

**ADOPTED - NOVEMBER 12, 2002**

**1. Agenda Item No. 5**

Introduced by the Administrative Services/Personnel and Finance Committees

**INGHAM COUNTY BOARD OF COMMISSIONERS**

**RESOLUTION ADOPTING A POLICY REQUIRING PAYMENT OF**

**PREVAILING WAGE**

**RESOLUTION #02-263**

WHEREAS, the Board of Commissioners believes that it is in the best interest of the people of Ingham County that any construction work performed for Ingham County should be done by contractors and subcontractors who agree to pay prevailing wages; and

WHEREAS, the Board of Commissioners wishes to have a uniform means of assuring that contractors or subcontractors seeking to work on certain County construction projects pay prevailing wages; and

WHEREAS, the Board of Commissioners wishes to monitor the prevailing wage requirements and to provide for sanctions or penalties in the event of noncompliance; and

WHEREAS, Resolution #92-171, as amended by Resolutions #96-164 and #00-084, has served as the County's policy regarding the payment of prevailing wage rates; and

WHEREAS, the Ingham County Board of Commissioners desires to consolidate and update this policy.

THEREFORE BE IT RESOLVED, that for the purposes of this policy the following terms and phrases are defined as follows:

"Apprentice" means any person who is registered with a bona fide apprentice program recognized by the U.S. Department of Labor, Bureau of Apprenticeship and Training. The use of apprentices shall be in accordance with all of the rules and guidelines of the bona fide apprentice programs, including registration and working in ratio. Violations relating to apprentices shall be subject to the same penalties and remedies as provided in paragraph 5 and paragraph 6 of this policy.

b. "Board" or "Board of Commissioners" means the Ingham County Board of Commissioners.

c. "Contract" means any agreement as a result of competitive bids or otherwise for new construction, alteration, repair, installation, painting, decorating, completion, demolition, conditioning, reconditioning or improvement of buildings or works, which is to be performed for Ingham County. It does not include repair or service of equipment or machinery already installed.

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d. "Designated Agent" means any officer, employee, commission, department, agency, or organization authorized to enter into a construction contract by or on behalf of the Board of Commissioners, or to monitor such contracts under the direction of the County, or to provide legal counsel regarding such contracts.

e. "Construction Mechanic" means any skilled or unskilled mechanic, laborer, worker, helper assistant, apprentice or driver, but shall not include any Ingham County employees, including but not limited to executive, administrative, TOPS, professional or office employees.

BE IT FURTHER RESOLVED, that it is the policy of the Board of Commissioners that any contractor or subcontractor on County construction projects where the value of the contractor's or subcontractor's contract exceeds \$10,000 shall pay prevailing wages to its employees as set forth below:

Every contract exceeding \$10,000 entered into by the Ingham County Board of Commissioners, or other agencies covered by this policy, shall require that the rates of wages, including fringe benefits, paid to each construction mechanic employed by the contractor or subcontractor at all tiers, who furnishes labor on the project which is the subject of the contract, shall be not less than the prevailing wages, including fringe benefits, for such labor by using the wage guidelines promulgated by the United States Secretary of Labor pursuant to the Federal Davis-Bacon Act.

Every contract exceeding \$10,000 shall include the most current wage and fringe benefit schedule as provided for by the United States Secretary of Labor pursuant to the Federal Davis-Bacon Act for each class of construction mechanic.

Every contractor and subcontractor shall keep posted on the construction site in a conspicuous place, a copy of all prevailing wage and fringe benefit rates prescribed in the contract and shall keep accurate records showing the name and occupation of, and actual wages and benefits paid to, each construction mechanic employed by that contractor or subcontractor in connection with the contract.

4. A contractor or subcontractor at any tier shall, upon request of the County or its designated agent, provide certified payrolls on U.S. Department of Labor form WH347 or facsimile for all hours worked. In addition to providing certified payrolls on U.S. Department of Labor form WH347 or facsimile for all hours worked when requested, the contractor or subcontractor at any tier shall be required to collect and submit this information in a regular reporting format as determined by the Board of Commissioners, or its agents. Noncompliance with this section shall be deemed a breach of the contractual agreement(s).

