)(3)(E) of the Illinois Enterprise Zone Act. "Public works" does not include work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds.

# What is Locality?

Locality means the county where the physical work upon public works is performed.

# What type of work is covered?

Construction work on public works and the transportation of materials and equipment to or from the site. Construction means all work on public works involving laborers, workers or mechanics. Transportation by the sellers and suppliers or the manufacture or processing of materials or equipment is not included.



# Recent Amendments to the Act

## **Changes to Illinois' Prevailing Wage Act effective Jan 1, 2012**

House Bill 3237 (Public Act 97-0571), amends the Prevailing Wage Act to increase the penalty from a Class B misdemeanor to a Class A misdemeanor for willfully failing to file a certified payroll or filing a false certified payroll. HB 3237 also amends the Act to allow federal, State or local law enforcement agencies and prosecutors access to certified payroll records. In addition, HB 3237 amends the Act to provide that any contractor or subcontractor convicted or found guilty of one of the aforementioned violations is subject to an automatic and immediate debarment from participating in any public work project for four years, with no right to a hearing.

# Recent Amendments to the Act

## HB 952 (P.A. 96-186) – Demolition

Amends the law to explicitly cover all demolition work undertaken by a public body, regardless of whether or not the demolition work is in conjunction with a public construction project.

Effective: January 1, 2010

# Recent Amendments to the Act

## HB 163 (P.A. 96-437) – Notice Requirements

Holds public bodies (and top-tier contractors) financially responsible for any interest, penalties or fines assessed by the Department if they fail to provide proper written notification to a contractor that a project is subject to the Prevailing Wage Act.

Note: Regardless of whether or not 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.

Effective: January 1, 2010

# Recent Amendments to the Act

SB 1923 (P.A. 96-28) – Wind Farms-Enterprise Zones

"Public works" also includes the construction of a new wind power facility by a business designated as a High Impact Business under Section 5.5(a)(3)(E) of the Illinois Enterprise Zone Act. As defined and determined by the Illinois Department of Commerce & Economic Development

Effective: July 1, 2009

# What is the Prevailing Wage?

The terms "general prevailing rate of hourly wages", "general prevailing rate of wages" or "prevailing rate of wages" when used in the Act mean the hourly cash wages plus fringe benefits, for training and apprenticeship programs approved by the U.S. Department of Labor Bureau of Apprenticeship and Training, health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works.

**If there is an increase in the Prevailing Wage during a project, am I required to pay the increase?**

All bid specifications shall list the specified rates to all laborers, workers and mechanics in the locality for each craft or type of worker or mechanic needed to execute the contract. If the Department of Labor revises the prevailing rate of hourly wages to be paid by the public body, the revised rate shall apply to such contract, and the public body shall be responsible to notify the contractor and each subcontractor, of the revised rate.

# How am I to know when rate increases occur?

If the Department of Labor revises the prevailing rate of hourly wages to be paid by the public body, the revised rate shall apply to such contract, and the public body shall be responsible to notify the contractor of the revised rate. The general contractor is responsible for notifying each lower subcontractor. The Department posts the wage rates monthly at:

[www.state.il.us/agency/idol](http://www.state.il.us/agency/idol)

# What is the penalty for a violation of the Act by a contractor?

Anyone found to have violated the Act is guilty of a Class A misdemeanor. A violation occurs when any one of these events take place

1. records are not kept
2. records are not provided or access is denied
3. less than the prevailing wage is paid
4. the wage rates are not posted
5. failing to provide written notification to subcontractor of prevailing wage responsibilities



**A public body contacts a contractor for minor repairs with a purchase order, does the prevailing wage apply?**

Yes. Not less than the general prevailing rate of hourly wages for work of a similar character on public works in the locality in which the work is performed, and not less than the general prevailing rate of hourly wages for legal holiday and overtime work, shall be paid to all laborers, workers and mechanics employed by or on behalf of any public body engaged in the construction of public works.

# Monetary Penalty

Any laborer, worker or mechanic employed by the contractor or by any sub-contractor under him who is paid for his services in a sum less than the stipulated rates for work done under such contract, shall have a right of action for whatever difference there may be between the amount so paid, and the rates provided by the contract together with costs and such reasonable attorney's fees as shall be allowed by the court. Such contractor or subcontractor **shall also be liable** to the Department of Labor for **20%** of such underpayments and shall be additionally liable to the laborer, worker or mechanic for punitive damages in the amount of **2%** of the amount of any such penalty to the State for underpayments for each month following the date of payment during which such underpayments remain unpaid. If the contractor was properly notified.

