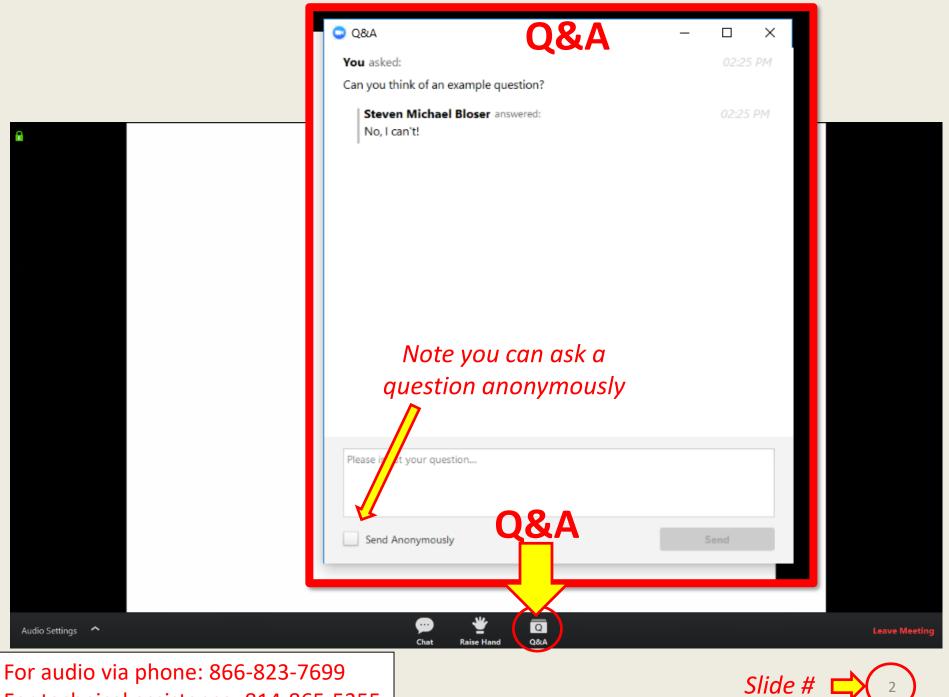


If you are reading this, then you are successfully seeing the webinar video. Webinar audio should be automatic through your computer, and options can be accessed in the "audio options" button on the bottom left. If you are having audio issues, or are in a location where listening via phone is preferable, audio is also available on the CDGRS conference line at: 866-823-7699.

For technical assistance, call: 814-865-5355





For technical assistance: 814-865-5355

### Purpose:

### Part 1

- Review new Q&A on Prevailing Wage
  - Clarify any issues in document
  - Document available online at: <u>www.dirtandgravelroads.org</u>, Program Resources, Reference Material

Part 2

Review CD Responsibilities

## Thank you to Huntingdon County Conservation District, especially Sherri Law

- Most of this document written by HCCD with help from Labor and Industry
- SCC & Center added and clarified a few items
- This version was OK'd by Labor and Industry 1/2019

Prevailing Wage & the Dirt, Gravel, and Low-Volume Road Program Frequently Asked Question (for Municipalities)

updated 2/2019

**NOTE:** The information provided here is to help Dirt, Gravel, and Low-Volume Road (DGLVR) grant recipients understand how the Pennsylvania Prevailing Wage Act affects DGLVR Projects and is NOT an official determination on whether or not Prevailing Wage applies to a specific project. If a DGLVR grant recipient has any questions about whether Prevailing Wage applies to a specific project, they should contact the PA Department of Labor and Industry for an official determination.

For audio via phone: 866-823-7699 For technical assistance: 814-865-5355

tingdon County Conservation District and the bor and Industry for preparing this document

## Thank you to Huntingdon County Conservation District, especially Sherri Law

- Most of this document written by HCCD with help from Labor and Industry
- SCC & Center added and clarified a few items
- This version was OK'd by Labor and Industry 1/2019

### **Call Sherri Law's Cell Phone with Questions:** 814-555-5681

### (1) What is the Pennsylvania Prevailing Wage Act?

This piece of legislation requires the "prevailing wage" rate to be paid to contracted labor for construction projects with an estimated cost of \$25,000.00 or more when public funds are involved.

