

MEMORANDUM

DATE: February 14, 2020

TO: Howard Lazarus, City Administrator

FROM: Craig Hupy, Public Services Area Administrator

RE: Prevailing Wage Compliance Report for 2019

This memorandum provides the third year update on the implementation of administrative policies related to compliance with the City's prevailing wage policies, as described in Council Resolution [R-16-469](#).

Background

On December 5, 2016, City Council passed Resolution No. R-16-469, which directed the City Administrator to develop new administrative policies surrounding the communication and enforcement of the City's prevailing wage requirements. The City Administrator issued a [memorandum dated February 14, 2017](#) that outlined these administrative policies.

Resolution R-16-469 also directed the City Administrator to report back to Council one year after implementation of the foregoing policies regarding contractor prevailing wage compliance. An additional report was submitted to summarize the data collected from the 2018 calendar year; and the following report is also being submitted for the 2019 calendar year.

Results

As outlined in the City Administrator's February 14, 2017 memo, City staff required the submittal of certified payroll records for all applicable contracts throughout the 2019 construction season. City staff and/or consultants reviewed these records for compliance with the appropriate prevailing wage rates.

In order to further verify that these records were correct, staff also conducted wage rate interviews. Wage rate interviews are interviews conducted by City staff and/or consultants directly with the contractor's employees, in which they are asked what their hourly pay rate is, as well as what type of work they are performing (in order to verify their correct labor classification).

Payroll information was reviewed for 33 contracts in 2019, which included all prime contractors and "first tier" subcontractors, resulting in 71 contractors in total. Based on staff's review of the certified payroll records and wage rate interviews, the majority of contractors the City works with on a regular basis properly pay their employees. However, the contractors who have struggled with paying their employees correctly are usually contractors who have not worked within the City or were not aware of the requirement. In the majority of cases the contractors promptly corrected the

errors and provided proof that all employees were correctly paid. For the cases that were more difficult the attorney's office was consulted.

At the time of this writing, several contractors had not submitted all the required documentation. The project managers for these projects are holding retainage from these contractors until the appropriate documentation is submitted and reviewed.

Also as referenced in the Administrator's memo, City Procurement staff reviewed sign-in lists for pre-bid meetings and identified attendees who subsequently chose not to submit a bid. City procurement staff surveyed these entities on a confidential basis to determine if the requirement to provide the required payroll records was a factor in their decisions not to pursue the contract.

None of the potential bidders who attended a pre-bid meeting cited the City Prevailing Wages requirements as one of the factors for them ultimately deciding not to submit a bid. Common reasons cited for not submitting a bid after attending the pre-bid meeting included being a subcontractor on another primary contractor's bid, the City's schedule requirements, and that they attended the pre-bid meeting as a material supplier looking to work with or partner with a primary contractor for the project. Based on the survey performed, the City's Prevailing Wage requirements were not an impediment to any of the potential bidders.

Costs

As part of the process of tracking prevailing wage compliance, City staff also tracked the cost of implementing these procedures. This was done in two ways as described below.

The first cost that was tracked was additional costs by the contractor for providing the required documentation. Typically, if a contractor had extra costs for providing such documentation, it would be rolled into the cost for another item of work in the contract. In order to attempt to separate out these costs, an additional item of work was added to many of the contracts titled "Certified Payroll Compliance and Reporting". A compilation of the bid prices for this item of work indicated a range of \$ 0.00 to \$ 10,255.00. This represented an increase in the contract costs of 0.0 to 1.8%.

The second cost that was tracked was the cost of staff and consultant time to train, collect documents for all projects, review certified payroll reports and wage rate interview forms, and report back on prevailing wage compliance. Throughout 2019, approximately 561 staff/consultant hours were spent on this effort, resulting in a cost to the City of \$81,349.51.

Conclusion

For the 2019 construction season, the majority of the contracts reviewed met the prevailing wage requirements. In three years of collecting data, contractors who have consistently worked in the City have had virtually no major problems and have been found to be paying proper prevailing wages. Based on these findings, staff plans to implement the following changes to the current data collection process:

- Staff will continue to review the first certified payroll submission for all contractors each

year. If the contractor is appropriately paying prevailing wages, then the City will not continue reviewing the certified payrolls unless a specific reason arises, although the contractors will be required to continue to submit information to the City.

- For contractors who have errors or do not appropriately pay their employees, City staff will continue to review their certified payrolls until all issues are resolved.
- The City proposes to continue collecting data and revisit modifications to the data tracking efforts for future years based on the outcome.

The above changes will also make the City's processes consistent with current Michigan Department of Transportation (MDOT) practices.