

MONTCLAIR STATE UNIVERSITY

New Jersey State Prevailing Wage Act

1. What is the New Jersey State Prevailing Wage Act?

The New Jersey State Prevailing Wage Act and Regulations (N.J.S.A. 34:11-56.25 et seq) was initially enacted on January 1, 1964 to protect construction workers by establishing appropriate craft prevailing wage rates. These rates are determined by the Commissioner of Labor and Workforce Development. The New Jersey Prevailing Wage Act applies to “**public work**” performed under contract and paid with funds of a “**public body**”.

N.J.S.A. 34:11-56.26(5) defines “**public work**”: "Public work means construction, reconstruction, demolition, alteration, custom fabrication, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body..."

N.J.S.A. 34:11-56.26(4) defines “**public body**”: "Public body means the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey and any instrumentality or agency of the State of New Jersey or of any of its political subdivisions."

Montclair State University (“Montclair”) is an agency of the State of New Jersey and therefore must abide by the Act.

The Act can be accessed on the State’s website at: <https://www.nj.gov/labor/wageandhour/tools-resources/laws/prevailingwageact.shtml>.

2. Requirements

Every Montclair supplier, contractor and vendor agrees to comply with the Act as it applies to the goods and/or services they provide to Montclair. Montclair’s purchase order states that by accepting this Purchase Order, the Supplier acknowledges it has reviewed and agrees with the terms of this Purchase Order and Montclair State University Standard Terms and Conditions set forth on Montclair’s website:

<https://inside.montclair.edu/administration/procurement-services/procurement-resources>

At certain thresholds, the contractor and subcontractor are required to file written statements certifying the amounts due to any and all workers for wages by setting forth the names of the persons and amount due to each, verified by oath ("certified payroll documentation"). **Please find the required certified payroll form at:** <https://www.nj.gov/labor/wageandhour/prevaling-rates/public-works/index.shtml#payrollcert>. The certified payroll documentation must be submitted by the vendor to Montclair with each invoice prior to approval for payment (in cases where the prevailing wage act applies).

If any vendor is unsure whether or not the act applies to their work, they must obtain clarification from the New Jersey Department of Labor and Workforce Development at: <https://www.nj.gov/labor/wageandhour/support/contact/>.

Public works projects - If the total value of a project exceeds \$2,000 for work being done for, or on property or premises owned by, any other public entity, including boards of education and municipal utility authorities, certified payroll documentation is required with each invoice.

Repair work - For service/repair work (excluding preventative maintenance, testing, and inspection) exceeding the \$2,000 threshold, certified payroll documentation is required with each invoice. The \$2,000 threshold applies to the cumulative amount of all work covered by the contract, over the life of the agreement. For example, an annual and/or monthly agreement that exceeds \$2,000 requires certified payroll for each invoice submission, whether invoicing partially or in full.

When is certified payroll documentation not required? - If the value of the work, project or repair is less than \$2,000, certified payroll documentation is not required to be submitted to Montclair State University, **however the work itself is subject to the Act and the appropriate rates must be paid for the work.** Snow plowing and removal, landscape maintenance and planting, and tree maintenance not associated with construction, renovations, and repairs are not subject to this Act. General routine preventative maintenance, inspection, and testing services by themselves are not subject to the Act.

Information regarding the Public Works Contractor Registration can be obtained at <https://www.nj.gov/labor/wageandhour/registration-permits/register/publicworksregistration.shtml>.

3. Frequently Asked Questions

Below are frequently asked questions that pertain to likely situations at Montclair. For additional information, the State of New Jersey FAQ list can be accessed at: <https://www.nj.gov/labor/wageandhour/support/faqs/pwprevailingwagefaqs.shtml>.

a. Are owner/operators and sole proprietors who perform covered work subject to the Prevailing Wage Act?

Yes, the information required for owner/operators and sole proprietors is the same as for all other employees, with no exceptions. Certified payroll documentation is required.

b. Is a corporate officer who performs covered work subject to the Prevailing Wage Act? Yes, the corporate officer is an employee of the corporation who must be paid and reported on, as would any other employee. Certified payroll documentation is required.

c. Are foremen who perform covered work subject to the Prevailing Wage Act?

Yes, foremen who are performing "hands on" work must be paid prevailing rates of pay in the appropriate classification(s) for the "hands on" work. Certified payroll documentation is required.

d. The prime contractor requires the subcontractor to file certified payrolls with them. Does this satisfy the subcontractor's filing requirements with the awarding public body?

No, the law requires that all subcontractors and contractors file certified payrolls within 10 days of pay dates with Montclair. Certified payroll documentation from the contractor and its subcontractors is required.

e. What is custom fabrication?

The Prevailing Wage Act defines custom fabrication as the fabrication of plumbing, heating, cooling, ventilation and exhaust duct systems, and mechanical insulation that is going to be installed on a public works project. Certified payroll documentation is required for custom fabrication work.

f. Is installation work such as pulling wires, installation of jacks, and termination of wires in racks subject to the Prevailing Wage Act?

