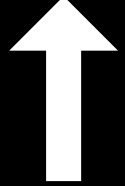
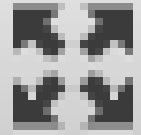


# Prevailing Wage and the DGLVR Program

7/31/15 10am



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will be on phone audio only.**  
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to reduce background noise)

Steve Bloser, CDGRS

Guest Prevailing Wage Expert:

Holly Fishel, PSATS

Director of Research and Policy Development  
Pennsylvania State Association of  
Township Supervisors

[hfishel@psats.org](mailto:hfishel@psats.org)

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- **\$25K PW threshold explained**
- PW in the DGLVR Program
- Q&A and Discussion
  - Pre-submitted Questions
  - Live Q&A

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- **What is Prevailing Wage?**

- The prevailing wage rate is defined as the average wage paid to similarly employed workers in a specific occupation in the area of intended employment.
- In many rural areas, the PW rate is higher than standard rates for labor.

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## Prevailing Wage Threshold:

- Based on total project value.
- Has been \$25,000 for 50+ years.
- 2013 Transportation bill raised threshold to \$100K for some transportation projects.
- **DGLVR Project threshold remains at \$25,000.**
  - **Why???**

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## Act 89 of 2013

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

(a) *Public work.*--For locally funded highway and bridge projects, the term "public work" as used in the act of August 15, 1961 (P.L.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 contract and 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 funded" means a highway or bridge project that is funded entirely by funds:

- (1) paid to counties under section 9010(b) (relating to disposition and use of tax), including borrowed funds under section 9010(b)(2)(ii), whether expended by the county or allocated or apportioned to political subdivisions;
- (2) allocated or appropriated to municipalities under the act of June 1, 1956 (1955 P.L. 1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law;
- (3) made available to municipalities from the Highway Bridge Improvement Restricted Account within the Motor License Fund for expenditure on bridge rehabilitation, replacement and removal projects pursuant to the act of December 8, 1982 (P.L.848, No.235), known as the Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983, and its supplements;
- (4) awarded to municipalities as transportation enhancement grants under section 3116 (relating to automated red light enforcement systems in first class cities) or 3117 (relating to automated red light enforcement systems in certain municipalities);
- (5) allocated from municipal budgetary sources using revenues derived through municipal taxes or fees; or
- (6) allocated to municipalities under 58 Pa.C.S. (relating to oil and gas).

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# Prevailing Wage

## Act 89 of 2013

- Raises PW threshold to \$100,000.

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- (6) allocated to municipalities under 58 Pa.C.S. (relating to oil and gas).

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# Prevailing Wage

## Act 89 of 2013

- Raises PW threshold to \$100,000.
- BUT, defines six funding sources the change applies to.

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- (6) allocated to municipalities under 58 Pa.C.S. (relating to oil and gas).

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## Act 89 of 2013

- Raises PW threshold to **\$100,000.**
- **BUT**, defines six funding sources the change applies to.
- Sine DGLVR funding source is not listed, legal interpretation is that it does not apply: **DGLVR Prevailing wage threshold remains at \$25,000**

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- (5) allocated from municipal budgetary sources using revenues derived through municipal taxes or fees; or*
- (6) allocated to municipalities under 58 Pa.C.S. (relating to oil and gas).*

- You will still pushback from local sources who think it is \$100,000.
- Document available to explain (link at end)

## Prevailing Wage and the PA Dirt, Gravel, and Low Volume Road Maintenance Program

5/4/2015

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*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

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

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- \$25K PW threshold explained
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- Q&A and Discussion
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- **PREVAILING WAGE:**

Does not apply to **Municipal** labor.

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- **PREVAILING WAGE**: Projects where the estimated total project cost exceeds \$25,000 (NOT \$100,000) are subject to the prevailing wage act for **contracted** labor.

**It is the responsibility of the grant recipient** to obtain the Prevailing Wage Act scale for the area and include it in any proposal to solicit bids for the contract.

The Prevailing Wage scale can be obtained from the Prevailing Wage Division of the Pennsylvania Department of Labor and Industry. If the Prevailing Wage Act applies, the advertisement shall also note this fact.

More to come on “what is the CD responsibility”.

- **PREVAILING WAGE**: Projects where the estimated total project cost exceeds \$25,000 (NOT \$100,000) are subject to the prevailing wage act for contracted labor.
  - Cannot “split” projects to avoid PW.
  - PW Never applies to municipal labor.
  - What is “Total Project Costs”:

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- **“Total Project Costs” definition:**
  - All contractors plus municipal costs.

