

# WASHINGTON STATE FERRIES

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

NEW 144 - AUTO FERRIES

DESIGN-BUILD CONTRACT NO. 00-6674

**PART – D, DETAILED DESIGN THROUGH DELIVERY OF UP TO FIVE  
VESSELS,**

**EXHIBIT 2, Wages, Benefits and Rates**

**16 February 2021, DRAFT**



**Washington State  
Department of Transportation**

## **1-07.9 Wages**

### **1-07.9(1) General**

This Contract is subject to the minimum wage requirements of RCW 39.12 and to RCW 49.28 (as amended or supplemented). On Federal-aid projects, Federal wage laws and rules also apply. The hourly minimum rates for wages and fringe benefits are listed in the Contract Provisions. When Federal wage and fringe benefit rates are listed, the rates match those identified by the U.S. Department of Labor's "Decision Number" shown in the Contract Provisions.

The Contractor, any Subcontractor, and all individuals or firms required by RCW 39.12, WAC 296-127, or the Federal Davis-Bacon and Related Acts (DBRA) to pay minimum prevailing wages, shall not pay any worker less than the minimum hourly wage rates and fringe benefits required by RCW 39.12 or the DBRA. Higher wages and benefits may be paid.

By including the hourly minimum rates for wages and fringe benefits in the Contract Provisions, the Contracting Agency does not imply that the Contractor will find labor available at those rates. The Contractor shall be responsible for any amounts above the minimums that will actually have to be paid. The Contractor shall bear the cost of paying wages above those shown in the Contract Provisions.

When the project is subject to both State and Federal hourly minimum rates for wages and fringe benefits and when the two rates differ for similar kinds of labor, the Contractor shall not pay less than the higher rate unless the State rates are specifically preempted by Federal law. When the project involves highway Work, heavy Work, and building Work, the Contract Provisions may list a Federal wage and fringe benefit rate for the highway Work, and a separate Federal wage and fringe benefit rate for both heavy Work and building Work. The area in which the worker is physically employed shall determine which Federal wage and fringe benefit rate shall be used to compare against the State wage and fringe benefit rate.

If employing labor in a class not listed in the Contract Provisions on state funded projects only, the Contractor shall request a determination of the correct wage and benefits rate for that class and locality from the Industrial Statistician, Washington State Department of Labor and Industries (State L&I), and provide a copy of those determinations to the Engineer.

If employing labor in a class not listed in the Contract Provisions on federally funded projects, the Contractor shall request a determination of the correct wage and benefit for that class and locality from the U.S. Secretary of Labor through the Engineer. Generally, the Contractor initiates the request by preparing standard form 1444 Request for Authorization of Additional Classification and Rate, available at [www.gsa.gov/reference/forms](http://www.gsa.gov/reference/forms), and submitting it to the Engineer for further action.

The Contractor shall ensure that any firm (Supplier, Manufacturer, or Fabricator) that falls under the provisions of RCW 39.12 because of the definition "Contractor" in WAC 296-127-010, complies with all the requirements of RCW 39.12.

The Contractor shall be responsible for compliance with the requirements of the DBRA and RCW 39.12 by all firms (Subcontractors, lower tier subcontractors, Suppliers, Manufacturers, or Fabricators) engaged in any part of the Work necessary to complete this Contract. Therefore, should a violation of this Subsection occur by any firm that is providing Work or materials for

completion of this Contract whether directly or indirectly responsible to the Contractor, the Contracting Agency will take action against the Contractor, as provided by the provisions of the Contract, to achieve compliance, including but not limited to, withholding payment on the Contract until compliance is achieved.

In the event the Contracting Agency has an error (omissions are not errors) in the listing of the hourly minimum rates for wages and fringe benefits in the Contract Provisions, the Contractor, any Subcontractor, any lower tier subcontractor, or any other firm that is required to pay prevailing wages, shall be required to pay the rates as determined to be correct by State L&I (or by the U.S. Department of Labor when that agency sets the rates). A change order will be prepared to ensure that this occurs. The Contracting Agency will reimburse the Contractor for the actual cost to pay the difference between the correct rates and the rates included in the Contract Provisions, subject to the following conditions:

1. The affected firm relied upon the rates included in the Contract Provisions to prepare its Bid and certifies that it did so;
2. The allowable amount of reimbursement will be the difference between the rates listed and rates later determined to be correct plus only appropriate payroll markup the employer must pay, such as, social security and other payments the employer must make to the Federal or State Government;
3. The allowable amount of reimbursement may also include some overhead cost, such as, the cost for bond, insurance, and making supplemental payrolls and new checks to the employees because of underpayment for previously performed Work; and
4. Profit will not be an allowable markup.

