



Montana Department of
LABOR & INDUSTRY

MEMO

To: Licensed Montana Architects

From: Amber Carpenter, Bureau Chief

Date: September 7, 2018

Subject: Notice of Acceptance & Completion Date

To assist contracting agencies and limit their potential liability under Montana's Prevailing Wage law, our office is notifying state agencies, counties, municipalities, school districts, and other political subdivisions of their obligation to "promptly send to the department a notice of acceptance and completion date" for projects that amount to more than \$50,000. See 18-2-421, MCA (attached).

Most agencies, architects, and engineers are familiar with standard requirements for public works projects, such as including preference for Montana residents in contract documents, as well as an agreement to pay prevailing wages and listing the wages to be paid. See ARM, 24.17.144 (attached).

However, few agencies, architects, or engineers comply with an additional requirement to promptly send a notice of acceptance and completion date to the Department of Labor & Industry, when the project is accepted as complete, as mandated in section (3) of the administrative rule referenced above.

Failure to send the required notice of acceptance and completion date may subject the contracting agency to financial liability; since, as stated in section (4) of the rule, *"If a public contracting agency fails to comply with the requirements of this rule, the obligation to pay the standard prevailing rate of wages will be placed on the public contracting agency and the contractor may be relieved of such obligation."*

This means, if an underpayment of prevailing wages occurs on a public works project, and, in addition to all other requirements, the contracting agency does not send a notice of acceptance and completion date, in accordance with ARM, 24.17.144, the contracting agency will be responsible to pay the amount of the underpayment.

Therefore, the department advises public contracting agencies to follow all prevailing wage requirements when contracting public works projects and to send the department a notice of acceptance and completion date when projects are indeed accepted and complete.

Notices of acceptance and completion date may be sent to the Montana Department of Labor & Industry, Audit Section, P.O. Box 201503, Helena, Montana 59620-1503.



Information provided in this notification may contain legal information. Legal information is not the same as legal advice. Section 18-2-404, MCA (attached) states, *"All public works contracts under this part must be approved in writing by the legal adviser of the contracting county, municipal corporation, school district, assessment district, or special improvement district body or officer prior to execution by the contracting public officer or officers."*

We recommend you share this information with your legal advisor and other interested parties in the public contracting community. If you have any questions, do not hesitate to contact our office at 406-444-6543 or email at erdcompliance@mt.gov .