

PREVAILING WAGES

Summary

The 2002-2003 Sonoma County Civil Grand Jury found problems in the implementation and interpretation of prevailing wage laws. In regard to public work projects these problems stem from the lack of consistent enforcement, the lack of meaningful penalties, and poorly written law that leaves too many avenues open for interpretation by agencies for which the laws are intended.

Reason for Investigation

The 2002-2003 Sonoma County Civil Grand Jury began its investigation into prevailing wage issues in Sonoma County as a result of discoveries made while investigating a complaint in late 2002. It was determined that protocols for enforcement of prevailing wage laws varied widely from one agency to another. The Grand Jury chose to look further into the laws governing prevailing wages in an effort to clarify and provide guidance to Sonoma County and other City & Special District agencies unsure about their responsibilities regarding prevailing wage enforcement.

Background

Prevailing wages are determined on an ongoing basis for many different crafts by the California State Department of Industrial Relations (DIR). During the course of investigation, the 2002 – 2003 Sonoma County Civil Grand Jury found several apparent flaws in the currently accepted prevailing wage laws. At the heart of today's prevailing wage debate lies the notion that public works bids by contractors shall not be determined by who can pay the least for their labor. Prevailing wage laws seek to "level the playing field" by taking wage rates out of the equation when competing contractors are formulating their bids for public works jobs. This, in theory and frequently in practice, helps maximize the buying power of taxpayers dollars by encouraging contractors to plan, work and execute jobs as efficiently as possible. Where Prevailing Wage law seems to stray is with regard to its enforcement. Remarkably, awarding bodies (typically governmental agencies) are NOT required to enforce prevailing wage payment on the very jobs they have contracted. Awarding bodies are, however, required to notify the DIR should they become aware of any infractions. In fact, most of the enforcement burden of prevailing wage laws has been assumed by labor organizations or by other contractors who voice their complaints to the DIR. Once a complaint is filed formally with the DIR, their investigation process begins.

During the time period January 1, 2000 to September 15, 2002 (20.5 months) there were 89 individual prevailing wage complaints filed with the DIR originating within the borders of Sonoma County. Of those 89 complaints, only 21 have reached a meaningful conclusion with "penalties and/or wages paid" or a finding of "no violations". The remaining 68 cases are either "under investigation" or will NEVER be concluded because a 180-day statute of limitations has expired.

Fines to contractors for non-compliance with prevailing wage laws consist generally of:

\$50 per worker per day

\$25 for Overtime and Holidays improperly paid (per worker, per day)

Funds generated from fines directly benefit the State Department of Industrial Relations. Additionally, the DIR requires that contractors reimburse workers who have been paid improperly.

Investigative Procedures

The Grand Jury:

1. Interviewed the following persons:

- Complainant
 - Wage Compliance Investigator, Carpenters Regional Council, Northern District
 - Director, General Services, County of Sonoma
 - Senior Project Specialist, County of Sonoma.
2. Received Information From:
- Senior Deputy Labor Commissioner, California Department of Industrial Relations
 - Project Superintendent, City of Santa Rosa.
3. Reviewed:
- Complaint
 - Statistics provided by State of California Senior Deputy Labor Commissioner (DIR) California State Labor Codes relating to prevailing wages

Findings

F1. Initial Grand Jury inquiries into different county-wide agency's interpretations of prevailing wage laws indicated that there is a lack of understanding of the law.

F2. Contract awarding bodies are left with the decision whether to monitor proper wage payment, or to allow the burden of monitoring to be on contractors and labor organizations.

F3. Enforcement of Prevailing Wage Law is carried out by the State Department of Industrial Relations.

F4. The statute allows only 180 days from "notice of completion" of a project to conclude any wage investigation.

F5. Department of Industrial Relations records show that between January 1, 2000 and September 15, 2002, Eighty-nine investigations have been reported pertaining to agencies in Sonoma County as follows;

- ~50% are "Under Investigation"
- ~26% are "Statute Expired"
- ~14% are "Wages or Penalties Paid"
- ~10% are "No Violations"

Conclusions

The ultimate burden of enforcement of prevailing wage law falls on the State Department of Industrial Relations. The DIR seems unable to adequately enforce the law, having nearly one quarter of all its cases expire because no resolution was reached in the statutory timeframe of 180 days.

Individual agency interpretation of prevailing wage laws vary widely in Sonoma County. Some agencies would rather turn a "blind eye" to wage payment in project management than monitor their contractors because it fosters (in their minds) a "better working relationship" with their contractors and because monitoring pay records is additional work and cost to the agency. Other agencies consider careful monitoring of contractor wage payment an integral part of "prudent project management". This spectrum of understanding of the prevailing wage law by awarding bodies unfortunately seems commonplace.

The overall integrity of the public project bidding process relies largely on consistent wage payment protocol. A failure to monitor and enforce this law compromises the fairness and equity in spending of the public tax dollar. The goal of this report is to incite widespread discussion and development of an

overall protocol change, so that the system can begin working consistently for the people of Sonoma County.

Recommendations

R1. Every public agency in Sonoma County shall actively monitor and review payroll records for accurate wage payment, and fully comply with the law by notifying the DIR whenever non-compliance is encountered.

R2. The California Department of Industrial Relations shall work closely with public agencies to redesign its wage enforcement protocol, which is seriously lacking.

R3. Fines and penalties for infractions of prevailing wage laws should be, at minimum, doubled from their current amounts to discourage non-compliance.

R4. California Department of Industrial Relations shall provide citizens of Sonoma County with ongoing, up-to-date, investigation statistics via their website.

Required Responses to Findings

Director, California Department of Industrial Relations: F5

Requested Responses to Recommendations

Director, California Department of Industrial Relations: R2, R3, and R4

Required Responses to Recommendations

Sonoma County Board of Supervisors: R1

Sonoma County Superintendent of Schools: R1

All District (County-wide) School Boards: R1

Cloverdale City Council: R1

Cotati City Council: R1

Healdsburg City Council: R1

Petaluma City Council: R1

Rohnert Park City Council: R1

Santa Rosa City Council: R1

Sebastopol City Council: R1

Sonoma City Council: R1

Windsor Town Council: R1