STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

J.B. VAN HOLLEN
ATTORNEY GENERAL

Raymond P. Taffora
Deputy Attorney General

114 East, State Capitol
P.O. Box 7857
Madison, WI 53707-7857
608/266-1221
TTY 1-800-947-3529

November 12, 2009 OAG—5—09

The Honorable Russ Decker
Chair
Committee on Senate Organization
211 South, State Capitol
Madison, WI 53702

Dear Senator Decker:

¶ 1. On behalf of the Committee on Senate Organization, you request my formal opinion with respect to two questions concerning intergovernmental agreements between local units of government involving public works projects whose estimated cost exceeds $25,000. You are not concerned with intergovernmental agreements between local units of government for purchases of equipment, materials, or supplies in connection with public works projects, nor are you concerned with highways, streets, and bridges constructed or improved with federal or state funds and local matching funds as provided in Wis. Stat. § 86.25(4). You are especially concerned with county highway contracts under Wis. Stat. §§ 83.03(1) and 83.035.

BACKGROUND

¶ 2. The materials[1] accompanying your request evince concern that counties have engaged in a wide range of competitive bidding against private contractors upon public works projects, but contain no facts or information concerning intergovernmental agreements involving public works projects other than those involving county highway contracts. Counties must have statutory authorization in order to engage in competitive bidding against private contractors. *See St. ex rel. Teunas v. Kenosha County*, 142 Wis. 2d 498, 504, 418 N.W.2d 833 (1988). Counties do currently possess statutory authority to "construct or improve or repair or aid in constructing or improving or repairing any highway or bridge in the county." Wis. Stat. § 83.03(1).

[1]You have submitted a detailed legal analysis prepared by the Construction Business Group prior to the passage of 2009 Wisconsin Act 28 concerning the two questions posed in your opinion request. The Construction Business Group is a joint labor-management industry trust fund established by Operating Engineers Local 139, Associated General Contractors of Wisconsin, Wisconsin Transportation Employers Council/Wisconsin Transportation Builders Association, and Wisconsin Underground Contractors Association.

¶ 3. I have carefully reviewed a March 10, 2006 letter from my predecessor to you and to Senator Jeff Plale that was not a formal opinion of the Attorney General under Wis. Stat. § 165.015(1). For the reasons that follow, I respectfully disagree with portions of the legal analysis contained in that letter.

QUESTIONS PRESENTED AND BRIEF ANSWERS

¶ 4. I have reworded your questions, as follows:

> 1. With respect to public works projects whose estimated cost exceeds $25,000, are intergovernmental agreements between local units of government (other than those for purchases of equipment, materials, or supplies, and those excepted by Wis. Stat. § 86.25(4)) under Wis. Stat. § 66.0301 or Wis. Stat. § 83.035 subject to city, village, and county municipal competitive bidding requirements and therefore to the competitive bidding procedures in Wis. Stat. § 66.0901?

¶ 5. In my opinion, statutorily-authorized intergovernmental agreements for purchases of all services are exempt from municipal competitive bidding requirements and procedures under Wis. Stat. § 66.0131(2). County highway contracts entered into by the county highway committee or the county highway commissioner under Wis. Stat. §§ 83.035 and 83.04(1) are exempt from county competitive bidding requirements pursuant to Wis. Stat. § 59.52(29)(a). Cities, villages, and counties also are exempt from municipal competitive bidding requirements on any project that involves an intergovernmental agreement where the municipalities that will perform the work have made a determination to do the work themselves with their own employees.

> 2. With respect to any public works or public construction project whose estimated cost exceeds $25,000, must state prevailing wage rates be paid to the employees of a local unit of government that enters into an intergovernmental agreement pursuant to Wis. Stat. § 66.0301 or Wis. Stat. § 83.035 to perform services for another local unit of government upon such a project?

¶ 6. In my opinion, effective January 1, 2010, the answer is yes. Prior to that date, in my opinion the answer is no. Both before and after January 1, 2010, prevailing wage rates are not required upon public works or public construction projects performed or undertaken pursuant to intergovernmental agreements involving the joint exercise of any power or duty by two or more local units of government.

ANALYSIS

I. APPLICABILITY OF STATUTORY COMPETITIVE BIDDING REQUIREMENTS TO INTERGOVERNMENTAL AGREEMENTS BETWEEN LOCAL UNITS OF GOVERNMENT.

