

Urban Pathways K-5 College Charter School

Board of Trustees Policy

PREVAILING WAGE POLICY

The Charter School Law requires Boards of Trustees of charter schools to comply with the Pennsylvania Prevailing Wage Act. This Act requires every public entity to ensure that the prevailing wage rates are paid to workers employed on any construction, reconstruction, demolition, alteration, or repair work in excess of \$25,000. The prevailing wages, as determined by the Department of Labor and Industry, must be incorporated into the bidding specifications and the final contract for any work that falls under the Pennsylvania Prevailing Wage Act.

Definitions

Maintenance Work means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased.

Public Work means construction, reconstruction, demolition, alteration and/or repair work other than maintenance work, done under contract and paid for in whole or in part out of the public body's funds where estimated cost of total project is in excess of \$25,000. Note that this does not include work under a rehabilitation or manpower training program.

Whenever a project is to be undertaken that includes work on the Urban Pathways K-5 College Charter School ("Charter School") property, the administration of the Charter School shall determine whether the work qualifies as Public Work as defined by this policy before presenting the proposed project to the Board of Trustees for approval. If in doubt, the administration shall seek an opinion from the Charter School's legal counsel.

If the administration has determined that a project is subject to the Pennsylvania Prevailing Wage Act, before drafting public bidding specifications for the project, the administration will request a determination of the general prevailing minimum wage rates from the Department of Labor and Industry. Generally this will be done by completing the electronic form maintained on the Department of Labor and Industry's

website. Once obtained from the Department of Labor and Industry, the prevailing minimum wage rates are good for one hundred twenty (120) days only. If the contract is not awarded within one hundred twenty (120) days from the determination rate, a new request must be submitted with the Department of Labor and Industry.

Appealing the Prevailing Minimum Wage Rates

On receipt of the prevailing minimum wage rates from the Department of Labor and Industry, the administration shall immediately review the rates with the architect, construction manager, or other construction professional to determine if the rates are appropriate. If the rates do not appear to be appropriate, the administration shall instruct legal counsel for the Charter School to file a petition to review the determination of the prevailing minimum wage rates with the Secretary of Labor and Industry. This must be done within ten (10) days of the issuance of the specifications for the particular contract.

Once the specifications are published, a potential bidder or union representatives may also file a challenge to the prevailing minimum wage rates issued for the project. If the Charter School receives notice of a challenge, it will issue a notice telling all potential bidders that the prevailing minimum wage rates contained in the specifications have been challenged, and that the closing date for submission of bids will be extended until five days after the final determination by the Secretary of Labor and Industry of the prevailing minimum wage rates.

Required Contract Provisions

The administration shall ensure that the general prevailing minimum wage rates (including contributions for employee benefits) obtained from the Department of Labor and Industry are contained in the specifications for any project that is subject to the Pennsylvania Prevailing Wage Act.

In addition, the specifications for a project should contain the form of the contract that will be signed with the prevailing bidder. In addition to the prevailing minimum wage rates, this contract must also include:

- A) A requirement that the workers shall be paid at least the prevailing minimum wage rates as determined by the Department of Labor and Industry;
- B) A requirement that the prevailing minimum wage rates apply to work performed both by the contractor and by any subcontractors hired by the contractor;

- C) A requirement that the contract inserted into each subcontract contains the same requirements with respect to the prevailing minimum wage as are included in the contractor's agreement with the Charter School;
- D) A prohibition from contractor employing any workers on the project except for those for whom a prevailing minimum wage rate has been obtained. The contract will further provide that if the contractor must employ such an employee to complete the contracted work, that the contractor will notify the Charter School, which will then obtain a determination of the prevailing minimum wage rate for the omitted trade.
- E) A requirement that the contractor and each of its subcontractors post for the entire period of construction the prevailing minimum wage rates obtained from the Department of Labor and Industry in a prominent and easily accessible place at the work site and at the places used to pay workers their wages. This posting shall contain at least the name of the project, the name of the Charter School, the crafts and classifications of workers in the determination made by the Department of Labor and Industry, and the prevailing minimum wage rate for each craft and classification, and a statement advising workers that if they have been paid less than the prevailing minimum wage rate for their job classification or that the contractor or subcontractor is not complying with the Pennsylvania Prevailing Wage Act, they may file a protest in writing with the Secretary of Labor and Industry within three (3) months of the date of the occurrence, objecting to the payment to a contractor to the extent of the amount due or to become due to them as wages for work performed on the public work project. Any changes in the prevailing minimum wage rate shall also be posted.
- F) A requirement that the contractor and subcontractors keep an accurate record showing the name, craft or classification, number of hours worked per day and the actual hourly rate of wage paid, including employee benefits, to each worker employed on the project. The contract shall require the contractor to include the deductions from each worker. The contract shall further require the contractor to keep the records for two (2) years from the date of payment, and it shall require the contractor to make the records available to the Charter School or the Department of Labor and Industry on request.

- G) A requirement that apprentices shall be limited to numbers in accordance with a bona fide apprenticeship program registered with an approved by the Pennsylvania Apprenticeship and Training Council.
- H) A requirement that wages shall be paid without deductions except authorized deductions and that employers who are not parties to a contract requiring contributions to employee benefits which the Department of Labor and Industry has determined to be included in the prevailing minimum wage rate shall pay the monetary equivalent directly to the workers.
- I) A prohibition from paying workers on a lump sum basis, a piece work system, or a price certain for the completion of a certain amount of work regardless of the average hourly earnings that result from these payment methods.
- J) A requirement that the contractor and each of its subcontractors file a statement each week and a final statement at the conclusion of the work, under oath, on the form drafted by the Department of Labor and Industry, certifying that workers have been paid wages in strict conformity with the provisions of the contract as required by the Pennsylvania Prevailing Wage Act or if wages remain unpaid to set forth the amount of wages due and owing to each worker respectively.
- K) A provision allowing the Charter School, if directed by the Secretary of Labor and Industry, to withhold the amount of unpaid wages for the benefit of the workers whose wages have not been paid and to pay those wages directly to the worker, and that payments made directly to workers under an order from the Secretary of Labor and Industry shall be treated as if they were payments made to the Contractor.
- L) A provision allowing the Charter School to terminate the contract if the Secretary of Labor and Industry determines that the contractor has failed to comply with the Pennsylvania Prevailing Wage Act and directs the Charter School to terminate the contract. An additional provision shall be included stating that in the event of a termination of the contract for failure to pay the prevailing minimum wage, regardless of any other provision of the contract, the Charter School shall only be required to pay the contractor for work actually performed as of the date of termination for which the required wages were paid.

In addition, the contract shall incorporate, by reference, the provisions of the Pennsylvania Prevailing Wage Act and the Department of Labor and Industry's prevailing wage regulations.

During the course of the project, the administration of the Charter School shall periodically check to ensure that the prevailing minimum wage rates are being posted in accordance with the Pennsylvania Prevailing Wage Act.

Requirements before Final Payment

Before final payment is made to any contractor, the administration of the Charter School will ensure that the final statement under oath from the contractor and each of its subcontractors has been received. If such a final statement has not been received, or if the statement shows that the prevailing minimum wage rates have not been paid, the administration will inform the Treasurer of the Board of Trustees, who shall withhold final payment to the contractor until a satisfactory statement is received.

However, if a contractor complies with the Pennsylvania Prevailing Wage Act but a subcontractor fails to do so, the Charter School shall make the final payment to the contractor despite the subcontractor's failure to comply. If the contractor or subcontractor does not comply with the requirements of the Pennsylvania Prevailing Wage Act, the Treasurer will then inform the Secretary of Labor and Industry.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.