### (2) Who determines prevailing wage rates?

The Bureau of Labor Law Compliance, which is part of the PA Department of Labor and Industry

# (3) When does the PA Prevailing Wage Act apply to Dirt, Gravel, and Low-Volume Road (DGLVR) projects?

When the estimated or <u>total cost of a project</u> funded in part or in whole by the DGLVR program is \$25,000 or more, any contracted labor must be paid prevailing wage. "In-kind" in the chart below for PW refers to cash or materials only, non-reimbursed municipal equipment or labor does <u>not</u> count toward the in-kind or total project cost for determining Prevailing Wage, as long as those in-kind costs are clearly identified in the grant application and final project paperwork. In-kind equipment and labor should still be reported as in-kind expenses for Program reporting purposes.

Total <u>estimated</u> project cost (DGLVR Grant + <mark>in-kind materials/cash</mark> )	Total <u>actual</u> project cost (DGLVR Grant + <mark>in-kind materials/cash</mark> )	Does Prevailing Wage apply?		
\$25,000 or more	\$25,000 or more	Yes		
\$25,000 or more	Less than \$25,000	Yes		
Less than \$25,000	\$25,000 or more	Yes		
Less than \$25,000	Less than \$25,000	No		

### (4) How do I get a prevailing wage rate determination?

- Contact the Bureau of Labor Law Compliance for a prevailing wage rate determination at (717)-705-5969
- This determination can also be initiated online at <u>https://www.dlisecureweb.pa.gov/PrevWage/Pages/De</u> <u>termRequest.aspx?ID=&PageType=</u>

Search Prevailing Wage Project	s				
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Use the fields below to search All dates should be in a mm/de and must include both a "from	l/yyyy format				
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### (4) How do I get a prevailing wage rate determination?

- Contact the Bureau of Labor Law Compliance for a prevailing wage rate determination at (717)-705-5969
- This determination can also be initiated online at <u>https://www.dlisecureweb.pa.gov/PrevWage/Pages/De</u> <u>termRequest.aspx?ID=&PageType=</u>
- Solicitors and DGLVR program staff can give their interpretation of the Prevailing Wage Act, but ONLY the Bureau of Labor Law Compliance can make determinations.
  - If you have any doubt about whether or not prevailing wage applies to your project, contact the Bureau of Labor Law Compliance!

# (5) Why is the prevailing wage threshold for DGLVR projects \$25,000 instead of \$100,000?

In 2013, Act 89 raised the prevailing wage threshold to \$100,000 for certain funding sources, but did not include the DGLVR program as one of those funding sources. The Penn State Center for Dirt and Gravel Road Studies provides a more detailed explanation of this.

Prevailing Wage and the PA Dirt, Gravel, and Low Volume Road
Maintenance Program
5/4/2015

This document was written by the Penn State Center for Dirt and Gravel Roads, and represents a collection of information from various sources compiled for educational purposes only. This document is not meant as a comprehensive guide to Prevailing Wage. It is only intended to clarify the issue of when it applies to Dirt, Gravel, and Low Volume Road Program projects. Neither the Center nor State Conservation Commission makes prevailing wage determinations.

The threshold for paying Prevailing Wage for Dirt, Gravel, and Low Volume Road Maintenance Program projects remains at \$25,000 (not \$100,000).

#### Why:

Many people are under the impression that the Prevailing Wage (PW) threshold was increased from \$25,000 to \$100,000 for Dirt, Gravel, and Low Volume Road (DGLVR) Program projects as part of the Transportation Bill (act 89 of 2013). While it is true that Act 89 raised the PW threshold to \$100,000, it also specifically defines the sources of funds that this higher threshold applies to. The language in the act, shown at right, applies to "locally funded" projects, and in section (c) goes on to define the term "locally funded" using 6

Section 40.5. Title 75 is amended by adding a section to read: § 9023. Application of Prevailing Wage Act to <u>locally funded</u> highway and bridge projects.

(a) Public work.—For <u>locally funded</u> highway and bridge projects, the term 'public work' as used in the act of August 15, 1961 (PL.987, No.442), known as the Pennsylvania Prevailing Wage Act, shall mean construction, reconstruction, demolition, alteration and repair work, other than maintenance work, done under contradand paid for in whole or in part out of the funds of a public body if the estimated cost of the total project is in excess of \$100,000. The term shall not include work performed under a rehabilitation or manpower training program.

(b) Applicability.--This section shall apply to a contract entered on or after the effective date of this section.