¶ 7. "[P]ublic construction" contracts whose estimated cost exceeds $25,000 that are let by cities or villages ordinarily must be competitively bid. Wis. Stat. §§ 61.55 and 62.15(1). With the exception of certain county highway contracts, Wis. Stat. § 59.52(29)(a) similarly provides that county "public work" whose estimated cost exceeds $25,000 "including any contract for the construction, repair, remodeling or improvement of any public work, [or] building" ordinarily must be competitively bid. The items that are subject to these competitive bidding statutes are commonly referred to as "public works projects." The competitive bidding procedures specified in Wis. Stat. § 66.0901 must be utilized in connection with those public works projects that are required to be competitively bid. *See, e.g.*, Wis. Stat. §§ 59.52(29)(a) and 61.55.

¶ 8. Wisconsin Stat. § 66.0301(2) provides that "any municipality may contract with other municipalities . . . for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law." This provision authorizes one local unit of government to contract with another local unit of government for (1) the receipt of services; (2) the furnishing of services; or (3) the joint exercise of any power or duty. *See, e.g.*, 72 Op. Att'y Gen. 85 (1983). The scope of a local unit of government's authority to do each of these three things is limited to "the extent of its lawful powers and duties." Wis. Stat. § 66.0301(2).

¶ 9. The Legislature has exempted municipal "purchases" from all other units of government from municipal competitive bidding requirements: "Notwithstanding any statute requiring bids for public purchases, any local governmental unit may make purchases from another unit of government, including the state or federal government, without the intervention of bids." Wis. Stat. § 66.0131(2). The term "purchase" means "**1** . . . **d**: to obtain (as merchandise) by paying money or its equivalent **:** buy for a price (*purchased* a new suit). *Webster's Third New International Dictionary* 1844 (1986). The term "purchase" is not limited to goods or merchandise. *See http://www.merriam-webster.com/dictionary/purchase*.

¶ 10. Legislation must be construed according to its plain meaning by examining the words actually enacted into law. *State ex rel. Kalal v. Circuit Court*, 2004 WI 58, ¶ 45, 271 Wis. 2d 633, 681 N.W.2d 110. The plain meaning of the term "purchases" in Wis. Stat. § 66.0131(2) encompasses all goods and services.[2] The enacted language does not limit "purchases" to specific kinds of items, such as equipment, materials, and supplies.

[2]38 Op. Att'y Gen. 175 (1949), discussed extensively in the submitted materials, did not consider the applicability of what is now Wis. Stat. § 66.0131(2).

¶ 11. Related statutes must also be construed together. *See State v. Clausen*, 105 Wis. 2d 231, 244, 313 N.W.2d 819 (1982); *In re Marriage of Levy v. Levy*, 130 Wis. 2d 523, 530, 388 N.W.2d 170 (1986). At least two statutes, Wis. Stat. § 59.70(13)(c)2. (mosquito control services) and Wis. Stat. § 66.0133(3) (contracts for the evaluation and recommendation of energy conservation practices), indicate that the Legislature has viewed Wis. Stat. § 66.0131(2) as extending to purchases of services. *See Kalal*, 271 Wis. 2d 633, ¶ 46 ("[c]ontext is important to meaning").

¶ 12. When what is now Wis. Stat. § 66.0131(2) was originally enacted in ch. 108, Laws of 1945, that legislation was entitled "AN ACT to create 66.299 of the statutes, relating to intergovernmental co-operation on purchases and public work." The submitted materials opine that the term "purchases" in Wis. Stat. § 66.0131(2) should be construed to encompass only items such as equipment, materials, and supplies because Senate Substitute Amendment 1 to 1945 Senate Bill 48 deleted the bolded language below from the bill as it was originally introduced:

> Notwithstanding any statute requiring bids for public purchases **or for the performance of public work**, any city, village, town, county or other local unit of government may make purchases from, **or have work, services, or facilities performed or provided by,** another unit of government, including the state or federal government, without the intervention of bids.

Extrinsic sources, such as legislative history, may not be used to impose limitations that are not found in the language that was enacted into law. *See Kalal*, 271 Wis. 2d 633, ¶¶ 51, 53-54. Because the statutory language itself contains no words of limitation delineating specific kinds of purchases, intergovernmental agreements involving all purchases, including purchases of services, are not subject to statutory competitive bidding requirements by virtue of the enactment of Wis. Stat. § 66.0131(2).

