

# CEJA Legislation

Diversity Reporting and Prevailing Wage for Illinois Projects

# DIVERSITY REPORTING

- Under CEJA legislation any project that is submitting for SREC's now require Demographic and Geographic data in order to be submitted to Part II. The companies that build the systems must hire Equity Eligible People.

# Areas for Developers to consider

- Illinois legislators made this a key provision for the law. It is likely companies would face criticism for reporting low numbers.
- Beginning in June 2023 the IPA and ICC are tasked with ensuring that diversity targets are being met.

# Diversity targets

There are two key areas for hiring diverse candidates.

- Hires from CEJA and FEJA job training programs.
- Hires from minority groups, disadvantaged backgrounds, and low-income areas.

# How is the diversity percentage calculated

- A key area to understand is that the diversity percentage is calculated from ALL of the individuals and their hours on the job. This INCLUDES all subcontractors that the EPC hires on the project. So, if your EPC has 10% diversity but hires subcontractors with 1% diversity it will dilute the percentage below the necessary 10%.

# How does hiring Rethink Electric LLC solve the diversity question.

- Rethink is more than 50% diverse which means even with subcontractor dilution you will meet the requirements.
- Rethink is the only company that extensively hired from FEJA job training programs and has 29% of our field staff from those programs.
- ALL of our new apprentice hires come from diverse job training programs before entering our Apprenticeship. We REQUIRE it.

# Prevailing Wage

- A contractor or subcontractor is required to pay not less than the prevailing wage to all laborers, workers, and mechanics engaged in the construction or demolition of public works. Construction means all work performed on public works by laborers, workers or mechanics and includes maintenance work. Under CEJA ALL commercial solar projects require prevailing wage. The exemptions are for residential work and houses of worship under 100kw.

# How is Prevailing Wage rates calculated?

- The Illinois DOL publishes rates periodically at the link below.
- <https://www2.illinois.gov/idol/Laws-Rules/CONMED/Pages/Rates.aspx>



# Do you have to be in a union to participate in Prevailing Wage work?

- No. Union and Non-union organizations can both participate in Prevailing Wage projects, and both are subject to the same rules and regulations.

# Is Prevailing Wage rates the same as Union Wage rates?

- No. Prevailing Wage is similar to union scale but under Prevailing Wage unions and non-unions are NOT allowed to pay pre-apprenticeship wage rates which is a common practice in union organizations. Prevailing Wage is often slightly higher than union scale.

# What happens when the Prevailing Rate changes in the midst of an ongoing public works project?

- When there is a change in the prevailing wage, the revised rate applies to all projects currently underway as well as future projects. The public body is also responsible for notifying the contractor of the revised rates.
- The Contractor is responsible for notifying any subcontractors of the Prevailing Rate.

# What responsibilities do Developers have?

- Developers are responsible for notifying ALL subcontractors that the project is subject to prevailing wage.
- Developers are responsible for keeping certified payroll records for not less than three years from date of last payment on a project.
- Developers should ensure that their subcontractors are submitting certified payroll reports to the Department of Labor.

# What is on a certified payroll report?

- 1.records of all laborers, mechanics and other workers employed by them on the project, which records must include each worker's name, address, telephone number when available, social security number,
- 2.classification or classifications of such workers
- 3.the workers gross and net wages
- 4.the number of hours worked each day by the workers
- 5.the worker's starting and ending times of work each day
- 6.the worker's hourly wage rate
- 7.the worker's hourly overtime rate
- 8.the worker's hourly fringe benefits rate
- 9.The name and address of each fringe benefit fund
- 10.The plan sponsor of each fringe
- 11.The plan administrator of each fringe benefit

# What are the consequences for failing to maintain all records required under the Act.

- A contractor/subcontractor who fails to maintain the required records and /or fails to produce the records violates the Act and is subject to a Notice of Violation. Two Notices of Violation within a five-year period can lead to debarment from working on public works projects.

# What are the consequences to failing to submit a certified payroll as required under the Act.

- If a contractor/subcontractor fails to submit a certified payroll, the Contractor violates the Act and is subject to a Notice of Violation. If a contractor or officer or employee or agent of a contractor fails to file a certified payroll before the due date or who willfully files a false certified payroll as to a material fact is guilty of class A misdemeanor and who is found guilty is subject to immediate debarment for four years without a hearing.

# What are the monetary penalties for violations of the Act

- If the Department finds that a contractor/subcontractor has violated the Act, the contractor/subcontractor is liable for the difference between what was paid to the employees and the prevailing wage for all hours worked and owes the Department of Labor a 20% penalty of the underpayment. In addition, the worker(s) is owed 2% of the amount of any such penalty for each month during which underpayments remain unpaid. For a second or subsequent violation the 20% penalty is increased to 50% and the 2% penalty is increased to 5%.



# What is the MOST COMMON error subcontractors make when paying prevailing wages?

- Subcontractors OFTEN fail to understand the difference between the base wage rate and the REQUIRED fringe benefits that must be matched OR paid through wages.
- Example Cook County Electrician
- Wages- \$51.00 per hour
- Benefits- \$38.93 per hour
- Foreman adder- \$3.00 per hour
- Total package amount \$89.93 to \$92.93 per hour.

# What is annualization for Fringe Benefits?

- According to the Illinois Department of Labor, a contractor cannot exclusively take the hours worked and contributions made on public works/prevaling wage jobs to comply with the hourly fringe benefit component.
- Effective for all work performed on January 1, 2014 and thereafter, the Illinois Department of Labor can audit fringe benefit contributions made under a defined contribution plan, or declared by a contractor in its certified transcripts of payroll, and will calculate those contributions over all hours worked in a given period of time.

# Are there any exceptions to Annualization?

- Yes, if a pension plan is irrevocable, 100% immediately vested, and only for the benefit of the employee.
- Rethink Electric's pension plan meets these requirements.

# Why should a contractor care about annualization?

- It is important to know if your EPC provider understands the rules around Prevailing Wage so that they can pass an audit.
- Correct payroll payments and reporting prevents fine/violations.

# What is a Competent Person and why do I need to know about this?

- CEJA legislation was written with very specific language around to point of Interconnection. The person doing the work **MUST** be a Competent Person. A Competent Person is a USDOL registered Journeyman.
- Rethink Electric has many USDOL Journeyman who qualify as Competent Persons.

# What about Apprentices? What is their pay rate?

- Only persons who are enrolled in a U.S. Department of Labor certified apprenticeship program may be paid an apprenticeship rate of pay. The rate of pay is determined by the U.S. Department of Labor apprenticeship program, but a contractor must pay the same fringe benefits as required for a tradesman. A contractor may not establish different subcategories of apprentices and pay a different rate. There are no rates for persons who may be called "pre-apprentice". The only exception to the prevailing rate is for USDOL Certified Apprentices.

# Does Rethink Electric LLC have USDOL Certified Apprentices?

- YES!!!
- Our in house REAP apprenticeship program is USDOL Certified.
- We can provide our certification upon request.

# How can Rethink Electric LLC help me build prevailing wage projects?

- USDOL registered journeyman and apprentices- Currently 6 full crews.
- Experience with Prevailing Wage Rates, reporting, and regulations.
- Accurate bids that will allow us to complete the full project at the cost estimated.
- Portability into every county in Illinois. We are non-union but have a USDOL certified training program just like the unions do.