(c) Definition .-- As used in this section, the term "locally

# (6) Can I split my project into different phases to avoid paying prevailing wage?

- If you complete work for your DGLVR-funded project in multiple phases over the life of one DGLVR grant, the work is still considered one project and prevailing wage applies if the total project cost is \$25,000 or more
- If you receive two different DGLVR grants for the same road in different years, prevailing wage is determined for each project separately

# (7) My DGLVR grant is over \$25,000. What if the municipal road crew completes part of the project and a contractor completes part of the project?

- The portion of work completed by municipal employees is not subject to prevailing wage because it is not contracted labor, but it does count towards the total cost of the project if those costs are reimbursed as part of the grant. Nonreimbursed labor and equipment provided by the municipality do not count toward the total cost of the project, as long as those costs are clearly identified in the grant application and final project paperwork.
- Since the total cost of the project is over \$25,000, prevailing wage must be paid to any contracted labor, regardless of how much of the project the contractor works on.

(8) My DGLVR grant is over \$25,000, but two contractors each complete part of the project and each part costs less than \$25,000. Do the contractors still need to be paid prevailing wage?

Yes, the total cost of the project is still over the prevailing wage threshold of \$25,000, so the contractors must be paid prevailing wage

(9) Prevailing Wage applies to construction projects, but not maintenance projects. How do I know whether my project is construction or maintenance?

- For the Prevailing Wage Act, maintenance work is defined as "the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased" 43 P.S. § 165-2(3).
- The Bureau of Labor Law Compliance provides guidance on which PennDOT Treatments are considered construction and maintenance (see attached pages from the PA Department of Labor and Industry's website). NOTE: This list is only guidance and the Bureau retains the authority to determine PA prevailing wage requirements.
- DGLVR projects are required to provide an improvement to the road and therefore are almost always considered construction for the purpose of prevailing wages.

### **Prevailing Wage**

(9) Prevailing Wage applies to construction projects, but not maintenance projects. How do I know whether my project is construction or maintenance?

• DGLVR projects are required to provide an improvement to the road and therefore are almost always considered construction for the purpose of prevailing wages.

Interpretation of Maintenance Work for Road Pro Under Pennsylvania Prevailing Wage Act	Prevailing Wage/PennD	OT Treatments
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3). Solutional and the second se	Scrub Seal	Construction
5). Solid, 938 A.2d 1198 (Pa. Cmwlth. 2007) affirmedA.2d, No. 8 WAP 2008 (Pa. June 4, Solution (to construct again; to rebuild; to form again or anew) and demolition requires Sylvania prevailing wages. Demolition and in-kind replacement of curbs and sidewalks requires tant Note: Labor & Industry reviews the form again or anew.	Ultrathin Friction Course	
sylvania prevailing wages. Demokir, to rebuild; to form	Repaving	Construction
mwith. 2006).		Construction
Note: Labor & Industry revise	Hot In-Place Recycling	Construction
Construction (to construct again; to rebuild; to form again or anew) and demolition requires sylvania prevailing wages. Demolition and in-kind replacement of curbs and sidewalks required sylvania prevailing wages. Borough of Ebensburg v. Prevailing Wage Appeals Board, 893 A.2d 181 mwlth. 2006). tant Note: Labor & Industry reviews the facts particular to the project and utilizes other relevant court clion projects (construction, reconstruction, dom, reconstruction, reconstruction, reconstruction, dom, reconstruction, reconstructi	with and without The	
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(10) How much more does prevailing wage cost than other labor rates?

- Prevailing wage rates vary by location and project. The rates for your project are not set until you receive your rate determination from the Bureau of Labor Law Compliance.
- To estimate how much prevailing wage might cost when planning your DGLVR project, you can use past prevailing wage rates from similar projects.
  - talk to your neighboring municipalities about how much their prevailing wage rates were
  - you can search for registered prevailing wage projects and view their rates on the Department of Labor and Industry's website here: <u>https://www.dli.pa.gov/Individuals/Labor-</u> <u>Management-Relations/Ilc/prevailing-wage/Pages/Prevailing-</u> <u>Wage-App.aspx</u>