¶ 13. County highway projects involving contracts that the county board has authorized the county highway committee or the county highway commissioner to make also are statutorily exempt from county competitive bidding requirements. Wisconsin Stat. § 83.03(1) authorizes the county board to "construct or improve or repair or aid in constructing or improving or repairing any highway or bridge in the county." Wisconsin Stat. § 83.035 provides that the county board may exercise that authority by enacting an ordinance permitting the "highway committee or other designated county official or officials" to "enter into contracts with cities, villages and towns within the county borders to enable the county to construct and maintain streets and highways in such municipalities." *See Fond du Lac County v. Rosendale Town*, 149 Wis. 2d 326, 333-35, 440 N.W.2d 818 (Ct. App. 1989). Wisconsin Stat. § 59.52(29)(a), which ordinarily requires competitive bidding on county public works projects, "does not apply to highway contracts which

the county highway committee or the county highway commissioner is authorized by law to let or make," including those described in Wis. Stat. § 83.04(1). A county therefore is not required to engage in competitive bidding with respect to county highway projects involving contracts that the county board has authorized the county highway committee or the county highway commissioner to make.

¶ 14. Municipal competitive bidding statutes are also inapplicable where the municipalities that will perform the work have made a determination to do the work themselves with their own employees. That determination can be made by each local unit of government that is a party to an intergovernmental agreement involving the joint exercise of any power or duty required or authorized by law. A city or a village may, by a three-fourths vote of all of the members elect of the common council or of the village board, provide by ordinance that "any class of public construction or any part thereof . . . be done directly by the city without submitting the same for bids." Wis. Stat. § 62.15(1). *See* Wis. Stat. § 61.56. After first receiving bids, a village may also, by a two-thirds vote of the village board, reject those bids and provide "that the work to be done, and materials to be furnished shall be performed and furnished by said village directly[.]" Wis. Stat. § 61.54(1). A county may, by a three-fourths vote of all of the members entitled to a seat on the county board, provide that "any class of public work or any part thereof . . . be done directly by the county without submitting the same for bids." Wis. Stat. § 59.52(29)(a).[3]

¶ 15. The statutory term "directly" means "**4 a :** without any intervening agency or instrumentality or determining influence[.]" *Webster's Third New International Dictionary* 641 (1986). The term "directly" therefore applies only to situations in which a particular local unit of government will do the work "itself, with its own employes," although such a municipality may hire persons "on an hourly, daily or other normal and acceptable basis in order to complete th[e] job[.]" *See* 40 Op. Att'y Gen. 489, 491 (1951). Where one of the local units of government that is a party to an intergovernmental agreement will not use any of its own employees to perform any of the work upon a project, that municipality does not perform any work upon that project "directly." In that circumstance, the municipality may contract for the receipt of services from another municipality without a supermajority vote.

¶ 16. I recognize that 38 Op. Att'y Gen. at 177-78 concluded that a supermajority vote was required even where a municipality that was a prospective party to an intergovernmental agreement did not intend to perform any of the work involved by using its own employees. I also recognize that in *Fond du Lac County*, 149 Wis. 2d at 335, the court held that 38 Op. Att'y Gen. 175 was "persuasive" as to the issue of whether a town and a county could

[3]Unlike other municipal competitive bidding statutes such as Wis. Stat. §§ 59.52(29)(a) and 62.15, the town competitive bidding statute, Wis. Stat. § 60.47, does not mention making an explicit determination that the town will perform all or a particular class of public construction or public work itself in lieu of competitive bidding.

voluntarily contract with each other for the repair of county roads lying within the town. 38 Op. Att'y Gen. 175 did not consider the effect of what is now Wis. Stat. § 66.0131(2), which authorizes a local unit of government to "make purchases from another unit of government, including the state or federal government, without the intervention of bids." The provisions of Wis. Stat. § 66.0131(2) are applicable "[n]otwithstanding any statute requiring bids for public purchases[.]" Wisconsin Stat. § 66.0131(2) contains no supermajority requirement. Because Wis. Stat. § 66.0131(2) absolves municipalities from compliance with those statutes containing competitive bidding requirements, it is my opinion that a municipality that only purchases services from another unit of government on a public works project under an intergovernmental agreement is not required to comply with the supermajority provisions contained in Wis. Stat. §§ 59.52(29)(a), 61.54(1), 61.56, or 62.15. Consequently, only those municipalities that will actually perform the work must make a determination to do the work themselves with their own employees.

