



Fort Bend County Prevailing Wage Policy for Public Works Projects

Section 1. Purpose

This Policy shall set forth the requirements for Texas counties listed in Texas Government Code Chapter 2258 and shall be applied to all public works projects funded by State or County funds in Fort Bend County (hereinafter “County or FBC”). Public works projects include the construction of a building, highway, road, excavation, and repair work or other project development or improvement, paid in whole or in part from public funds, without regard to whether the work is done under public supervision or direction.

Fort Bend County recognizes the importance of fair wage standards for public works projects. Chapter 2258, also referred to as the Texas Prevailing Wage statute, mandates that workers on public works projects receive wages comparable to local wage standards. This legislation ensures that public funds are used in a manner that protects workers from being paid less than the prevailing wage rates for similar work in a particular locality. The Fort Bend County Prevailing Wage Policy will promote economic fairness, protect local wage standards, and support fair compensation for workers in public works projects.

Fort Bend County finds that enacting a Prevailing Wage policy will:

1. **Help Stimulate Local Economies:** Ensuring that workers receive fair wages stimulates local economies. Higher wages lead to increased consumer spending, benefiting local businesses and contributing to overall economic growth.
2. **Ensure High Work Quality:** Prevailing wages promote a skilled workforce pipeline and help to ensure that public works projects are completed to a high standard. Fair wages correlate with better training and experience, improving the quality of construction and workmanship which ultimately saves taxpayer dollars and enhances public infrastructure.
3. **Level the Playing Field:** Strong prevailing wage policies create a fair bidding environment for contractors. By ensuring that all bidders adhere to the same wage standards, the County ensures that local contractors who pay fair wages are not at a disadvantage.
4. **Result in Long-Term Benefits:** Prevailing wage policies contribute to the long-term sustainability of communities by fostering an environment where workers can thrive.

This creates a positive feedback loop. As workers earn fair wages, they contribute to the local economy, leading to enhanced infrastructure and community services, which in turn supports further economic growth and stability.

Section 2. Definitions

Contractor (Prime Contractor) – a contractor that is awarded a County funded public works contract and is at risk for the completion of an entire County project, including purchasing all materials, hiring and paying subcontractors, and coordinating all work.

Fringe Benefits – Non-wage compensation provided to employees by their employers in addition to their salaries or wages and include the following: life insurance, health insurance, pension, vacation and paid holiday time, and sick leave.

Locality in which the Work is Performed- the geographical limits of the political subdivision.

Public Works Projects – a project for the construction of public works, including a building, highway, road, excavation, and repair work or other project development or improvement, paid for in whole or in part from public funds, regardless of whether the project is supervised or under the County’s direction. For the purposes of this Policy, public works projects shall not include maintenance projects.

Public Funds- funds from the state or County.

Regulatory Compliance Officer (RCO)- an individual employed by the County whose responsibilities include monitoring and enforcing the requirements of this Policy.

Subcontractor – a person, firm, or corporation that provides public work labor or material to fulfill an obligation to a prime contractor or to a higher tiered subcontractor for the performance and installation of work required by a public works contract.

Work Site – the physical location or locations where the building or public work contracted for will remain once the contract work has been completed. It may also refer to any site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project.

Worker – includes a laborer or mechanic employed by a Contractor or Subcontractor through a contract for a public work.

Section 3. Prevailing Wage Policy Requirements

3.1 Prevailing Wage Rate

Fort Bend County elects to utilize the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments.

3.2 Payment to Workers

For all Fort Bend County Public Works Projects, the County, in accordance with Texas Government Code Section 2258, shall require that Contractors and Subcontractors pay all laborers and mechanics employed on a Public Works Project funded by state or County funds not less than the general prevailing wage rates (minimum hourly base pay and minimum hourly fringe benefit contribution) for work of similar character as listed in the prevailing wage determination decision (“Wage Determination Sheet”). This Policy does not prohibit the payment of more than the rates stated in the Wage Determination Sheet.

In addition, Workers shall be paid not less than the general prevailing wage rate of per diem wages for legal holiday and overtime work determined to be “time and a half” for all hours worked over forty (40) hours a week.

3.3 Posting Wage Determination Decisions and Notice of Prevailing Wage Rights to Workers

Each contract for a Public Works Project shall include the applicable Wage Determination Sheet. This Wage Determination Sheet must be prominently displayed by the Contractor and or Subcontractor at the Work Site in a conspicuous and public place readily and routinely accessible to Workers for the duration of the project.

The Contractor also agrees to display the Notice of Prevailing Wage Rights (attached as Exhibit A to this Policy) in both English and Spanish, next to the Wage Determination Sheet in the same manner and location as the Wage Determination Sheet.

This Notice of Prevailing Wages shall include the phone number for the Prevailing Wage Hotline for lodging verbal complaints of a violation of the Prevailing Wage Policy.

3.4 Employment of Worker Classification Not Listed in Wage Determination Decision

Contractors and Subcontractors may not utilize any labor classification not listed on the Wage Determination Sheet until such classification is established and approved for use by Fort Bend County.