# (11) If the Prevailing Wage Act applies to my project, who gets paid prevailing wage?

- Municipal employees are not contractors and therefore do not need to be paid prevailing wage
- All contracted labor actively involved in construction, <u>including</u> <u>owner/operators</u> of a contracting business, must be paid prevailing wage
- Supervisory personnel do NOT need to be paid prevailing wage
  - Supervisory personnel inspect/provide guidance on site. If they
    actively participate in the construction, such as by picking up a shovel
    to help spread aggregate, they should be paid prevailing wage for the
    hours they spend actually doing road construction
- <u>Vendors whose sole involvement in the project is delivering materials on</u> site, including truck drivers delivering aggregate, do NOT need to be paid prevailing wage
  - Trucks delivering aggregate/pavement into a paver are vendors
  - If a truck delivers aggregate and then stays on site, is loaded with debris, and hauls it off site, the truck is no longer considered a vendor and the driver should be paid prevailing wage for the time spend participating in project work

# (12) As a DGLVR grant recipient, what are my responsibilities in regards to the Prevailing Wage Act?

- It is the grant recipient's responsibility to contact the Bureau of Labor Law Compliance for a prevailing wage rate determination on your DGLVR project
- If prevailing wage applies to your project, you must bid the project as a prevailing wage project and include the prevailing wage rates in the contract with your contractor

# (13) What if the Prevailing Wage Act applies to my DGLVR project and I didn't know?

- You are still required to pay prevailing wage and can do so without additional fees or consequences
- Notify the contractor, contact the Bureau of Labor Law Compliance to obtain a rate determination, and provide a copy of the certified payroll to the Conservation District to verify that you have followed the provisions of the Prevailing Wage Act

# (14) What happens if I (a municipality/public entity) don't pay prevailing wage when required?

- If a municipality/public entity does not pay its contracted labor the prevailing wages legally required, that is a civil matter between the municipality/public entity and the contractor
- You can rectify the situation by paying the difference in wages due to the contractor
- If the municipality/public entity refuses to pay prevailing wages when required, the civil matter can turn into a criminal matter

# (15) What if my contractor doesn't want to pay prevailing wage to themselves and/or their employees?

- If the contractor is working on a DGLVR project that totals \$25,000 or more, they are required by law to comply with the Pennsylvania Prevailing Wage Act.
- Small "owner/operator" contractors where the owner performs all the work are still required to pay themselves prevailing wage.
- If the contractor does not pay prevailing wage (even to themselves) when required by law, they can be debarred from working on publicly funded projects for up to 3 years. The company's name and owner's name are published on a debarment list so that municipalities and other public entities know that the contractor is ineligible to work on their public projects.

### **Prevailing Wage**

### **Debarment Search:**

https://www.dgs.internet.s tate.pa.us/debarmentsearc h/debarment/index



#### Commonwealth of Pennsylvania - Debarment and Suspension List

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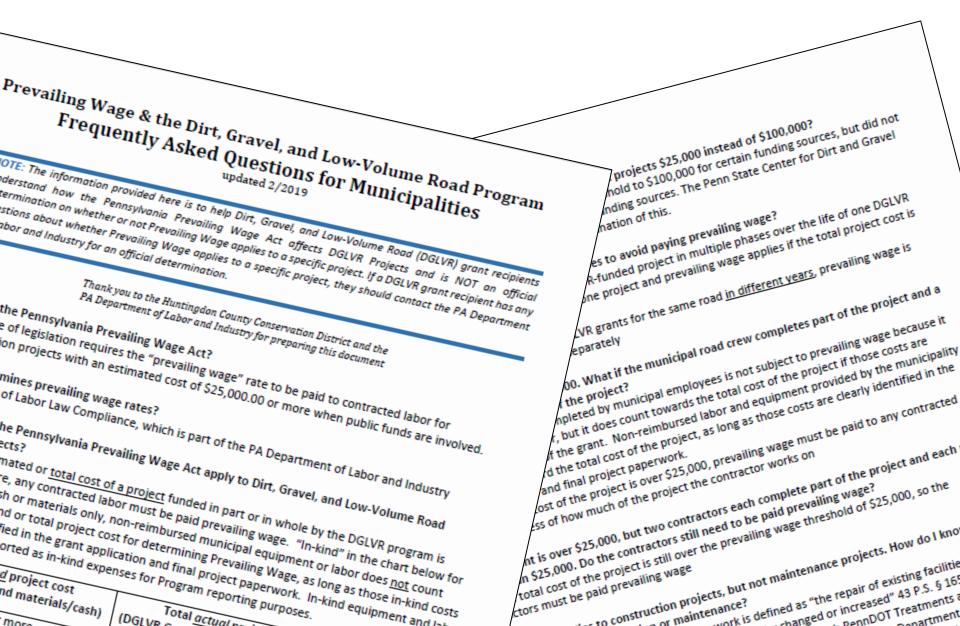
### **Additional Pages**

DGLVR projects are required to provide an improvement to the road and therefore are almost always considered construction for the purpose of prevailing wages.