¶ 17. In answer to your first question, municipal competitive bidding requirements do not apply to intergovernmental agreements for purchases of all services, to projects involving county highway contracts entered into by the county highway committee or the county highway commissioner under Wis. Stat. §§ 83.035 and 83.04(1), or where the municipalities that will perform the work have made a determination to do the work themselves with their own employees.[4]

[4]Although you have not inquired about competitive bidding requirements for towns under Wis. Stat. § 60.47, the submitted materials emphasize that the town competitive bidding statute, Wis. Stat. § 60.47(4), explicitly provides that "[t]his section does not apply to public contracts entered into by a town with a municipality, as defined under s. 66.0301(1)(a)." Historically, the town competitive bidding statutes have been particularly unclear. *See* 66 Op. Att'y Gen. 284, 289-90 (1977). The town government statutes, Wis. Stat. ch. 60, were updated and modernized in 1983 Wisconsin Act 532. The notes to Wis. Stat. § 60.47 by the Legislative Council's Special Committee on Revision of Town Laws that are included in 1983 Wisconsin Act 532, sec. 7, state in part:

> Subsection (4) is based on that part of s. 60.29(1m) which permits a town to enter into a public contract with the county in which the town is located without utilizing competitive bidding procedures. It expands the exemption from bidding to include public contracts between a town and any municipality, as defined under s. 66.30(1)(a) [now Wis. Stat. § 66.0301(1)(a)]. . . . The committee concluded that the concerns that underlie a competitive bidding requirement for public contracts entered into between towns and nongovernmental entities have less weight in relation to contracts between towns and other governmental entities.

Neither the prior town competitive bidding statute nor the updated town competitive bidding statute is applicable to situations in which the governing body of a local unit of government has made a formal determination to perform all or a particular class of public works projects itself.

II. APPLICABILITY OF PREVAILING WAGE RATE REQUIREMENTS TO PUBLIC WORKS OR PUBLIC CONSTRUCTION PROJECTS UNDERTAKEN BY ONE LOCAL UNIT OF GOVERNMENT FOR ANOTHER LOCAL UNIT OF GOVERNMENT PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT.

¶ 18. Prevailing wage determinations are made by the Department of Workforce Development ("DWD") under Wis. Stat. § 66.0903(3)(am), as amended by 2009 Wisconsin Act 28, sec. 1480e, which provides:

> A local governmental unit, before making a contract by direct negotiation or soliciting bids on a contract for the erection, construction, remodeling, repairing or demolition of any project of public works, shall apply to the department to determine the prevailing wage rate for each trade or occupation required in the work contemplated.

¶ 19. Wisconsin Stat. § 66.0903(2), as amended by 2009 Wisconsin Act 28, sec. 1480c, provides in part:

> (2) APPLICABILITY. Subject to sub. (5), this section applies to any project of public works erected, constructed, repaired, remodeled, demolished for a local governmental unit, including all of the following:
>
> (a) A highway, street, bridge, building, or other infrastructure project.
>
> **(b) A project erected, constructed, repaired, remodeled, demolished by one local governmental unit for another local governmental unit under a contract under s. 66.0301(2), 83.03, 83.035, or 86.31(2)(b) or under any other statute specifically authorizing cooperation between local governmental units.**

¶ 20. Wisconsin Stat. § 66.0903(2)(b) makes prevailing wage rates applicable to public works projects performed or undertaken pursuant to state statutes authorizing intergovernmental agreements under Wis. Stat. § 66.0301(2) or Wis. Stat. § 83.03 involving any of the five specified services (erection, construction, repair, remodeling, demolition), provided that the service is performed "by one local governmental unit for another local governmental unit[.]" This language encompasses highway projects performed by one local unit of government for another local unit of government because such projects typically involve construction and/or repair. Wisconsin Stat. § 66.0903(2)(b) does not, by its terms, extend to intergovernmental agreements involving the "joint exercise of any power or duty required or authorized by law" within the meaning of Wis. Stat. § 66.0301(2) or pursuant to other statutes authorizing intergovernmental agreements

between local units of government.[5] Wisconsin Stat. § 66.0903(5)(a), as amended by 2009 Wisconsin Act 28, sec. 1482d, makes Wis. Stat. § 66.0903(2)(b) inapplicable to "[a] project of public works for which the estimated project cost of completion is below $25,000."