# Monetary Penalty

Where a second or subsequent action to recover underpayments is brought against a contractor or subcontractor and the contractor or subcontractor is found liable for underpayments to any laborer, worker, or mechanic, the contractor or subcontractor shall also be liable to the Department of Labor for 50% of the underpayments payable as a result of the second or subsequent action, and shall be additionally liable for 5% of the amount of any such penalty to the State for underpayments for each month following the date of payment during which the underpayments remain unpaid.

# What if I violate the Act a second time?

For violations that occur after January 1, 2006, the debarment period --during which contractors are ineligible for public works contracts - increases from 2 years to 4 years if two notices of violation are issued within a 5-year period. In addition, a monetary penalty of \$5,000 may be assessed against contractors who retaliates against employees who report violations or file complaints under the Prevailing Wage Act. If the contractor was properly notified.

# **Do contractors have to notify subcontractors?**

It shall also be mandatory upon the contractor to whom the contract is awarded to insert into each subcontract and into the project specifications for each subcontract a written stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract.

# What are Public Bodies Responsibilities?

- The Ordinance
- The Bid Process
- The Contract
- The Wage Rate
- Certified Transcript of Payroll
- What is Locality?
- What are my requirements?
- What is F.O.I.A.?

# Do I Have to Pass an Ordinance?

- Yes. The Act requires public bodies, during June of each year, to investigate and ascertain the prevailing rate of wages for each craft and type of worker and to file their determination of wage rates with the Secretary of State and the Illinois Department of Labor no later than July 15.
- If a Public Body fails to make prevailing wage determinations during the month of June, then the prevailing rate wages for that Public Body shall be the rate determined by the Department of Labor for the county in which such public body is located.

# The Bid Process

All bid specifications shall list the specified rates to all laborers, workers and mechanics in the locality for each craft or type of worker or mechanic needed to execute the contract.



# The Contract

The public body awarding the contract shall cause to be inserted in the contract a stipulation to the effect that not less than the prevailing rate of wages as found by the public body or Department of Labor or determined by the court on review shall be paid to all laborers, workers and mechanics performing work under the contract.

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.

# Where do I find the Rates

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.

# **Additional Contract Language**

It shall also require in all such contractor's bonds that the contractor include such provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract.

# What is a Certified Transcript of Payroll (CTP)?

Simply put, it is the written verification that the contractor has paid the wages as required by the Prevailing Wage Act.



## Certified Transcript of Payroll

Please Note: The submission of falsified payroll records is a criminal offense.

Print Form

IDOL Case File Number: \_\_\_\_\_ Payroll Date: \_\_\_\_\_

| Contractor and/or Subcontractor                           |                         | Contract Information                                      |  | Public Body Information |  |
|---|-------------------------|---|--|-------------------------|--|
| Company Name: _____                                       | Contract Number: _____  | Contact Person: _____                                     |  |                         |  |
| Contact Person: _____                                     | Project Number: _____   | Public Body Name: _____                                   |  |                         |  |
| _____<br>(Address)  | Project: _____          | _____<br>(Address)  |  |                         |  |
| _____<br>(City) _____<br>(State) _____<br>(Zipcode) _____ | Project Location: _____ | _____<br>(City) _____<br>(State) _____<br>(Zipcode) _____ |  |                         |  |
| Telephone Number: _____                                   |                         | Telephone Number: _____                                   |  |                         |  |

Report Hours for Each Day, including Overtime Hours, List Hourly Prevailing Wage Rate and Hourly Fringe Benefits Allotments.