Firms that anticipated, when they prepared their Bids, paying a rate equal to, or higher than, the correct rate as finally determined will not be eligible for reimbursement.

### **Listing Recovery Act (and other) new hire opportunities with the Employment Security Department.**

There are many talented people currently unemployed. As the signs on the Contracting Agency's projects advertise, the Recovery Act is about creating jobs and putting people back to work. As a companion effort, the Employment Security Department has been charged with giving people the opportunity to compete for these jobs. Their tool for doing so is WorkSource. WorkSource is a free service located across the State that screens, shortlists, and refers qualified candidates.

WorkSource employees are aware that the Contractor has other commitments as part of your business practices and as part of the Contract. Contractors may be subject to hiring commitments such as Equal Employment Opportunity or union commitments. However, utilizing WorkSource can be an essential effort as part of their various good faith efforts.

WorkSource is a resource that is available across the State. Contractors who have been awarded WSDOT Contracts shall be prepared to discuss their recruitment plans and how WorkSource will be incorporated into that effort at the preconstruction conference. WorkSource has a simple process for requesting and reporting new hires.

The Contractor may contact the ARRA Business Unit at 877-453-5906 (toll free) or [ARRA@esd.wa.gov](mailto:ARRA@esd.wa.gov). There is additional information available on the website at <https://fortress.wa.gov/esd/worksource>.

### **1-07.9(2) Posting Notices**

Notices and posters shall be placed in areas readily accessible to read by employees. The Contractor shall ensure the most current edition of the following are posted:

1. EEOC - P/E-1 – **Equal Employment Opportunity IS THE LAW** published by US Department of Labor. Post for projects with federal-aid funding.
2. Mandatory Supplement to EEOC P/E-1 published by US Department of Labor. Post for projects with federal-aid funding.
3. Pay Transparency Nondiscrimination Provision published by US Department of Labor. Post for projects with federal-aid funding.
4. FHWA 1022 – **NOTICE Federal-Aid Project** published by Federal Highway Administration (FHWA). Post for projects with federal-aid funding.
5. WH 1321 – **Employee Rights Under the Davis-Bacon Act** published by US Department of Labor. Post for projects with federal-aid funding.
6. WHD 1088 – **Employee Rights Under the Fair Labor Standards Act** published by US Department of Labor. Post on all projects.
7. WHD 1420 – **Employee Rights and Responsibilities Under The Family And Medical Leave Act** published by US Department of Labor. Post on all projects.
8. WHD 1462 – **Employee Polygraph Protection Act** published by US Department of Labor. Post on all projects.
9. F416-081-909 – **Job Safety and Health Law** published by Washington State Department of Labor and Industries. Post on all projects.
10. F242-191-909 – **Notice To Employees** published by Washington State Department of Labor and Industries. Post on all projects.
11. F700-074-909 – **Your Rights as a Worker in Washington State** by Washington State Department of Labor and Industries (L&I). Post on all projects.
12. EMS 9874 – **Unemployment Benefits** published by Washington State Employment Security Department. Post on all projects.
13. Post one copy of the approved “Statement of Intent to Pay Prevailing Wages” for the Contractor, each Subcontractor, each lower tier subcontractor, and any other firm (Supplier, Manufacturer, or Fabricator) that falls under the provisions of RCW 39.12 because of the definition of “Contractor” in WAC 296-127-010.
14. Post one copy of the prevailing wage rates for the project.