¶ 21. The effective date of the amendments to Wis. Stat. § 66.0903(2), (3)(am), and (5) is January 1, 2010. *See* 2009 Wisconsin Act 28, sec. 9546(1x). 2009 Wisconsin Act 28, sec. 1480c requires that state prevailing wage rates be paid to the employees of a local unit of government that enters into an intergovernmental agreement under Wis. Stat. § 66.0301 or Wis. Stat. § 83.035 to perform services upon a public works or public construction project for another local unit of government if the estimated cost of the project exceeds $25,000. The amendments contained in 2009 Wisconsin Act 28, sec. 1480c, do not require that prevailing wage rates be paid in connection with public works or public construction projects performed or undertaken pursuant to intergovernmental agreements involving the joint exercise of any power or duty by two or more local units of government.

¶ 22. With respect to the period prior to January 1, 2010, no statutory language comparable to that now contained in Wis. Stat. § 66.0903(2)(b) exists. "When the legislature enacts a statute, it is presumed to act with full knowledge of the existing laws, including statutes." *Mack v. Joint School District No. 3*, 92 Wis. 2d 476, 489, 285 N.W.2d 604 (1979). In determining the meaning and effect of the newly-enacted statutory language, "'It must be presumed that the legislature did not intend to legislate in vain, and that it had a specific purpose in mind.'" *Haas v. Welch*, 207 Wis. 84, 86, 240 N.W. 789 (1932), quoting *Harris v. Halverson*, 192 Wis. 71, 76, 211 N.W. 295 (1927). "It should never be presumed that any part, much less all, of a statute is meaningless." 73 Op. Att'y. Gen. 120, 121 (1984), citing *Associated Hospital Service v. Milwaukee*, 13 Wis. 2d 447, 109 N.W.2d 271 (1961). *Accord State v. Wisconsin Telephone Co.*, 91 Wis. 2d 702, 714-15, 284 N.W.2d 41 (1979).

¶ 23. Applying these principles of statutory construction, I cannot conclude that 2009 Wisconsin Act 28, sec. 1480c was a superfluous enactment. Although Wis. Stat. § 66.0301(2) does refer to an intergovernmental agreement as a "contract," I am of the opinion that an application for a prevailing wage determination is not required prior to January 1, 2010 in connection with any public works project performed or undertaken pursuant to a statutorily-authorized intergovernmental agreement between local units of government.

[5]In practice, it may prove difficult to distinguish between intergovernmental agreements involving services performed by one local unit of government for another local unit of government and intergovernmental agreements involving the joint exercise of powers or duties. *Cf.* OAG 8-08 (October 1, 2008), at 4 (parties to an intergovernmental agreement must "have legal authority to act deriving from some source other than the intergovernmental agreement itself.")

¶ 24. "[S]tatutory language is interpreted in the context in which it is used, in relation to the language of surrounding or closely-related statutes[.]" *Orion Flight Services v. Basler Flight Service*, 2006 WI 51, ¶ 16, 290 Wis. 2d 421, 714 N.W.2d 130, citing *Kalal*, 271 Wis. 2d 633, ¶ 45. Wisconsin Stat. § 66.0903(12)(a) provides that DWD "shall notify any local governmental unit . . . of the names of all persons whom the department has found to have failed to pay the prevailing wage rate determined under sub. (3)," which is the provision containing the requirement that state prevailing wage rates be paid. Wisconsin Stat. § 66.0903(12)(c) provides that the debarment provisions of Wis. Stat. § 66.0903(12) "do[] not apply to any contractor, subcontractor or agent who in good faith commits a minor violation" of the prevailing wage requirements mandated by Wis. Stat. § 66.0903(3). This language indicates that prior to January 1, 2010 contractors, subcontractors, and agents are the entities to which the prevailing wage requirements contained in Wis. Stat. § 66.0903(3) apply. Absent resort to other statutory language such as that recently enacted in 2009 Wisconsin Act 28, sec. 1480c, this language contains no clear indication that local units of government can be considered contractors, subcontractors, or agents.

