

SmithAmundsen Labor & Employment ALERT

Illinois Department of Labor (IDOL) is Hammering Contractors on Illinois Prevailing Wage Act Audits

Written by: Jeffrey A. Risch

Often times, issues and controversies most often arise when interpreting key definitions contained in the Illinois Prevailing Wage Act (820 ILCS 130/0.01 et. seq.) (“IPWA”). Specifically, the meaning of the terms “public works,” “construction” and “general prevailing wage” is often maligned by the IDOL, local public bodies and contractors. Although there is very little published authority interpreting these critical terms, the IDOL has historically been consistent in its own interpretations. While not always agreeing with the IDOL’s interpretations over the years, I have benefited from a comfortable sense of awareness and insight into where the IDOL stands on many prevailing wage issues. Based on my years of experience in handling prevailing wage matters, I can attest to the unmistakable fact that *the IDOL is changing many of its prior opinions on what constitutes covered work subject to the IPWA.*

As most can appreciate and attest to, the Illinois Department of Labor’s enforcement of the IPWA was ramped up considerably under former Governor Blagojevich. However, the Quinn Administration is actually more aggressive than what I witnessed under Blagojevich. Efforts to better fund, support and allow the IDOL to enforce and administer the IPWA are at an all time high --- and growing.

Recently Governor Quinn signed into law a series of bills aimed to strengthen Illinois’ prevailing wage law. These new laws went into effect on January 1, 2010 and I have previously “blogged” on these changes many times. Also, these revisions are currently summarized on the IDOL’s web page at <http://www.state.il.us/Agency/idol/>. Although these statutory changes are important, I personally believe the more critical change is coming directly from the IDOL itself in the form of the most historically liberal and broad interpretations of what constitutes performing “*construction*” work on “*public works*” projects requiring the payment of the “*general prevailing wage.*”

In short, the IDOL is administering and enforcing the IPWA in unprecedented fashion. Anyone and everyone impacted by prevailing wage issues should immediately:

- Review, revise and update written contracts --- with specific attention to prevailing wage obligations;
- Educate management and personnel on the legal interpretations of the key definitions contained in the IPWA (and do not rely solely on what the IDOL is saying...); and
- Understand your company’s or organization’s obligations under the IPWA --- in other words, what may be “right” for one may not be “right” for all. The IPWA will be applied differently depending on the nature, scope and geographic area where the work is performed together with the size, shape and industry of the employer(s) at issue. A one-size-fits-all mentality DOES NOT WORK.

Jeffrey Risch concentrates his practice on representing employers in many areas of labor and employment law including prevailing wage matters throughout the U.S., with a particular focus on Illinois’ Prevailing Wage Act.

for further INFORMATION

please contact

Jeffrey A. Risch

jrisch@salawus.com

312.894.3302



This alert is intended to provide information of general interest in a summary manner and should not be construed as providing legal advice. Readers should consult with counsel before acting on the information contained in this publication. All rights reserved.