

The City of Pittsburgh Service Worker Prevailing Wage Ordinance

Title I, Article VII, Section 161.38

Fact Sheet

What is the Prevailing Wage Ordinance?

The [Prevailing Wage Ordinance](#), passed by Pittsburgh City Council, requires contractors who provide building service and food services to the City of Pittsburgh to pay prevailing wages to employees employed pursuant to such contracts, and to require that building service, food service, grocery and hotel employees employed on projects receiving City subsidies be paid prevailing wages.

Who is Covered by the Ordinance?

1. Any employer who employs building service and food service employees for all work performed pursuant to a City service contract.
2. Any employer who employs building service, food service, hotel or grocery employees for all work performed on or related to projects that will receive a City subsidy after April 3, 2010, the effective date of the Ordinance.

What Must an Employer Do to Comply with the Ordinance?

1. **Recordkeeping and Notice Posting:** An employer covered by the Ordinance shall keep an accurate record showing the name, address, job classification, wages and benefits paid or provided, and numbers worked for each employee. **Record Retention:** The record shall be preserved for two (2) years from the date of final payment. The records shall be available for inspection by the City Controller or the Controller's authorized agent at all reasonable hours, and the covered employer shall permit agents to interview employees during work hours on the job.
2. **File Federal Form WH-347 with the Controller:** On a yearly basis, a covered employer shall file with the Controller or the Controller's authorized agent by (date) the Federal Form WH-347 (attached hereto), or its equivalent, specifying for each employee, the employee's:
 - Name
 - Address
 - Social Security Number (kept confidential by the Controller)
 - Job classification
 - Hourly wage rate paid
 - Number of hours worked each day
 - Number of hours worked each week
 - All deductions made from gross pay
 - Net weekly pay

3. **File Yearly Statement with Controller:** A covered employer shall file a yearly statement with the Controller or the Controller's authorized agent by (date) certifying that all workers have been paid no less than the wage required by their contract, or, if any wages remain unpaid to set forth the amount of wages due and owing to each worker, and that the job classification for each employee conforms with the work performed.
4. **Post Information in Workplace:** A covered employer shall post in the job site the name, address and telephone number of the Controller, the applicable prevailing wages for the job classifications, and a statement advising workers that if they have been paid less than the prevailing wage rate that they may contact the Controller and request an investigation.
5. **Penalties for Failure to Pay Prevailing Wage:**
 - a. **Pursuant to a Complaint Filed with Controller:** If an individual or entity files a complaint with the Controller for violation of the Ordinance, the Controller will investigate the complaint and make a finding of compliance or noncompliance. Upon a finding of noncompliance, the Controller will issue a notice of corrective action to the employer. If the employer disputes the finding, a hearing will occur. When a notice of corrective action becomes final, or if the hearing officer determines that the dispute was frivolous or brought for delay, the Controller or hearing officer shall order the following penalties: **wage restitution for affected employee(s); liquidated damages in the amount of three times the wages owed; directive to withhold payments due to the covered employer; attorney fees; and rescission of any City service contract.**
 - b. **Penalties for Employer Certification of Failure to Pay Prevailing Wage:** Should a covered employer, when filling out its certification to Controller verifying the wages paid to its employees, certify that it has not paid employee(s) the applicable required prevailing wage, the Controller shall issue the following penalty(ies) _____.
(insert penalty).

(POSTER)

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Pursuant to Title I, Art. VII, Section 161.38(IV)(D), Covered Employers under the Ordinance must post the below information in an area easily accessible by all employees at the job site(s).

Pittsburgh City Controller Michael Lamb
City-County Building
414 Grant Street
Pittsburgh, PA 15219
(412) 255-2054
Email address (new)?

PREVAILING WAGES

<u>Job Classification</u>	<u>Hourly Wage Rate</u>	<u>Benefits</u>

*****Employees: If you have been paid less than the above prevailing wage rate for your job classification, please notify the City Controller at the above information to request an investigation.**

ENFORCEMENT
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Complaint Procedure

Any individual or organization may file a complaint with the City Controller for any violation of this section.