### **1-07.9(3) Apprentices**

If employing apprentices, the Contractor shall submit to the Engineer written evidence showing:

1. Each apprentice is enrolled in a program approved by the Washington State Apprenticeship and Training Council;
2. The progression schedule for each apprentice; and
3. The established apprentice-journey level ratios and wage rates in the project locality upon which the Contractor will base such ratios and rates under the Contract. Any worker for whom an apprenticeship agreement has not been registered and approved by the Washington State Apprenticeship and Training Council shall be paid at the prevailing hourly journey level rate as provided in RCW 39.12.021.

#### **1-07.9(4) Disputes**

If labor and management cannot agree in a dispute over the proper prevailing wage rates, the Contractor shall refer the matter to the Director of State L&I (or to the U.S. Secretary of Labor when that agency sets the rates). The Director's (or Secretary's) decision shall be final, conclusive, and binding on all parties.

#### **1-07.9(5) Required Documents**

On forms provided by the Industrial Statistician of State L&I, the Contractor shall submit to the Engineer the following for itself and for each firm covered under RCW 39.12 that provided Work and materials for the Contract:

1. A copy of an approved "Statement of Intent to Pay Prevailing Wages" State L&I's form number F700-029-000. The Contracting Agency will make no payment under this Contract for the Work performed until this statement has been approved by State L&I and a copy of the approved form has been submitted to the Engineer.
2. A copy of an approved "Affidavit of Prevailing Wages Paid", State L&I's form number F700-007-000. The Contracting Agency will not grant Completion until all approved Affidavit of Wages paid for Contractor and all Subcontractors have been received by the Engineer. The Contracting Agency will not release to the Contractor any funds retained under RCW 60.28.011 until all of the "Affidavit of Prevailing Wages Paid" forms have been approved by State L&I and a copy of all the approved forms have been submitted to the Engineer.

The Contractor shall be responsible for requesting these forms from State L&I and for paying any approval fees required by State L&I.

Certified payrolls are required to be submitted by the Contractor to the Engineer, for the Contractor and all Subcontractors or lower tier subcontractors, on all Federal-aid projects and, when requested in writing by the Engineer, on projects funded with only Contracting Agency funds. If these payrolls are not supplied within 10 calendar days of the end of the preceding weekly payroll period for Federal-aid projects or within 10 calendar days from the date of the written request on projects with only Contracting Agency funds, any or all payments may be withheld until compliance is achieved. Also, failure to provide these payrolls could result in other sanctions as provided by State laws (RCW 39.12.050) and/or Federal regulations (29 CFR 5.12). All certified payrolls shall be complete and explicit. Employee labor descriptions used on

certified payrolls shall coincide exactly with the labor descriptions listed on the minimum wage schedule in the Contract unless the Engineer approves an alternate method to identify the labor used by the Contractor to compare with the labor listed in the Contract Provisions. When an apprentice is shown on the certified payroll at a rate less than the minimum prevailing journey wage rate, the apprenticeship registration number for that employee from the State Apprenticeship and Training Council shall be shown along with the correct employee classification code.

#### **1-07.9(6) Audits**

The Contracting Agency may inspect or audit the Contractor's wage and payroll records as provided in Section 1-09.12.

#### **1-07.10 Worker's Benefits**

The Contractor shall make all payments required for unemployment compensation under Title 50 RCW and for industrial insurance and medical aid required under Title 51 RCW. If any payment required by Title 50 or Title 51 is not made when due, the Contracting Agency may retain such payments from any money due the Contractor and pay the same into the appropriate fund. Such payment will be made only after giving the Contractor 15 days prior written notice of the Contracting Agency's intent to disburse the funds to the Washington State Department of Labor and Industries or Washington State Employment Security Department as applicable. The payment will be made upon expiration of the 15 calendar day period if no legal action has been commenced to resolve the validity of the claim. If legal action is instituted to determine the validity of the claim prior to the expiration of the 15-day period, the Contracting Agency will hold the funds until determination of the action or written settlement agreement of the appropriate parties.

For Work on or adjacent to water, the Contractor shall make the determination as to whether workers are to be covered under the Longshoremen's and Harbor Worker's Compensation Act administered by the U.S. Department of Labor, or the State Industrial Insurance coverage administered by the Washington State Department of Labor and Industries.

