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Public/Private Partnership Prevailing Wage Guidelines

The following guidelines are designed to clarify the Department of Commerce's position on when prevailing wage applies to construction projects where there is a combination of public and private funding.

When determining the scope of any "public improvement project," the Department will utilize, along with any other relevant information, the following two principles:

- 1) When the primary purpose for publicly supported construction activity is to facilitate the use of substantially contemporaneous privately funded construction, all such construction will be presumed to comprise a single "public improvement project" subject to prevailing wage.
- 2) The primary purpose for publicly supported construction activity will be presumptively established by the facts and circumstances at the time public funds are committed.

Interpretation & Application

- 1) Common Scenarios. When public funds are used to support:
 - a. Machinery and/or equipment installed in a newly constructed or remodeled private structure, all construction is presumptively subject to prevailing wage.
 - b. Infrastructure improvements on private land that are substantially contemporaneous with privately funded construction or renovation activity presumptively makes all the construction prevailing wage.
 - c. Infrastructure improvements on public land are covered by prevailing wage. Privately funded construction or renovation on adjacent private land is presumptively not covered by prevailing wage.
 - d. Remediation of environmental hazards for an identified end-user presumptively subjects all construction on the entire project to prevailing wage.
 - e. Remediation of environmental hazards when no end-user has been identified at the time public funds are made available, the remediation is subject to prevailing wage and any future construction presumptively is not subject to prevailing wage.
- 2) Multiple Buildings: when multiple buildings are being constructed on the same general site and one building is subject to prevailing wage, all buildings constructed on the same general site and substantially contemporaneous with the building that is subject to prevailing wage are also subject to prevailing wage.

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- 3) **Public Contributions.** Prevailing wage is triggered when public funding is committed, directly or indirectly, by means of an issuance of bonds, a grant, loan, donation or loan of property, or a lease at below market rate. Prevailing wage is not triggered by a tax abatement or tax credit, a job training grant, or a lease or sale of property at market rate.
- 4) **Timing.** The above principles will be applied to all public contribution commitments to private projects on or after September 1, 2008. Expectations established prior to that date will be respected by the Department of Commerce.

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