Any contractor or subcontractor upon being notified that it is in violation of any term of this policy and who fails to remedy the violation as set forth in this policy is deemed to have committed a material breach of the contract. The Board or its designated agent, if any, shall proceed to enforce the term(s) in accordance with the contract and/or by seeking any remedy authorized by law, including rescission of the contract. Further sanctions and penalties shall be as set forth in paragraph 6 below.

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6. Any contractor or subcontractor upon being notified that it is in violation of payment of prevailing wage and that an amount is due, shall have thirty (30) days to correct the deficiency by paying the employee or employees the amounts due. If the person, firm, a corporation, or business entity fails to pay within the thirty (30) day period it shall be subject to the following penalties:

Payment of all wages and fringe benefits, plus interest at 2% per month on those wages and fringe benefits due the employee;

The cost to the County shall be calculated using the hourly wage and fringe benefits' costs of the County employee involved in the enforcement of this policy plus any other costs incurred by the County, including but not limited to costs of a contracting agent, attorney fees, and court costs; and

(c) Ineligibility to bid on any contract involving the County for a period of five (5) years if the violation is repeated after the contractor is formally notified.

(d) The County may withhold such payments from the contractor as are necessary to effectuate the payments or penalties as provided in this policy.

Any construction mechanic of a contractor under contract with the Board or its designated agent or a construction mechanic of a subcontractor at all tiers, or any bona fide organization representing construction mechanics may file a written complaint with the Board or its contracting agent, if any, challenging the compliance by a contractor or subcontractor with any of the terms noted above. The Board or its designated agent shall then conduct an investigation to determine whether it will proceed as in paragraphs 5 and/or 6 above.

A contractor or subcontractor found to have retaliated in violation of federal or state law against an employee for filing a claim of non-payment of a prevailing wage rate shall be ineligible to bid on any contract involving the County for a period of (five) 5 years from the date of such finding.

Contracts which contain provisions requiring the payment of prevailing wages as determined by the United States Secretary of Labor pursuant to the Federal Davis-Bacon Act (United States Code 40 Section 3141 , et seq.) or which contains provisions requiring the payment of prevailing wages as determined by the Michigan Department of Consumer and Industry Services pursuant to 1965, PA 166, as amended, being MCLA 408.551, et seq., are exempt from the provisions of this resolution.

BE IT FURTHER RESOLVED, that notice of the requirements of this policy shall be included in all formal Requests for Proposals or Bids where a construction contract in excess of \$10,000 is anticipated.

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BE IT FURTHER RESOLVED, that the provisions of this policy shall apply to construction contracts in excess of \$10,000 entered into by the Ingham County Building Authority, and to any construction contracts in excess of \$10,000 which are entered into by any County agency where the Board of Commissioners is required to authorize the project or where the Board of Commissioners has authorized financing of such projects by the County.

BE IT FURTHER RESOLVED, that the Board of Commissioners encourages all other agencies of the County to adopt this or a similar policy for any construction contracts in excess of \$10,000.

BE IT FURTHER RESOLVED, that the County Controller or designee, which may include a designated agent, shall be responsible for monitoring implementation of and compliance with the provisions of this policy where the construction contract is entered into with the Board of Commissioners.

BE IT FURTHER RESOLVED, that where another specific agency of the County is designated as responsible for a construction project, that agency shall be responsible for monitoring implementation of and compliance with the provisions of this policy.

BE IT FURTHER RESOLVED, that no less than annually, the County Controller or designee shall provide the appropriate committee of the Board of Commissioners the status of projects where the payment of prevailing wage is required and where the County Controller is responsible for monitoring implementation of and compliance with the provisions of the prevailing wage policy.

BE IT FURTHER RESOLVED, that Resolutions #92-171, #96-164 and #00-084 are hereby rescinded.

**ADMINISTRATIVE SERVICES/PERSONNEL: Yeas:** Swope, Lynch, De Leon,

Celentino **Nays:** None **Absent:** Severino **Approved 11/6/02**

**FINANCE:** Grebner, Stid, Swope, Krause, Schafer

**Nays:** None **Absent:** Hertel, Minter **Approved 11/6/02**