



ADMINISTRATIVE RULES OF MONTANA

24.17.141 OBLIGATIONS OF PARTIES REGARDING THE PAYMENT OF PREVAILING WAGES

- (1) Montana law requires payment of the standard prevailing rate of wages on public works contracts. Public contracting agencies, contractors, and subcontractors and employers each have a role in complying with the prevailing wage laws.
- (2) Assistance in determining the nature of public works projects and whether heavy, highway or building construction prevailing wage rates apply, can be obtained through the office of the Commissioner of Labor and Industry. Any determination or assistance provided by the commissioner's office is based solely on the facts as presented to the commissioner in the specific request for assistance.
- (3) Pursuant to [18-2-422](#), MCA, a public contracting agency is obligated to include in its bid specifications and public works contracts a provision that the contractors, subcontractors and employers must pay the standard prevailing rate of wages in the performance of the public works contract, and specify what those rates are. As provided in [18-2-403](#), MCA, the failure of the public contracting agency to include such provisions subjects the public contracting agency to liability for any underpaid wages owed by any contractor, subcontractor or employer for the performance of the public works contract.
- (4) Pursuant to [18-2-403](#), MCA, if the public contracting agency includes the required provisions regarding payment of the standard prevailing rate of wages, the contractor, subcontractor or employer that signs the contract with the public contracting agency is obligated to ensure that the appropriate standard prevailing rate of wages is paid to each employee performing construction services in performance of the public works contract, and is liable for any underpaid wages or fringe benefits.
- (5) As provided in [18-2-406](#), MCA, each contractor, subcontractor or employer must post the wage scale to be paid for work done in performance of the public works contract in a prominent and accessible site on the project or work area from the first day of work and continued for the duration of the project. Failure to pay at least the standard prevailing rate of wages subjects each contractor, subcontractor or employer to penalties and fees as provided by law.
- (6) In order to ensure compliance with Montana's prevailing wage laws, public contracting agencies, contractors, subcontractors and employers may enter into contractual agreements that specify that each contractor, subcontractor or employer working on the public works contract has an obligation to ensure that any person, firm or entity performing any portion of the public works contract for which the contractor, subcontractor or employer is responsible, is paid the applicable standard prevailing rate of wages. The terms of the contract may include a provision for the indemnification of a party that is required to pay underpaid wages on behalf of any other person, firm or entity that failed to properly pay the required prevailing wage.

- (7) The failure of a contractor, subcontractor or employer to comply with the provisions of [18-2-412](#), MCA, regarding the acceptable alternative methods of paying the standard prevailing rate of wages, may subject that party to penalties as provided by law and damages or obligations as specified by contract.

Authorizing statute(s): 18-2-431, MCA

Implementing statute(s): 18-2-403, 18-2-406, 18-2-407, 18-2-412, and 18-2-422, MCA

History: NEW, 2002 MAR p. 2446, Eff. 9/13/02.