

DEPARTMENT OF MANAGEMENT AND BUDGET

PURCHASING DIVISION

STATE PRINTING--PREVAILING WAGE RATES

(By authority conferred on the department of management and budget by section 33 of Act No. 306 of the Public Acts of 1969, as amended, being S24.233 of the Michigan Compiled Laws)

R 24.61 Definitions.

Rule 1. (1) "Act" means Act No. 153 of the Public Acts of 1937, as amended, being S24.61 et seq. of the Michigan Compiled Laws.

(2) "Conditions prevalent" means the cost of providing benefits to employees pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the employees affected, including plans or programs for medical or hospital care, pensions on retirement or death, compensation for injuries or illness or resulting from occupational activity, or insurance to provide any of the foregoing for supplemental unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, the costs of other approved paid absences for defraying costs of apprenticeship or other similar programs.

(3) "Employees" means all individuals who are engaged in any operation preparatory or necessary to or in the performance of a contract awarded by the state.

(4) "Locality" means the geographic determination as delineated on the map attached hereto as appendix A.

(5) "Prevailing wage rate and conditions prevalent" means the market rate, which is generally current; the mode received by employees in the locality evidenced by all information available to the department of management and budget at the time the determination is to be made.

(6) "Responsible bidder" means:

(a) A company having use of the allied printing trades council label.

(b) A company which pays its employees in accordance with a collective bargaining agreement with an organization which is in no way influenced or controlled by the management.

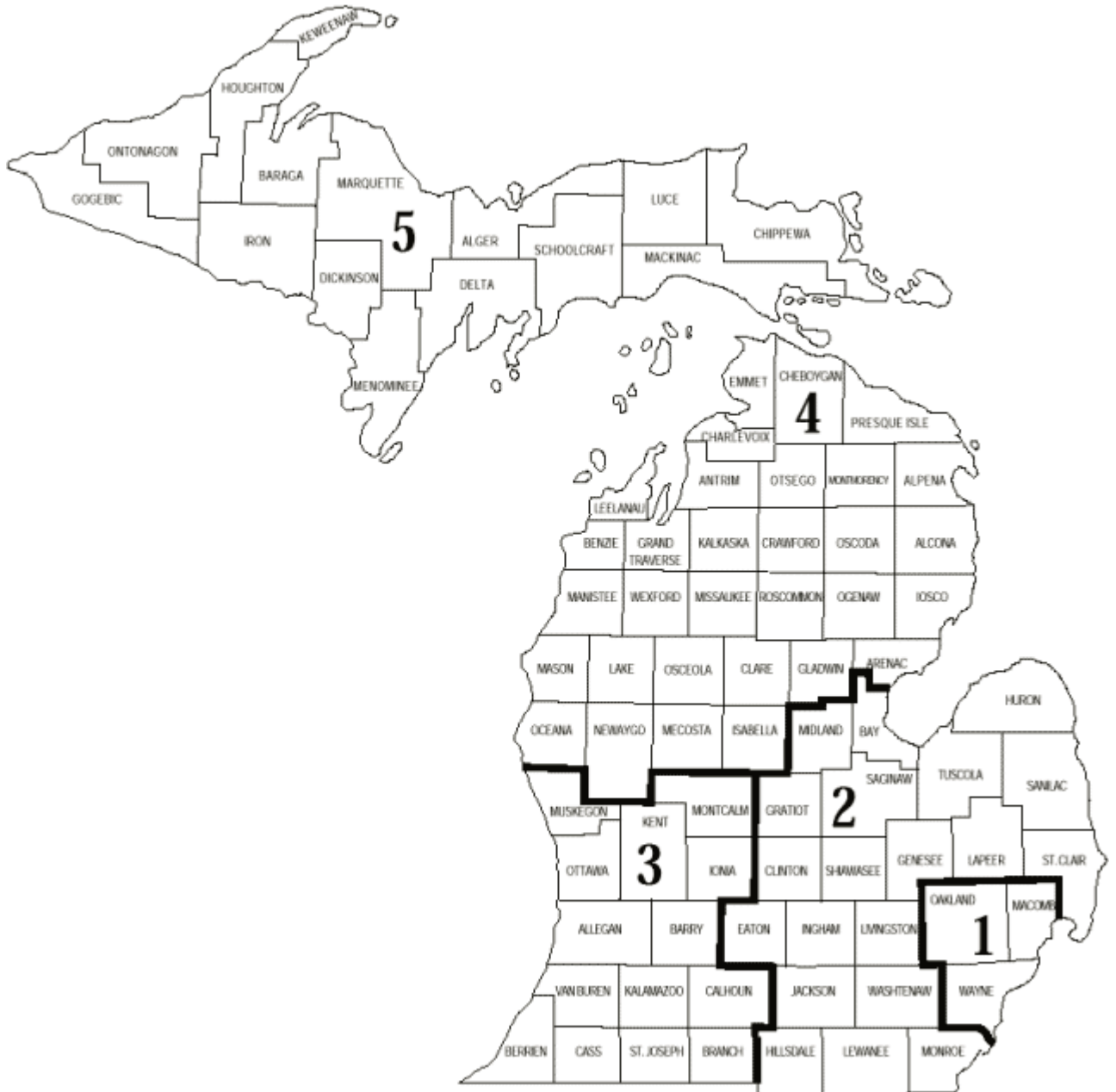
(c) A company filing with the secretary of state a sworn statement to the effect that its employees are receiving the prevailing wage rate and are working under conditions prevalent in the locality in which the work will be produced.

(7) "Wages" means:

(a) The basic hourly rate of pay and adjustments thereto.

(b) The conditions for receiving, and amount of, premium pay.