Yes, such activities are subject to the Prevailing Wage Act and certified payroll documentation is required.

g. Is programming of existing systems, placing or plugging in of equipment subject to the Prevailing Wage Act?

No, these activities would not be subject to the Act and certified payroll documentation is NOT required for these services.

h. Are vendors that supply only materials subject to the Prevailing Wage Act?

No, if the vendor is strictly a materials supplier they are NOT subject to the Prevailing Wage Act unless the contract calls for installation, whether or not the work is done by the vendor or a sub-contractor. Certified payroll documentation is NOT required for materials suppliers.

i. Are truckers who are hired by a construction contractor to pick up materials from an off-site location (asphalt plant, quarry, contractor's yard, etc.) and deliver them to a public works project subject to the Prevailing Wage Act?

Yes, certified payroll documentation is required.

j. Are truckers who are hired by a material supplier to deliver materials to a public works project subject to the Prevailing Wage Act?

No, material suppliers are exempt from the Prevailing Wage Act, unless they are also acting as

a contractor. Certified payroll documentation is NOT required.

- k. Is delivery of tools or equipment (items that will not become a permanent part of the site) to a public works jobsite subject to the Prevailing Wage Act?**

No, certified payroll documentation is NOT required.

- l. Is the delivery of moveable traffic barriers which will be removed from the site when the project is finished, subject to the Prevailing Wage Act?**

Yes, the delivery of items that requires set-up or installation is subject to the Prevailing Wage Act if the items are required by the contract. Certified payroll documentation is required.

- m. As part of a construction, reconstruction, demolition or repair project is power washing (cleaning) subject to the Prevailing Wage Act?**

Power washing (cleaning) by itself is not subject to the Prevailing Wage Act. Certified payroll documentation is NOT required. If the power washing is performed as part of, or in conjunction with, a construction, reconstruction, demolition or repair project, it is subject to the Prevailing Wage Act and certified payroll documentation is required.

- n. Is fire sprinkler head replacement, sprinkler testing and inspection, fire alarm system testing and inspection subject to the Prevailing Wage Act?**

With respect to fire alarms, fire sprinkler systems and fire extinguishers - inspection and testing by themselves are not subject to the Prevailing Wage Act. General routine preventative maintenance work such as changing batteries, checking weight, replacing seals, installing service tags on fire extinguishers, and recharging and hydro testing is not subject to the Prevailing Wage Act. Certified payroll documentation is NOT required.

New construction including any programming and testing that is needed to initially get the system started after installation is subject to the Prevailing Wage Act. Repair work is subject to the Prevailing Wage Act. Certified payroll documentation is required.

- o. Is tree maintenance and landscape planting subject to the Prevailing Wage Act?**

Tree maintenance (trimming or removal of trees) and the planting of trees is not subject to the Prevailing Wage Act if it is performed outside of a public works project that is subject to the Act. Certified payroll documentation is NOT required. If these services are performed as part of, or in conjunction with, a construction, renovation, repair, or demolition project which is itself subject to the Act, then certified payroll documentation is required.

- p. Is landscape maintenance subject to the Prevailing Wage Act?**

Landscape maintenance is not subject to the Act. Certified payroll documentation is NOT required.

- q. Is snow plowing and removal subject to the Prevailing Wage Act?**

Snow plowing and removal is not subject to the Prevailing Wage Act unless the work is being performed as part of, or in conjunction with, a construction, reconstruction, demolition, alteration or repair project. Certified payroll documentation is NOT required.

- r. Are moving services subject to the Prevailing Wage Act?**

Moving furniture and equipment is not subject to the Prevailing Wage Act. However, movers are subject to the Act if their work is part of a construction or repair project, wherein they are

hired under the contract to remove furniture or other equipment to facilitate the work.

s. Are delivery services for assembled furniture and equipment subject to the Prevailing Wage Act?

Delivery of assembled furniture without using a tool such as a screw gun, wrench, etc. is not subject to the Prevailing Wage Act. Certified payroll documentation is NOT required.

t. Is furniture assembly subject to the Prevailing Wage Act?

If the furniture delivery/installation is **not** part of an overall construction project (public work means “any construction, reconstruction, demolition, alteration or repair work, or maintenance work including painting and decorating, done under contract and paid for in whole or in part out of the funds of the public body...”) the work is not be subject to the Prevailing Wage Act, even if the furniture did require a tool for assembly. Certified payroll documentation is NOT required. The actual assembly of the furniture, including a cubicle system, through the use of a tool (i.e. wrench, screw gun, etc.) is subject to the Prevailing Wage Act if it is part of an overall construction project. Certified payroll documentation is then required.

u. Are services of architects, engineers and surveyors subject to the Prevailing Wage Act? No, there is no classification for this type of work and therefore certified payroll documentation is NOT required.

v. Is fence installation subject to the Prevailing Wage Act?

Yes fence installation is subject to the Act. Certified payroll documentation is required.

w. Is hazardous waste removal services such as asbestos abatement and mold remediation services subject to the Prevailing Wage Act?

Yes, these services are subject to the Act. Certified payroll documentation is required.