*“How is the prevailing wage requirement interpreted if a township purchases \$18,000.00 worth of aggregate (from one contractor) and then hires another contractor to place the stone for \$10,000.00? Does PW have to be paid? -YES*

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- **“Total Project Costs” definition:**
  - All contractor(s) plus municipal costs.
  - **Include:**
    - Material, equipment, labor, paid for by grant
    - Materials in-kind by applicant
    - Other grants and funding sources

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- **“Total Project Costs” definition:**
  - All contractor(s) plus municipal costs.
  - **Include:**
    - Material, equipment, labor, paid for by grant
    - Materials in-kind by applicant
    - Other grants and funding sources
  - **Do Not Include (does not count towards \$25K threshold):**
    - Engineering, Permits and other fees
    - In-kind applicant equipment
    - In-kind applicant labor.

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- **PREVAILING WAGE EXAMPLES:**
- **\$25,001 Contract**
  - PW applies to any contracted labor only.

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- **PREVAILING WAGE EXAMPLES:**
- **\$25,001+ Contract**
  - PW applies to any contracted labor only.
- **\$24,000 Contract + \$2,000 in-kind (materials)**
  - PW applies to any contracted labor only.

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- **PREVAILING WAGE EXAMPLES:**
- **\$25,001+ Contract**
  - PW applies to any contracted labor only.
- **\$24,000 Contract + \$2,000 in-kind (materials)**
  - PW applies to any contracted labor only.
- **\$24,000 Contract + \$5,000 outside grant**
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  - PW applies to any contracted labor only.
- **\$24,000 Contract + \$5,000 outside grant**
  - PW applies to any contracted labor only.
- **\$24,000 Contract + \$5,000 in-kind (equip/lab)**
  - PW does NOT apply.

- **PREVAILING WAGE NOTE:**

- Be cautious of projects that are “just under” prevailing wage threshold of \$25,000.
- Amendments could increase it over the threshold.
- *Example: A \$24,000 contract with a \$4,800 amendment = \$28,800 (PW would apply to any contracted labor on whole project)*

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# Prevailing Wage Website:

[http://www.portal.state.pa.us/portal/server.pt/community/prevailing\\_wage/10519](http://www.portal.state.pa.us/portal/server.pt/community/prevailing_wage/10519)

The screenshot shows the Pennsylvania Department of Labor & Industry website. The header includes the state logo and navigation menus for 'PA STATE AGENCIES' and 'ONLINE SERVICES'. A search bar is present with the text '--search PA--' and a 'go' button. The left sidebar contains a menu with items: 'L&I Home', 'Safety and Labor-Management Relations', 'Industrial Board', 'Labor Law Compliance', 'Prevailing Wage', 'Forms', 'Quick Links', 'Child Labor Act', 'Minimum Wage Law', 'Labor-Management Cooperation', 'Mediation Services', and 'Occupational and Industrial Safety'. The main content area shows the breadcrumb 'Safety and Labor-Management Relations > Labor Law Compliance' and the title 'Prevailing Wage Project'. Below the title is a paragraph: 'The Bureau of Labor Law Compliance updated its Pennsylvania Building Journey person Laborer Notes to clarify existing tasks performed throughout the Commonwealth. The "Building Laborer Notes" link on the Bureau's website provides a list of those tasks that should be read in conformity with custom and usage of the construction industry in the geographic region in which they are utilized.' There are three links: 'Online Prevailing Wage Application & Rate Search', 'Current Labor and Industry Department List', and two footer links: 'Prevailing Wage Act (Act of 1961, P.L. 987 No. 442)' and 'Regulations for Pennsylvania Prevailing Wage Act (R-5)'.



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## Who's responsibility is it to make sure PW is paid?

The entity hiring the contractor (grant recipient).

*\*note this could be CD on demo projects*

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**Who's responsibility is it to make sure PW is paid?**

The entity hiring the contractor (grant recipient).

*\*note this could be CD on demo projects*

**What is the Conservation District's responsibility?**

Education and notification.

**What is the “punishment” for failing to pay PW?**

Backpay and/or fines.

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**What is the “punishment” for failing to pay PW?**

Backpay and/or fines.

**How are people “caught” not paying PW?**

Complaint driven

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**Do truck drivers delivering stone, pipes, etc. need to be paid prevailing wage for jobs >\$25K?**

**No**: Delivery is not a “service”. If they are just delivering stone, that is just part of the cost of the material. Same applies to excavator loading stone at the quarry or shale pit, etc.

*\*note a contracted truck driver as a laborer moving material on a site WOULD fall under PW.*

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## **Can I split projects into phases to avoid PW?**

In general no. Only if they are legitimately different projects (multiple years, etc.).

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## How large of a cost increase is PW?

Not as bad as you may think for DGLVRP since most of our funds are spend on materials.

*For a 1,000 ton paver placed DSA job, PW may increase the cost ~\$1 per ton.*

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**Is there any work going on to increase the PW threshold (for DGLVR or in general)?**

Yes...

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## Other Questions:

Chat box

Phone line

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## LINKS

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