

## January 1, 2014 Prevailing Wage Bulletin

- It has been confirmed that Labor Standards (LS) will no longer have the authority to inspect or regulate state building projects effective January 1, 2014. Under the old law a “state contract” was defined as “any contractual agreement, written or oral, entered into by any person, firm or corporation with the state of Tennessee for the performance of work on a state construction project”. Under the new law “state contract” means any contractual agreement, written or oral, entered into by any person, firm or corporation with the state of Tennessee for the performance of work on a state highway construction project. TCA 12-4-411 requires person, firms or corporations “who may enter into any state contract” shall provide to the state agency payroll records or any other information that may be required by the state agency to show compliance with the provisions of this part. Therefore, under the new law LS does not have the authority to require a state building construction contractor to provide payroll records or other information to show compliance. Also, under the old law TCA 12-4-412 authorize the PW Commission or any affected employee to bring a civil action against any contractor or subcontractor for a violation of the PW law. Under the new law the PW Commission only has the authority to bring an action if there is non-compliance on a state highway project. New statutory language TCA 12-4-906(c) permits “any interested party” to bring an action in Davidson Chancery court for violation of this new section pertaining to state building projects. Since the PW Commission will no longer have the authority beginning January 1<sup>st</sup> to set the wage rates or to require the production of payroll records or other information to confirm compliance then the PW Commission (and by default LS) is no longer an “interested party”. Therefore, LS will no longer be required to inspect or regulate state building construction projects beginning January 1, 2014.
- If a contract for a state building project is entered prior January 1, 2014, prevailing wage rates apply and inspection and regulation is necessary. See Agency Rule 0800-3-2.07 to determine what we are required to inspect and regulate. The prevailing wage rates apply throughout the duration of the contact. The contract date not the advertisement date dictates.
- If a contract for a state building project is entered on January 1, 2014 or thereafter, the prevailing wage rates do not apply. However, if any of the other laws we regulate apply (i.e. wage regulation, child labor, illegal alien), then we will pursue.
- These changes do not apply to contracts for state roads, highways, and bridges. See Agency Rule 0800-3-2.07 to determine what our agency is required to inspect and regulate on state highway projects. Current rules are being modified to reflect the new changes.
- If an employee has a wage dispute on or after January 1, 2014 (as to non-highway/bridges or horizontal construction projects), his/her recourse is to file a claim in the Davidson County Chancery Court. The employer is not bound by rates set by the Prevailing Wage Commission or the Labor Market Information Section (LMI) of the Tennessee Department of Labor and Workforce Development (as to non-

highway/bridges or horizontal construction projects). This policy applies to contracts entered into on or after January 1, 2014.

- For the law as it relates to state-funded highways, bridges and roads projects, refer to Public Chapter No. 280.

Public Chapter No. 280 11 7 13.pdf

<http://www.tn.gov/labor-wfd/regscompl/forms/PublicChapter280.pdf>

Prevailing Wage Act for State Highway Construction Projects - Effective Date January 1, 2014.pdf

<http://www.tn.gov/labor-wfd/regscompl/forms/PrevailingWageAct2014.pdf>