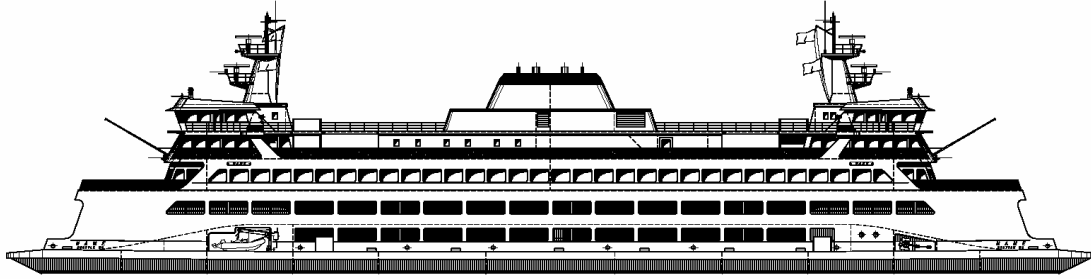
The Contractor shall include in the various items in the Bid Proposal all costs for payment of unemployment compensation and for providing either or both of the insurance coverages. The Contractor will not be entitled to any additional payment for: (1) failure to include such costs, or (2) determinations made by the U.S. Department of Labor or the Washington State Department of Labor and Industries regarding the insurance coverage.

The Public Works Contract Division of the Washington State Department of Labor and Industries will provide the Contractor with applicable industrial insurance and medical aid classification and premium rates. After receipt of a *Revenue Release* from the Washington State Department of Revenue, the Contracting Agency will verify through the Department of Labor and Industries that the Contractor is current with respect to the payments of industrial insurance and medical aid premiums.

## **WAGE RATES**

1. The prevailing rate of wages to be paid to all workmen, laborers, or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of Revised Code of Washington (RCW) 39.12. The rules and regulations of State L&I and the schedule of prevailing wage rates for the locality or localities where this Contract will be performed, as determined by the State L&I Industrial Statistician, are by reference made a part of this Contract as though fully set forth herein. Specific prevailing wage rates for this Contract, by class and locality, are attached hereto as Attachment "A" (State), and by this reference made a part of this Contract.
2. If employing labor in a class not listed in the Contract, the Contractor shall request a determination of the correct wage rate for that class and locality from the State L&I Industrial Statistician. The Contractor shall provide a copy of these determinations to WSF.
3. Since the Contractor will be held responsible for paying the prevailing wages, not less than the hourly minimum wage, it is imperative that the Contractor is familiar with the current wage rates before submitting its price proposal. The L & I Shipbuilding and Repair Wage Rates document is updated in February and August of each year. The Wage Rates in effect at the time of issuance of the Part D Notice to Proceed for Vessel No. 5 under the Contract will be the prevailing document for the duration of the Part D Work for Vessel No. 5. The Wage Rates in effect at the time of issuance of the Part D Notice to Proceed for each subsequent Vessel, if any, under the Contract will be the prevailing document for the duration of the Part D Work for the respective Vessel.
4. In case any dispute arises as to the prevailing wage rates for work of a similar nature and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the Director of the State L&I and his decision therein shall be final and binding on all parties involved in the dispute as provided by RCW 39.12.060 as amended.

**( END )**



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**Attachment “A”**

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**ATTACHMENT “A”**

**PREVAILING MINIMUM HOURLY WAGE RATES – STATE**

**Please visit the attached web page(s) for specific wage rates**

**Journeyman Wage Rates**

<https://secure.lni.wa.gov/wagelookup/>

(Select County “**KING**”, Select Trade “**Shipbuilding & Ship Repair**”, Enter an Effective Date, Click “**Get Wages**”, rates will be populated below)

**Apprentice Wage Rates**

<https://secure.lni.wa.gov/wagelookup/ApprenticeWageLookup.aspx>

(Select County “**KING**”, Select Trade “**Shipbuilding & Ship Repair**”, Enter an Effective Date, Click “**Get Wages**”, rates will be populated below)

THE WAGE RATE DATA INCLUDES:

BENEFIT CODE KEY

SUPPLEMENTAL TO THE WAGES RATES

SHIPBUILDERS STATE WAGE RATES

**( END )**