Interpretation of Maintenance Work for Road Projects Under Pennsylvania Prevailing Wage Act			
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### **Prevailing Wage**

### **Additional questions or clarifications?**



### Purpose:

### Part 2

• Review CD Responsibilities

- Applicants must keep record of compliance
- Districts must verify
  - What's the best way ?

**best** Notarized letter and certified payroll (Venango ex.)

# Example from Venango:



1793 Cherrytree Road Franklin, PA 16323 Phone: 814/676-2832 Fax: 814/676-2927

... committed to quality and sustainable natural resource management

www.venangocd.org

April 9th, 2008

To Whom It May Concern,

The Venango Conservation District has been notified by the Department of Labor and Industry of our obligation to provide to municipalities receiving a Dirt and Gravel or a Low Volume Road grant from the District a written notification of prevailing wage responsibilities that must be supplied. In accordance with our conversation with the Department of Labor and Industry we are providing this attached addendum to your existing contract/s of the municipalities responsibility to the grant regarding prevailing wage.

According to Mr. Timothy Styborski of DLI, the Venango Conservation District has a responsibility to notify any and all municipalities that have received a DG or LVR grant a notification of their responsibility to the prevailing wage law. If you contract all or any part of your job out and your total project amount exceeds \$25,000.00 you must run a prevailing wage determination with Dept. of Labor and Industry (DLI) and include that with your bid package. The Department of Labor and Industry has instructed us to add this information to meet the district's obligations to prevailing wage as the issuing entity of public money.

Attached, you will find a copy of the "Regulations for Pennsylvania Prevailing Wage Act" 1997 edition and a letter of acknowledgement stating that the municipality acknowledges they have received notification. The acknowledgement form doesn't state that the municipality agrees with the requirements only that you acknowledge you received the information of prevailing wage requirements from the Venango Conservation District.

If you have any questions please contact me at 1-814-676-2832 or at <u>labowes@hughes.net</u> and I will do my best to provide you with answers and information to your concerns.



**Example from** 





1793 Cherrytree Road Franklin, PA 16323 Phone: 814/676-2832 Fax: 814/676-2927

... committed to quality and sustainable natural resource management

www.venangocd.org

Acknowledgement Page hear by acknowledge that I have read and understand the associated letter notifying township. borough, county, or agency of our responsibilities to comply with Pennsylvania's prevailing wage law. Signature Date Title

labowes@hughes.net and I will do my best to provide you with answers and information to your concerns.

### **Example from Venango:**

#### WEEKLY PAYROLL CERTIFICATION FOR PUBLIC WORKS PROJECTS

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### **Conservation District Responsibility:**

- Applicants must keep record of compliance
- Districts must verify
  - What's the best way ?
    - best
       Notarized letter and certified payroll (Venango ex.)

       certified payroll in project file

       proof of PW in bid

       copy of wage rate determination

       https://www.dlisecureweb.pa.gov/PrevWage/Pages/DetermRequest.a

       spx?ID=&PageType=

worst

- <u>Unacceptable:</u>
  - Cross your fingers and hope they paid PW
  - Say "I told them they had to pay PW"



### PA Department of Labor and Industry

Phone : (717)-705-5969

E-Mail: <u>RA-LI-SLMR-LLC@pa.gov</u>

Web: <u>https://www.dli.pa.gov/Individuals/Labor-Management-Relations/Ilc/prevailing-</u> wage

#### **Regional Offices:**

#### Altoona District Office

1130 12th Ave. , Suite 200 Altoona, PA 16601 814-940-6224 or 1-877-792-8198

#### **Philadelphia District Office**

110 North 8th St., Suite 203Philadelphia, PA 19107215-560-1858 or 1-877-817-9497

#### **Scranton District Office**

201 B State Office Building, 100 Lackawanna Ave., Scranton, PA 18503 570-963-4577 or 1-877-214-3962

#### Harrisburg District Office

1301 Labor & Industry Building , 651 Boas St. Harrisburg, PA 17121 717-787-4671 or 1-800-932-0665

#### Pittsburgh District Office

301 5th Ave., Suite 330 Pittsburgh, PA 15222 412-565-5300 or 1-877-504-8354