| Worker Name, Address<br>SSN & Telephone Number | Labor<br>Classification | * Hours worked each day |     |     |     |     |     |     | Total Hrs Each<br>PW and Reg. | Total OT<br>Hours | Hourly Wage<br>Rate | OT Wage<br>Rate | Per Pay Period |     | Hourly Fringe Benefit |                  |      |          |
|--|-------------------------|-------------------------|-----|-----|-----|-----|-----|-----|-------------------------------|-------------------|---------------------|-----------------|----------------|-----|-----------------------|------------------|------|----------|
|  |                         | SUN                     | MON | TUE | WED | THU | FRI | SAT |                               |                   |                     |                 | Gross          | Net | Pension               | Health & Welfare | Vac. | Training |
| (Name)   | PW                      |                         |     |     |     |     |     |     |                               |                   |                     |                 |                |     |                       |                  |      |          |
| (Street)                                       |                         |                         |     |     |     |     |     |     |                               |                   |                     |                 |                |     |                       |                  |      |          |
| (City, State Zip)                              | N                       |                         |     |     |     |     |     |     |                               |                   |                     |                 |                |     |                       |                  |      |          |
| (SSAN)   |                         |                         |     |     |     |     |     |     |                               |                   |                     |                 |                |     |                       |                  |      |          |
| (Telephone #)                                  |                         |                         |     |     |     |     |     |     |                               |                   |                     |                 |                |     |                       |                  |      |          |

Add another Payroll line

Remove Last Line

**INSTRUCTIONS:** Fringe benefits (health insurance, pension, vacation, and training) must be paid. If it is required for the work classification, regardless of your union or nonunion status. We give you credit for health insurance paid (if any) and ERISA approved pension plan (if any) and training if your employees are in a BAT approved program. If the fringe benefit rate is paid into a fund, please note by placing the letter "F" behind the fringe benefit rate; if the fringe benefit rate is included on an employee's payroll check, please note by placing the letter "E" behind the fringe benefit rate. On the back of this form please list all subcontractors, independent contractors and owner operator's your company used on this project. If you wish information regarding coverage of the Act, please visit our web site at [www.state.il.us/agency/idol/](http://www.state.il.us/agency/idol/) or call 217-782-1710.

\*PW - Prevailing Hours Worked \*N - Non Prevailing Hours Worked



## Certified Transcript of Payroll

### AFFIDAVIT

Weekly Statement of Compliance

Date: \_\_\_\_\_

I, \_\_\_\_\_  
(name signatory party)

(Title)

, do  
hereby state: that I pay or supervise the payment  
of the persons employed on the public works  
project \_\_\_\_\_;

(name of project)

that during the payroll period commencing on the  
day of \_\_\_\_\_,

(day) (month) (year)

all persons employed on said project have been  
paid the full weekly wages earned, that no  
rebates have been or will be made either directly  
or indirectly to or on behalf of said

\_\_\_\_\_  
(name of contractor or subcontractor)

from the full weekly wages earned by any person,  
and that no deductions have been made either  
directly or indirectly from the full weekly wages  
earned by any persons, other than permissible  
deductions as defined by Federal and/or State  
Law. I further certify that this payroll is correct  
and complete; that the wage rates contained  
therein are not less than the actual rates herein  
stated and that the classification set forth for each  
laborer or mechanic conform to the work he/she  
performed.

Signature \_\_\_\_\_

Digital Signature 

### SUBCONTRACTORS

Print Form

Attach explanation of Monies paid, copy of contract of billing, or other pertinent information.

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

(Address)

(City)

(State)

(zipcode)

Telephone Number: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

(Address)

(City)

(State)

(zipcode)

Telephone Number: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

(Address)

(City)

(State)

(zipcode)

Telephone Number: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

(Address)

(City)

(State)

(zipcode)

Telephone Number: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

(Address)

(City)

(State)

(zipcode)

Telephone Number: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

(Address)

(City)

(State)

(zipcode)

Telephone Number: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

(Address)

(City)

(State)

(zipcode)

Telephone Number: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

(Address)

(City)

(State)

(zipcode)

Telephone Number: \_\_\_\_\_

# Certified Transcript of Payroll

## What is Required?

The certified payroll records must include for every worker employed on the public works project :

- their name
- address
- telephone number
- social security number
- job classification
- hourly wages paid in each pay period
- number of hours worked each day



# **Certified Payroll Requirements (continued)**

- Contractors and subcontractors on public works projects must submit certified payroll records to the public body in charge of the project on a monthly basis.
- These records must be retained by the public body for not less than three (3) years.