Before a contract is awarded for a bid, if a Contractor or Subcontractor believes that an additional classification for a craft or type of work is necessary to perform work under the contract, the

Contractor or Subcontractor will submit a request to the Purchasing Department to use an additional labor classification not listed on the Wage Determination Sheet contained in the original solicitation documents.

The Purchasing Department, in consultation with County Department officials, shall determine whether a proposed classification is necessary. If a new classification is required, the Purchasing Department shall issue a new Wage Determination Sheet. The Purchasing Department shall determine if an amendment to the solicitation document(s) is required under state or local law.

If the contract has already been awarded, the Contractor shall submit to the County a request to amend the contract to include an additional labor classification not included in the original contract. An amendment based on the need for an additional classification shall include a revised Wage Determination Sheet. The amendment must be approved in writing by both parties. Any revised Wage Determination Sheet must be posted at the Work Site as described in Section 3.3.

3.5 Payroll Records

Contractors and or Subcontractors shall keep and maintain detailed payroll records specifying:

- 1) the name, address, and occupation or classification of each Worker employed under the contract; and
- 2) the actual per diem wages paid to each Worker, including fringe benefits; and
- 3) the applicable hourly rate.

The payroll records shall be open at all reasonable hours for inspection by the officers and agents of the County.

3.6 Reporting Requirements

Upon written request by the Regulatory Compliance Officer or another County designated officer or agent, Contractors and or Subcontractors shall provide paper or electronic copies of payroll records to the County within three (3) business days of the request. Additional time may be allowed subject to a written request approved by the RCO. Such records shall be inspected by the RCO or his or her designee. The Contractor or Subcontractor shall maintain payroll records of each Worker relating to the contract for the longer of either a period of three (3) years thereafter or for a time designated for the retention of records listed in the Contract.

By entering into a contract for a Public Works Project with the County, Contractors and Subcontractors acknowledge that, unless covered by an exception to mandatory disclosure under the Texas Public Information Act, Chapter 552, Texas Government Code, documents submitted to the County shall become public records and are, therefore, subject to public disclosure.

3.7 Contractor Oversight of Subcontractor Compliance

The Contractor shall insert the Wage Determination Sheet in all subcontracts, and require the same of any Subcontractor entering into a contract with a lower tier Subcontractor relative to the work required under the public works contract with the County. Contractors shall bind their Subcontractors to the same prevailing wage determinations as contained in the prime contract documents.

The prime Contractor shall be responsible for ensuring that its Subcontractors or lower tier Subcontractors comply with the FBC Prevailing Wage Policy.

In the event a Subcontractor or lower tier Subcontractor violates the Prevailing Wage Policy, the Prime Contractor will be liable for unpaid wages due to Workers and any applicable penalties due to the County for the violating Subcontractors.

3.8 Complaints and Regulatory Compliance Officer Responsibilities

The FBC Regulatory Compliance Officer (“RCO”) shall be primarily responsible for all Prevailing Wage Policy investigations and compliance enforcement and will monitor Contractor/Subcontractor practices.

Any individual may make a complaint concerning a violation of this Policy. Complaints may be made anonymously and shall be directed to the Regulatory Compliance Officer.

Within thirty-one (31) days, of receipt of a complaint, the Regulatory Compliance Officer shall review the Contractor’s and or Subcontractor’s payroll records and make an initial determination as to whether or not good cause exists to believe that a violation has occurred. If payroll records are not supplied, the County may rely on information collected by the Regulatory Compliance Officer including proof of payment collected from affected Workers.

Upon a finding that good cause exists that a violation has occurred, the County shall retain any amount due under the contract and shall use these retained amounts to pay the Worker the difference between the amount the Worker received in wages for labor on the public work at the rate paid by the Contractor or Subcontractor and the amount the Worker would have received at the general prevailing wage rate as provided by the contract.

Contractors may not retaliate against Workers who cooperate with the County’s Prevailing Wage investigations. Confirmed disciplinary action taken by a Contractor against Workers who provide information during an interview or investigation by the County on wages received, may result in suspension or debarment from consideration of award of future FBC contracts.

3.9 Penalties due to County

A Contractor/Subcontractor who pays less than the rates as required under this Policy shall pay to the County, \$60.00 for each Worker employed for each calendar day or part of the day that the Worker is paid less than the wage rates set forth in the contract.

3.10 Unresolved Disputes Pertaining to Wage Rates

Contractors and Subcontractors shall make every effort to resolve wage discrepancies promptly and expeditiously. Unpaid wages not settled within fifteen (15) days of the County's initial determination between Contractor/Subcontractor and employee shall be submitted to binding arbitration in accordance with Chapter 2258 of the Texas Local Government Code and the Texas General Arbitration Act (Chapter 171 of the Texas Civil Practices and Remedies Code). The County is not a party in the arbitration.

3.11 Breach of Prevailing Wage Policy

In addition to the County's right to terminate a contract for cause if the Contractor or Subcontractor knowingly violates the provisions of this Policy, a history of violations by the Contractor may be considered by the County Purchasing Department when assessing the performance history of a potential Contractor/Subcontractor when evaluating future FBC Public Works Projects.