

CHAPTER 64**PREVAILING WAGES FOR BUILDING SERVICES****Authority**

N.J.S.A. 34:11-56.58 et seq., specifically 34:11-56.69.

Source and Effective Date

R.2007 d.149, effective May 7, 2007.
See: 39 N.J.R. 18(a), 39 N.J.R. 1745(a).

Chapter Expiration Date

Chapter 64, Prevailing Wages for Building Services, expires on May 7, 2012.

Chapter Historical Note

Chapter 64, Prevailing Wages for Building Services, was adopted as new rules by R.2007 d.149, effective May 7, 2007. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 12:64-1.1 Purpose
- 12:64-1.2 Scope
- 12:64-1.3 Definitions

SUBCHAPTER 2. CONTRACTOR AND CONTRACTING STATE AGENCY RESPONSIBILITIES

- 12:64-2.1 Contract provisions
- 12:64-2.2 Multiple classes of work
- 12:64-2.3 Collective bargaining rights
- 12:64-2.4 Records

SUBCHAPTER 3. INSPECTIONS

- 12:64-3.1 Right to enter and inspect

SUBCHAPTER 4. VIOLATIONS, PENALTIES AND FEES

- 12:64-4.1 Violations of the Act
- 12:64-4.2 Administrative penalties
- 12:64-4.3 Administrative fees
- 12:64-4.4 Interest
- 12:64-4.5 Hearings
- 12:64-4.6 Discharge or discrimination against worker making complaint

SUBCHAPTER 1. GENERAL PROVISIONS**12:64-1.1 Purpose**

The purpose of this chapter is to establish prevailing wage levels for workers employed or engaged by contractors furnishing building services for any property or premises owned or leased by the State in order to safeguard the efficiency and general well-being of those workers and to protect them and the contractors for whom they work from the effects of serious and unfair competition, which is based on low wage levels that are detrimental to efficiency and well-being.

12:64-1.2 Scope

(a) This chapter shall apply to contractors who have contracted with the State to furnish building services for any property or premises owned or leased by the State.

(b) This chapter shall apply to building services workers who are employed or engaged by contractors who have contracted with the State to furnish building services for any property or premises owned or leased by the State.

(c) This chapter shall apply to contracts to furnish building services for any property or premises owned or leased by the State that are entered into or renewed by the State on or after March 13, 2006.

(d) This chapter shall not apply to contracts to furnish building services for any property or premises owned or leased by the State that were entered into prior to March 13, 2006 and extended on or after March 13, 2006.

12:64-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the State Building Service Contracts Act, P.L. 2005, c. 379, N.J.S.A. 34:11-56.58 et seq., and the rules promulgated in accordance therewith, this chapter.

“Building” includes everything within the outer walls of the building structure, as well as the exterior of those walls, and any front, rear or side portico attached to the building itself.

“Building services” means any cleaning or building maintenance work, including, but not limited to, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing or maintenance of an existing building. “Building services” shall not include any maintenance work or other public work for which a contractor is required under the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq., to pay the “prevailing wage,” as that term is defined in N.J.S.A. 34:11-56.26.

“Building services worker” or “worker” means any individual employed or engaged by a contractor to perform building services, pursuant to a State contract, for any property or premises owned or leased by the State.

1. “Building services worker” or “worker” shall include full-time workers, part-time workers, temporary workers and independent contractors.

2. “Building services worker” or “worker” shall not include any employee, including a learner, apprentice, or stu-

dent, whose earning capacity is impaired by age or physical or developmental disability or injury, to whom the Commissioner has issued a special license authorizing employment at wages less than the prevailing wage for building services for a period of time as shall be fixed by the Commissioner or the Director of Wage and Hour Compliance and stated in the license.

“Certified payroll record” means a payroll record that is attested to by the contractor or the owner of the company doing business as the contractor, or a corporate officer of such company, or an authorized agent of the contractor.

“Commissioner” means the Commissioner of Labor and Workforce Development or his or her duly authorized designee.

“Contract” means those agreements entered into by the State for the principal purpose of furnishing building services. Where building space is leased by the State and the building owner furnishes general janitorial or other building services, the Act does not apply.

“Contracting State agency” means the particular State department, bureau, board, commission, agency or instrumentality, including a State institution of higher education, which enters into a contract with a contractor for the furnishing of building services for any property or premises owned or leased by the State.

“Contractor” means a person, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof, that enters into a contract for the furnishing of building services for any property or premises owned or leased by the State and includes any subcontractor or lower-tier subcontractor of a contractor, as defined in this section.

“Department” means the Department of Labor and Workforce Development.

“Engineering” means the functions ordinarily performed by a “janitor” as that term is defined within the United States Department of Labor’s Service Contract Act Directory of Occupations, namely, one who cleans and keeps in an orderly condition factory working areas and washrooms, or premises of an office, apartment house, or commercial or other establishment. Duties involve a combination of the following: sweeping, mopping or scrubbing, and polishing floors; removing chips, trash, and other refuse; dusting equipment, furniture, or fixtures; polishing metal fixtures or trimmings; providing supplies and minor maintenance services; and cleaning lavatories, showers, and restrooms. Excluded from the definition of the term “engineering” are workers who specialize in window washing, housekeeping staff who make beds and change linens as a primary responsibility, workers required to disassemble and assemble equipment in order to clean machinery, and workers who receive additional compensation to maintain sterile facilities or equipment. Also excluded from the definition of the term “engineering” are

workers who maintain building infrastructure equipment and machinery, such as, but not limited to, heating, ventilation and air conditioning (HVAC), elevators, boilers, plumbing and electrical systems.

“Extended” means prolonging the duration of an existing contract as provided for and in accordance with the terms of that contract.

“Fringe benefit” means “fringe benefit” as that term is defined and used within the Federal Service Contract Act of 1965, 41 U.S.C. §§351 et seq., incorporated herein by reference, as amended and supplemented, and the regulations promulgated by the Secretary of Labor in accordance therewith, 29 CFR Part 4, incorporated herein by reference, as amended and supplemented.

“Leased by the State” means that not less than 55 percent of the property or premises is leased by the State, provided that the portion of the property or premises that is leased by the State measures more than 20,000 square feet.

“Monetary wage” means “monetary wage” as that term is defined and used within the Federal Service Contract Act of 1965, 41 U.S.C. §§351 et seq., incorporated herein by reference, as amended and supplemented, and the regulations promulgated by the Secretary of Labor in accordance therewith, 29 CFR Part 4, incorporated herein by reference, as amended and supplemented.

“Renewed” means a new contract entered into by the parties upon expiration or termination of an existing contract.

“Payroll record” means a form satisfactory to the Commissioner, wherein is shown worker information, such as name, address, social security number, and job classification, together with actual hourly rate of pay, actual daily, overtime and weekly hours worked in each job classification, gross pay, itemized deductions, and net pay paid to the worker; such record shall also include:

1. Any fringe benefits paid to approved plans, funds or programs on behalf of the worker; and
2. Fringe benefits paid in cash to the worker.

“Prevailing wage for building services” means the monetary wage and fringe benefit rates designated by the Commissioner based on the determinations made by the United States General Services Administration pursuant to the Federal Service Contract Act of 1965, 41 U.S.C. §§351 et seq., for the appropriate localities and classifications of building services workers.

“State” means the State of New Jersey and all of its departments, bureaus, boards, commissions, agencies and instrumentalities, including any State institutions of higher education, but does not include political subdivisions of the State.

“State institutions of higher education” means Rutgers, the State University of New Jersey, the University of Medicine