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2011 JAN -3 AM 9:49

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

To All Contractors
Performing Work
On
Public Improvements
In West Virginia

Regarding the use of Apprentices on Public Improvements:

W Va. Code § 21-5A Wages for Construction of Public Improvements and **Title 42, Series 7 Rules and Regulations for the West Virginia Prevailing Wage Act**

W Va. Code § 21-5A-1(2) Definitions defines "construction" as "any construction, reconstruction, improvement, enlargement, painting, decorating, or repair of any public improvement let to contract."

W Va. Code § 21-5A-1(4) Definitions defines "public improvement" as "all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports, and all other structures upon which construction may be let to contract by the State of West Virginia or any political subdivision thereof."

W Va. Code § 21-5A-1(5) Definitions defines "construction industry" as " that industry which is composed of employees and employers engaged in construction of buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports, and all other structures or works whether private or public on which construction work as defined in subsection (2) of this section is performed."

§ 42 CSR 7-2 Definitions defines:

Apprentice (2.7) as "a person employed and working under a bona fide apprenticeship program, directly related to the particular craft involved in the construction industry. Apprentices will be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program, registered with and approved by the Bureau of Apprenticeship Training, United States Department of Labor."

Bona Fide (2.8) as "that program which is made in good faith without interest or deceit."

Craft (2.12) as "those special skills and trades which are recognized by custom and usage in the building and construction industry."

Classification (2.13) as " those specific categories of jobs which are performed within a "craft" such as laborer who can be classified as a blacksmith, pipe layer, mucker-chucker, etc."

§ 42 CSR 7-3.1(i) provides "that apprentices will be permitted to work only when they are registered with the Bureau of Apprenticeship and Training, United States Department of Labor. (And as defined above **§ 42 CSR 7-2.7**; added for clarity) The allowable ratio of apprentices to journeyman in any craft and/or classification shall not be greater than the ratio permitted to the contractor as to his or her entire work force under the recognized program or the recognized ratio of the joint apprenticeship council having jurisdiction in the trade area, whichever is less. An employee listed on the payroll at an apprentice wage rate, who is not registered, as stated above, shall be paid the fair minimum wage rate determined by the Commissioner for the classification of work actually performed. Further, the contractor and/or sub-contractors will be required to furnish to the Commissioner written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates, for the locality, prior to using apprentices on the public work.

Therefore, it is the policy of the West Virginia Division of Labor to fully enforce the provisions of West Virginia Code § 21-5A et seq. and §42 CSR 7 et seq. to ensure compliance with all provisions and stipulations provided in the aforementioned cites in order to provide those training opportunities provided apprentices by Law.

David W. Mullins
Commissioner of Labor/WVDOL