

State of Wisconsin
Department of Workforce Development
Equal Rights Division

**Adjustment of Thresholds for Application of Prevailing Wage Rates and
Payment and Performance Assurance Requirements**

DWD 290.155(1) and DWD 293.02(1) and (2)

The Wisconsin Department of Workforce Development proposed to amend ss. 290.155(1), 293.02(1), and 293.02(2), relating to the adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 66.0903(5), 103.49(3g), 779.14(1s), and 227.11, Stats.

Statutes interpreted: Sections 66.0903(5), 103.49(3g), and 779.14, Stats.

Adjustment of thresholds for application of prevailing wage rates. The state prevailing wage laws require that when a state agency or local governmental unit contracts for the construction 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. Under current law, the state prevailing wage rate laws do not apply to any single-trade public works project for which the estimated cost is below \$37,000, and do not apply to any multi-trade public works project for which the estimated cost is below \$180,000.

Pursuant to ss. 66.0903(5) and 103.49(3g), Stats., and s. DWD 290.15, the department is required to adjust the dollar amounts of the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. The threshold adjustment is based on changes in the construction cost index published in the *Engineering News-Record*, a national construction trade publication. This rule adjusts the thresholds from \$37,000 to \$38,000 for single-trade projects and from \$180,000 to \$186,000 for multi-trade projects based on a 3.33% increase in the construction cost index between December 2002 and December 2003.

Adjustment of thresholds for payment and performance assurance requirements. Section 779.14, Stats., sets payment and performance assurance requirements that apply to contracts for the performance of labor or furnishing of materials for a public improvement project or public work. Section 779.14(1s), Stats., requires the department to adjust the thresholds for various requirements in proportion to any change in construction costs since the last adjustment if the adjustment would not be less than 5%. The last adjustment was effective in January 2002 based on figures from December 2001. The thresholds are adjusted to reflect a 6.13% increase in the construction cost index from December 2001 to December 2003. These adjustments are also based on changes in the construction cost index as published in the *Engineering News-Record* and are rounded to the nearest thousand.

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 ~~\$37,000~~ \$38,000 and any multi-trade public works project for which the estimated cost of completion is below ~~\$180,000~~ \$186,000.

SECTION 2. DWD 293.02 (1)(a), (1)(b), (1)(c), (2)(a), (2)(b), and (2)(c) are amended to read:

DWD 293.02 (1) STATE CONTRACTS. (a) The payment and performance assurance requirements in s. 779.14(1m)(c)1., Stats., shall apply to contracts with the state for the performance of labor or furnishing materials for a public improvement or public work with a contract price exceeding ~~\$11,000~~ \$12,000 but not exceeding ~~\$109,000~~ \$116,000.

(b) The payment and performance assurance requirements in s. 779.14(1m)(c)2., Stats., shall apply to contracts with the state for the performance of labor or furnishing materials for a public improvement or public work with a contract price exceeding ~~\$109,000~~ \$116,000 but not exceeding ~~\$272,000~~ \$289,000.

(c) The payment and performance assurance requirements in s. 779.14(1m)(c)3., Stats., shall apply to contracts with the state for the performance of labor or furnishing materials for a public improvement or public work with a contract price exceeding ~~\$272,000~~ \$289,000.

(2) LOCAL GOVERNMENT CONTRACTS. (a) The payment and performance assurance requirements in s. 779.14(1m)(d)1., Stats., shall apply to contracts, other than contracts with the state, for the performance of labor or furnishing materials for a public improvement or public work with a contract price exceeding ~~\$11,000~~ \$12,000 but not exceeding ~~\$55,000~~ \$58,000.

(b) The payment and performance assurance requirements in s. 779.14(1m)(d)2., Stats., shall apply to contracts, other than contracts with the state, for the performance of labor or furnishing materials for a public improvement or public work with a contract price exceeding ~~\$55,000~~ \$58,000 but not exceeding ~~\$109,000~~ \$116,000.

(c) The payment and performance assurance requirements in s. 779.14(1m)(d)3., Stats., shall apply to contracts, other than contracts with the state, for the performance of labor or furnishing materials for a public improvement or public work with a contract price exceeding ~~\$109,000~~ \$116,000.

SECTION 3. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.