

Repealing OR Public Works Exemptions: *Stand-Alone Demolition & Hazardous Waste Removal*

BACKGROUND & PROBLEM

- Oregon statute requires contractors bidding on public works projects that meet certain cost thresholds to pay area standard prevailing wages to their construction workforces. State prevailing wage (PWR) law exists to ensure local participation and community established pay standards on publicly funded projects.
- While ORS 279C.800 defines the types of projects that are included under “public works”, it does not specify either demolition or hazardous waste removal as being covered under prevailing wage requirements, when not connected to new construction or related renovation on a given project.
- Structural demolition and hazardous waste removal are scopes of work that construction craft laborers are specifically trained to perform with a high degree of skill and can be both exceedingly strenuous and at times dangerous. Yet, this PWR exemption for these stand-alone projects can place some responsible contractors at a competitive disadvantage and appears to merely default to the lowest bidder for who is then awarded this taxpayer funded work.
- This inexplicable carve out is also a concerning loophole that enables the *possibility* for certain public works to be divided up arbitrarily, through awarding unique contracts with no prevailing requirements for these specific scopes of work (Demo or waste removal) as a means to prepare sites for subsequent new construction, which can then be later put up for bid as their own separate projects.
- This exemption can be utilized by owners in the name of up-front cost savings by devaluing demolition and waste removal occupations in public works contracting, at the expense of fair-market wages for workers employed on these often-hazardous jobsites.
- Though it may be difficult to fully measure the frequency that these stand-alone projects occur, LIUNA has so far identified at least three public works demolition projects awarded in the year 2022 alone that appear to fit this exemption and thus were not covered under prevailing wage.¹

POLICY SOLUTION

- LIUNA is seeking to clarify that demolition and hazardous waste removal be specifically covered for prevailing wage under the definition of public works in ORS 279C.800, so that this inequitable exemption no longer exists, going forward.
 - (6) (a) “Public works” includes, but is not limited to:
 - (A) Roads, highways, buildings, structures and improvements of all types, the construction, reconstruction, **demolition**, **removal of hazardous waste**, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest
 - (B) A project that uses \$750,000 or more of funds of a public agency for constructing, reconstructing, **demolishing**, **removing of hazardous waste**, painting or performing a major renovation on a road, highway, building, structure or improvement of any type;
- Other states, including California and Illinois have ensured that demolition is covered under their state prevailing wage laws and while New York does not list demolition explicitly in their definition of public works, the state does publish a prevailing wage rate for “Skilled Interior Demolition Laborer” and “General Interior Demolition Laborer”.
- The U.S. Department of Labor is also currently considering proposed changes by-way-of the rulemaking process that would remove a similar exclusion under the Federal Davis Bacon law.
 - These changes could create a confusing mismatch for businesses regarding appropriate public works wage determinations for workers. Updating our prevailing wage law in this way will align with these Federal policy updates and aid predictability for contractors on publicly-funded projects, going forward.

¹ Source: “Seattle Daily Journal of Commerce”, <https://www.djc.com/const/>, accessed November 30, 2011.