¶ 25. Another principle of statutory construction is that "penal statutes must give a clear and unequivocal warning, in language people generally understand, about actions that would result in liability and the nature of potential penalties." 3 Singer & Singer, *Sutherland Statutory Construction* § 59:3 (7th ed. 2008). Wisconsin Stat. § 66.0903(12)(e) provides that DWD "shall promulgate rules to administer this subsection." The rules of construction that are applicable to statutes are also applicable to administrative rules. *See DaimlerChrysler c/o ESIS v. LIRC*, 2007 WI 15, ¶ 10, 299 Wis. 2d 1, 727 N.W.2d 311. If possible, administrative rules should therefore be construed together with related statutes to produce a harmonious whole. *Id.* When construing statutes and administrative rules together, unreasonable and absurd results are to be avoided. *See Orion*, 290 Wis. 2d 421, ¶ 32, citing *Kalal*, 271 Wis. 2d 633, ¶ 46.

¶ 26. Wisconsin Admin. Code ch. DWD 294 is entitled "DEBARMENT OF PUBLIC WORKS CONTRACTORS." Under that chapter, public works contractors are subject to debarment "from performing work, either as a prime contractor or subcontractor, for any state agency or local governmental unit for a specified period." Wis. Admin. Code § DWD 294.02(5). Wisconsin Admin. Code § DWD 294.02(3) defines the term "contractor":

> "Contractor" means any individual or legal entity in a construction business involved on a public works project, including its responsible officers, directors, members, shareholders, or partners, irrespective of the name by which the group is designated, provided that any officer, director, member, shareholder, or partner is vested with the management of the affairs of the individual or legal entity.

¶ 27. Wisconsin Admin. Code § DWD 294.02(2) defines the term "construction business":

> (2) "Construction business" means:
>
> (a) Any business engaged in erecting, constructing, remodeling, repairing, demolishing, altering, painting or decorating buildings, structures, or facilities; and
>
> (b) Any business engaged in the delivery of mineral aggregate or the transporting of excavated material or spoil as provided by s. 66.0903(4) or 103.49(2m), Stats.

¶ 28. Under DWD's current rules, only businesses and individuals associated with businesses are subject to debarment. DWD's current rules contain no indication that local units of government can be considered businesses. Construing the prevailing wage and debarment statutes and rules applicable to periods prior to January 1, 2010 together, the Legislature did not clearly specify that local units of government can be considered "contractor[s], subcontractor[s] or agent[s]" within the meaning of Wis. Stat. § 66.0903(12)(c) and DWD did not clearly specify that local units of government can be considered "'[c]onstruction business[es]'" within the meaning of Wis. Admin. Code § DWD 294.02(2). In my opinion, prior to January 1, 2010 local units of governments that perform or undertake any public works or public construction projects pursuant to valid intergovernmental agreements under Wis. Stat. § 66.0301 or Wis. Stat. § 83.035 therefore are not required to pay prevailing wage rates under Wis. Stat. § 66.0903(3) to their employees who perform work upon those projects.[6]

CONCLUSION

¶ 29. I therefore conclude that statutorily-authorized intergovernmental agreements for purchases of services are exempt from municipal competitive bidding requirements and procedures under Wis. Stat. § 66.0131(2). Projects involving county highway contracts entered into by the county highway committee or the county highway commissioner under Wis. Stat. §§ 83.035 and 83.04(1) are also exempt from county competitive bidding requirements. Municipal competitive bidding statutes also do not apply to projects undertaken by

[6]The submitted materials refer to a circuit court case in which a city, acting unilaterally, sought and obtained a prevailing wage rate determination for a highway project from DWD under Wis. Stat. § 66.0903(3)(am). The city then sought and obtained competitive bids on the project. The city subsequently requested the county to submit a proposal to do a portion of the work upon which competitive bids had already been obtained. The city accepted the county's proposal, and rejected the competitive bids for that portion of the work. A circuit court upheld DWD's determination that the county was required to pay prevailing wage rates to its employees. In that case, there was no intergovernmental agreement under Wis. Stat. § 66.0301(2).

intergovernmental agreement or where the municipalities that will perform the work have made a determination to do the work themselves with their own employees. Effective January 1, 2010, with respect to any public works or public construction project whose estimated cost exceeds $25,000 state prevailing wage rates must be paid to the employees of a local unit of government that enters into an intergovernmental agreement under Wis. Stat. § 66.0301 or Wis. Stat. § 83.035 to perform services for another local unit of government upon such a project. Prior to January 1, 2010, state prevailing wage rates are not required upon such projects. State prevailing wage rates are not required before or after January 1, 2010 upon public works or public construction projects performed or undertaken pursuant to intergovernmental agreements involving the joint exercise of any power or duty by two or more local units of government.

Sincerely,

J.B. Van Hollen
Attorney General

JBVH:KMS:FTC:cla