# The Certified Payroll

The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor which avers that:

1. such records are true and accurate
2. the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Act

## What if the records are not accurate?

- Any contractor or subcontractor who fails to submit a certified transcript of payroll or knowingly files a false certified transcript of payroll is guilty of a Class A misdemeanor.
- A Class A misdemeanor carries a maximum fine of \$2,500 and up to one (1) year in prison.

# **What is F.O.I.A.?**

## **(Freedom of Information Act)**

Pursuant to the fundamental philosophy of the American constitutional form of government, it is declared to be the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this Act.

# What are Public Bodies required to provide?

These certified payroll records are considered public records and public bodies must make these records available to the public under the Freedom of Information Act, with the exception of the employee's address, telephone number and social security number.

# What do Public Bodies have to do with the CTP?

Keep for a period of not less than 3 years, records of all laborers, mechanics, and other workers employed on the project; the records shall include each worker's name, address, telephone number when available, social security number, classification or classifications, the hourly wages paid in each pay period, the number of hours worked each day.

# How often must these records be submitted?

Submit monthly, in person, by mail, or electronically a certified payroll to the public body in charge of the project. The certified payroll shall consist of a complete copy of the records. The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor which avers that: (i) such records are true and accurate; (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Act; and (iii) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor.



ILLINOIS DEPARTMENT OF LABOR  
1 West Old State Capitol Plaza, 3rd Floor  
Springfield, Illinois 62701-1217  
Telephone: 217/793-1710  
<http://www.state.il.us/agency/dol/>

Print Form

### ILLINOIS PREVAILING WAGE AND/OR CITIZENS PREFERENCE COMPLAINT FORM

Prevailing Wage Act (820 ILCS 130/1 et seq.)

Illinois Preference Act (30 ILCS 570/1-7)

#### COMPLAINANT INFORMATION

ALLEGED VIOLATION: ☐ PREVAILING WAGE ACT ☐ CITIZENS PREFERENCE ACT  
☐ FAILURE TO POST PREVAILING WAGE RATES

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_  
ORGANIZATION: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
DAY PHONE # \_\_\_\_\_ FAX # \_\_\_\_\_ OTHER # \_\_\_\_\_

#### CONTRACTOR/PROJECT INFORMATION

NAME OF COMPANY: \_\_\_\_\_  
OWNER: \_\_\_\_\_ ☐ GENERAL CONTRACTOR ☐ SUB-CONTRACTOR  
ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
DAY PHONE # \_\_\_\_\_ FAX # \_\_\_\_\_ OTHER # \_\_\_\_\_  
PROJECT/CONTRACT NUMBER: \_\_\_\_\_ COUNTY: \_\_\_\_\_

LOCATION OF PROJECT: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

IS WORK CURRENTLY BEING DONE NOW? ☐ YES ☐ NO IF NO, ENTER TIME COMPLETED: \_\_\_\_\_

DATE OF SITE VISIT(S): \_\_\_\_\_

NATURE OF PROJECT: \_\_\_\_\_

NUMBER OF WORKERS OBSERVED: \_\_\_\_\_ CLASSIFICATIONS: \_\_\_\_\_

DESCRIBE WORK BEING PERFORMED DURING SITE VISIT (Use additional page if needed)

#### PUBLIC BODY INFORMATION

PUBLIC BODY: \_\_\_\_\_ ADMINISTRATOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
DAY PHONE # \_\_\_\_\_ FAX # \_\_\_\_\_ OTHER # \_\_\_\_\_

#### SUPPORTING DOCUMENTATION

EMPLOYEE INTERVIEWS SHOULD BE SUBMITTED WITH THIS FORM WHENEVER POSSIBLE.  
PLEASE CHECK THE BOX IDENTIFYING THE INFORMATION SUBMITTED WITH YOUR CLAIM.

☐ EMPLOYEE INTERVIEWS ☐ CHECK STUBS ☐ PICTURES/VIDEO  
☐ BIDDING REPORTS ☐ PUBLIC BODY DOCUMENTS ☐ SECRETARY OF STATE CORPORATE SEARCH  
☐ PROJECT MANAGER REPORTS ☐ MINUTES FROM MEETINGS ☐ NEWS ARTICLES  
☐ OTHER \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



# Thank You !

On behalf of the management and staff of  
the Illinois Department of Labor