Review and Investigation

The Controller shall review and investigation the complaint and shall make a finding of compliance or noncompliance within 60 days of the complaint being filed, including a determination of whether an employer is covered by the law. The Controller shall immediately notify in writing employer who is subject of the complaint.

1. Covered employer shall permit agents of Controller to observe work, interview employees, and/or examine books and records relating to the payrolls investigated to determine whether employer is in compliance.
2. The city controller may extend the investigation period beyond 60 days with the consent of the complaining party.
1. Failure of the Controller to issue a finding of compliance or noncompliance does not relieve the covered employer of obligations under the law.

Finding of Noncompliance

If at any time the Controller finds a violation of the law has occurred, it will issue a finding of noncompliance and notice of corrective action to the employer, with a copy to the complaining party.

The finding of noncompliance shall specify the areas of noncompliance, and impose deadlines for achieving compliance.

Dispute Finding of Noncompliance - Hearing

A covered employer may dispute finding of noncompliance and notice of corrective action by requesting a hearing within 30 days of the date of the finding.

Controller will appoint a hearing officer who will affirm or reverse the finding of noncompliance upon evidence presented by the applicable department and covered employer.

Precondition for request of hearing: As a precondition for an employer request for a hearing for wage restitution, a covered employer must provide evidence that such wages have either been paid or placed into an escrow account for the satisfaction of the judgment of the hearing officer.

Failure to request hearing or Failure to pay or escrow wages: Failure to do so will waive the right to dispute a finding of noncompliance.

Final Finding: If employer fails to request a hearing, or if the hearing officer affirms the finding of noncompliance, the finding of noncompliance and the notice of corrective action will become final.*

*Violation by a subcontractor of a covered employer shall also be deemed a violation by the covered employer. In such case, the covered employer would be afforded all investigation and hearing rights under the same section.

Referral for Criminal Investigation

If at any time the Controller or the applicable City department determines a criminal violation may have occurred, the applicable department or the Controller shall refer the matter to the District Attorney for criminal investigation.

Subpoena Power

The Controller may issue subpoenas to compel the attendance and testimony of witnesses and production of books, papers, records and documents relating to payroll records necessary for hearing, investigations, and proceedings. Disobedience of a subpoena may result in the Controller seeking appropriate relief from the Court.

RETALIATION BARRED

A COVERED EMPLOYER SHALL NOT DISCHARGE, REDUCE THE COMPENSATION OR OTHERWISE RETALIATE AGAINST ANY EMPLOYEE FOR MAKING A COMPLAINT TO THE COVERED EMPLOYER, ITS AGENTS, THE APPLICABLE DEPARTMENT, OR THE CONTROLLER, TO ENFORCE HIS OR HER RIGHTS UNDER THIS SECTION.

THE CONTROLLER SHALL INVESTIGATE ALLEGATIONS OF RETALIATION OR DISCRIMINATION.

IF, AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING, THE ALLEGATIONS ARE FOUND TO BE TRUE, THE CONTROLLERS SHALL ORDER APPROPRIATE RELIEF, INCLUDING REINSTATEMENT OF A DISCHARGED EMPLOYEE WITH BACK PAY. A COVERED EMPLOYER MAY DISPUTE A FINDING OF RETALIATION OR DISCRIMINATION BY REQUESTING A HEARING AS NOTED ABOVE.

SANCTIONS

Covered Employer – Noncompliant for 60 days

If a covered employer has failed to comply for more than 60 days after a notice of corrective action has become final, or if the hearing officer determines that any portion of an employer's dispute is frivolous or brought for delay, the Controller or hearing officer shall order the following penalties and relief:

1. Wage restitution for affected employee(s);
2. Liquidated damages in the amount of three times the wages owed;
3. A directive to the applicable department to withhold any payments due to the covered employer;
4. Attorney fees; and
5. Rescission of any City service contract.

Covered Employer – Noncompliant Willfully Or More than Twice in 3-year Period

If a covered employer has willfully or more than twice in a 3-year period, failed to comply with the Ordinance, the Controller or hearing officer, in addition to the above sanctions, shall:

1. In the case of a City service contract, order debarment of the contractor; and
2. In the case of a project receiving a City subsidy, **order the payment of a fine in the amount of no less than thirty thousand dollars (\$30,000).**