Figure for 24.61 Appendix



History: 1979 AC.

R 24.62 Implementation.

Rule 2. These rules shall be implemented in a particular case only if a challenge to a bidder's status as a responsible bidder is received by the department of management and budget not later than 10 working days after the opening of bids.

History: 1979 AC.

R 24.63 Prevailing wage rate and conditions prevalent.

Rule 3. In determining the prevailing wage rate and conditions prevalent, the department of management and budget shall review current information submitted or available to it but shall not be required to look beyond that information, except in the case of a contested bid. In that case, the challenged bidding firm may be required to furnish additional wage information.

History: 1979 AC.

R 24.64 Obtaining and compiling relevant information.

Rule 4. (1) Whenever necessary and for the purpose of making prevailing wage rate and conditions prevalent determinations, the department of management and budget shall endeavor to obtain and compile information regarding wages and conditions prevalent.

(2) The department of management and budget shall encourage the voluntary submission of data by printing firms, trade associations, labor organizations, public officials, and other interested parties, reflecting wages and conditions prevalent.

(3) The following types of information shall be considered in making determinations of prevailing wage rates and conditions prevalent:

- (a) Signed collective bargaining agreements.
- (b) Information furnished by federal and state agencies.
- (c) Other information pertinent to the determination of prevailing wage rates and conditions prevalent.
- (4) The department of management and budget may supplement this information.

History: 1979 AC.

R 24.65 Determination of responsible bidders.

Rule 5. (1) The responsibility of determining whether or not a bidder is a responsible bidder under the act rests in the first instance with the purchasing division of the department of management and budget.

(2) In the event of a challenge, the challenged bidder may withdraw its bid within 3 working days after notification of the challenge. If the challenged bidder does not withdraw, he shall furnish such additional information as the purchasing division requests with respect to wages and conditions prevalent.

(3) The responsible bidder determination of the purchasing division shall be final unless 1 of the parties requests a hearing.

History: 1979 AC.

R 24.66 Challenges.

Rule 6. (1) The grounds upon which a bidder may be challenged are:

- (a) That a bidder is not authorized to use the allied printing trades council label.
- (b) That the collective bargaining agreement of a bidder is with a labor organization influenced or controlled by management.
- (c) That the employees of a bidder who has filed a sworn affidavit with the secretary of state are not receiving the prevailing wage rate and working under conditions prevalent in the locality in which the work will be produced.

(2) A challenge shall be filed at the office of the purchasing division with the director of the division and shall be accompanied by an affidavit of service on the challenged bidder by certified mail, return receipt requested. The challenger shall make clear, specific, and detailed factual statements to support the grounds alleged and verify the same.

(3) Within 7 days after service of the challenge upon him, the challenged bidder shall serve his written verified answer upon the director of the purchasing division by certified mail, return receipt requested.

(4) Upon expiration of the time provided for an answer, the director of the purchasing division may direct an inquiry as to the validity of the challenge. The information gathered and results of the inquiry are confidential unless a public hearing is requested.

(5) If a challenge is not resolved to the satisfaction of any challenger or any challenged bidder, a public hearing, if requested by either party, shall be held.

History: 1979 AC.

R 24.67 Notice of public hearing.

Rule 7. Not less than 7 working days before the date of a public hearing, the director of the purchasing division shall notify, by certified mail, the challenger, the challenged bidder, and any other persons he names. The notice shall state the time, place, and date of the hearing, and shall set forth:

- (a) The nature of the conduct alleged which is not in compliance with the act.
- (b) The name and address of the challenger.
- (c) A statement that the hearing will be public, that the party may be represented by counsel, that the party may present witnesses, that all witnesses may be called and subjected to cross-examination, and that the hearing officer may request the attendance of witnesses and the production of evidence, which, in the judgment of the director of the purchasing division, will aid in the conduct of the investigation.

History: 1979 AC.

R 24.68 Hearings.

Rule 8. (1) Hearings shall be held before a hearing officer designated by the director of the purchasing division. The hearing officer and his agents or employees shall not have direct or indirect ex parte communication with any person in connection with the issues involved in a hearing.

(2) The hearing officer shall regulate the conduct of the hearing, administer oaths, request the attendance and testimony of witnesses and production of books, papers, and other documentary evidence, fix the time and form for the submission of evidence or argument, and adjourn a hearing for good cause to such time, date, and place as he deems appropriate.

(3) The rules of evidence applicable in the courts of the state need not be applied strictly in a hearing.

(4) At the conclusion of the hearing, the hearing officer may request additional evidence or written arguments concerning the subject matter to be submitted within such time and form as he directs. The additional evidence or argument shall be disclosed to all interested parties.

(5) The party requesting a hearing shall have the burden of proving a challenge. The party requesting the hearing shall have the right to be present, to be represented by counsel, to testify, to produce and examine witnesses, to cross-examine adverse witnesses, and to introduce such other evidence as may be material and relevant to the issues.

(6) Proceedings shall be recorded, but need not be transcribed unless requested by the purchasing division or a party. The purchasing division shall determine the amount and source of payment for the transcript. The purchasing division shall prepare an official record of the hearing, which shall include the notice of hearing and all documents considered by the hearing officer, and may include a transcript of the evidence presented at the hearing.

History: 1979 AC.

R 24.69 Challenge opinions.

Rule 9. If the hearing officer finds from a preponderance of the evidence that a challenged bidder has not complied with the act or that the moving party has failed to demonstrate that its position is meritorious, he shall issue a written decision specifying recommended action. The hearing officer shall transmit a copy of the decision to the person whose conduct is involved, to the person who challenged the proposed award, and to other persons who have filed a written request for a copy of the opinion.

History: 1979 AC.