Clearinghouse Rule 09-001

State of Wisconsin
Department of Workforce Development
Equal Rights Division

Adjustment of Thresholds for Application of Prevailing Wage Rates

DWD 290.155 (1)

The Wisconsin Department of Workforce Development proposes to amend s. DWD 290.155 (1), relating to the adjustment of thresholds for application of prevailing wage rates.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 66.0903 (5), 103.49 (3g), and 227.11, Stats.
Statutes interpreted: Sections 66.0903 (5), and 103.49 (3g), Stats.

Explanation of agency authority. The prevailing wage laws require that when a state agency or local governmental unit contracts for the erection, construction, remodeling, repairing, or demolition of a public works project it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Sections 66.0903 (5) and 103.49 (3g), Stats., set initial estimated project cost thresholds for application of the prevailing wage rate requirements and direct the Department to adjust the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. Pursuant to s. DWD 290.15, the Department adjusts the thresholds based on changes in the construction cost index published in the *Engineering News-Record,* a national construction trade publication.

Summary of the proposed rule. Section DWD 290.155 (1) currently provides that the prevailing wage rate requirements do not apply to any single-trade public works project for which the estimated cost of completion is below $45,000 and do not apply to any multi-trade public works project for which the estimated cost of completion is below $221,000. This rule adjusts the thresholds from $45,000 to $48,000 for a single-trade project and from $221,000 to $234,000 for a multi-trade project based on a 5.71% increase in the construction cost index between December 2007 and December 2008.

Summary of related federal law. The federal prevailing wage law applies to a federal public works project for which the contract is greater than $2,000. This threshold is in statute and is rarely adjusted.

Comparison with laws in adjacent states. Minnesota has a statutory threshold of $2,500 for a single-trade project and $25,000 for a multi-trade project. Illinois does not have a threshold in its prevailing wage law. The law covers public works projects and defines public works projects as projects financed under various other specified laws. Michigan does not have a threshold in its prevailing wage law. The law covers projects that must be bid and relies on other agencies to determine the thresholds for what projects must be bid. Iowa does not have a prevailing wage law.

Summary of factual data and analytical methodologies. The thresholds are increased based on the national inflation rate in the construction industry. The Department uses the construction cost index in the *Engineering News-Record*, a national construction trade publication, to determine the inflation rate.

Effect on small business. The proposed rule does not affect small businesses.

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Comments and deadline for submission. Comments may be submitted to Howard Bernstein, Office of Legal Counsel, Dept. of Workforce Development, P.O. Box 7946, Madison, WI 53707-7946 or Howard.Bernstein@dwd.wisconsin.gov .The deadline for submission is February 12, 2009.

SECTION 1. DWD 290.155 (1) is amended to read:

DWD 290.155 (1) This chapter does not apply to any single-trade public works project for which the estimated cost of completion is below ~~$45,000~~ $48,000 and any multi-trade public works project for which the estimated cost of completion is below ~~$221,000~~ $234,000.

SECTION 2. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Administrative Register as provided in s. 227.22 (2) (intro), Stats.