

## Subtitle 11 SOCIOECONOMIC POLICIES

### 21.11.12 State Apprenticeship and Training Fund

Authority: State Finance and Procurement Article, §§17-603—17-606, Annotated Code of Maryland

#### Notice of Proposed Action

[11-279-P]

The Commissioner of Labor and Industry proposes to adopt new Regulations .01—.09 under a new chapter, **COMAR 21.11.12 State Apprenticeship and Training Fund**.

#### Statement of Purpose

The purpose of this action is to implement the State Apprenticeship and Training Fund, Ch. 687, Acts of 2009. The State Apprenticeship and Training Fund requires contractors and some subcontractors on public work contracts to make contributions to: (1) a registered apprenticeship program, (2) an organization that operates registered programs, or (3) the State Apprenticeship and Training Fund.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

The proposed action has no economic impact.

#### Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Debbie Stone, Regulations Coordinator, Department of Labor, Licensing, and Regulation, Division of Labor and Industry, 1100 N. Eutaw Street, Room 606, Baltimore, Maryland 21201, or call 410-767-2225, or email to [dstone@dlr.state.md.us](mailto:dstone@dlr.state.md.us), or fax to 410-767-2986. Comments will be accepted through October 24, 2011. A public hearing has not been scheduled.

#### .01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Apprenticeship program" means an apprenticeship program or an organization with an apprenticeship program which has been registered with, and approved by, the Maryland Apprenticeship and Training Council or the United States Department of Labor.

(2) "Commissioner" means the Commissioner of Labor and Industry.

(3) "Covered craft" means a classification of workers listed in the prevailing wage determination applicable to a prevailing wage project.

(4) "Fund" means the Apprenticeship Training Fund.

(5) "Monthly Apprenticeship and Training Report" means the monthly report that details contractor and subcontractor contributions for that month available on the Division of Labor and Industry's website.

#### .02 Hourly Contribution Rate.

A. If a contractor participates in an apprenticeship training program for each covered craft, the contractor satisfies their obligation under State Finance and Procurement Article, §17-603(a)(1), Annotated Code of Maryland, by making contributions of at least 25 cents per person per hour.

B. If a subcontractor participates in an apprenticeship training program for each covered craft, the subcontractor satisfies their obligation under State Finance and Procurement Article, §17-604(a)(1), Annotated Code of Maryland, by making contributions of at least 25 cents per person per hour.

C. Contractors and subcontractors that do not participate in an apprenticeship training program shall pay 25 cents per hour for each employee in each covered craft on the prevailing wage project to a registered apprenticeship program, an organization that has a registered apprenticeship program, or the Fund.

D. Contractors and subcontractors who make contributions to the Fund shall do so on a monthly basis.

E. If there is a prevailing wage determination that includes a fringe benefit contribution for apprenticeship that exceeds 25 cents per hour, a contractor or subcontractor that makes contributions to the Fund shall pay to the employee wages in the amount that the fringe benefit contribution for apprenticeship exceeds 25 cents per hour.

#### .03 Contractor and Subcontractor Registration.

A. Contractors performing work on a prevailing wage project shall complete the registration process at the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage>.

B. Subcontractors who are performing work valued at \$100,000 or more on a prevailing wage project shall complete the registration process at the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage>.

C. Prior to the commencement of work, a registered contractor or registered subcontractor shall log onto the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage> and complete the required project log information, including:

- (1) The prevailing wage project number;
- (2) Contract value;
- (3) Designation of the program or Fund where the contractor or subcontractor will make contributions; and
- (4) Any other information that the Commissioner requires.

**.04 Contractor and Subcontractor Notification to Subcontractors.**

A. Contractors and subcontractors who hire subcontractors performing work valued at \$100,000 or more on a public work contract subject to the Maryland Prevailing Wage Law shall provide the subcontractors with written notice of the following requirements:

(1) Subcontractors shall complete the registration process at the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage>.

(2) Prior to the commencement of work, a subcontractor shall log onto the Division of Labor and Industry's website at <https://www.state.md.us/prevwage> and complete the required project log information, including:

- (a) The prevailing wage project number;
- (b) Contract value;
- (c) Designation of the program or Fund where the subcontractor will make contributions; and
- (d) Any other information that the Commissioner requires.

(3) Subcontractors performing work on a prevailing wage project valued at \$100,000 or more are required to make payments to approved apprenticeship programs or to the Fund for each employee employed in classifications listed on the prevailing wage determination.

B. Contractors and subcontractors shall retain a copy of the written notice required in §A of this regulation that was provided to covered subcontractors for inspection and review by the Commissioner for 1 year after the completion of their work on a public work project.

**.05 Contractor and Subcontractor Obligations Related to Approved Apprenticeship Programs.**

A. Contractors and subcontractors are required to complete and to file on the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage> the Monthly Apprenticeship and Training Report, which shall include the following:

- (1) A list of the contributions to each approved apprenticeship program during the last month; and
- (2) A statement by the contractor or subcontractor that the information is correct and that the contractor or subcontractor has complied with the requirements of State Finance and Procurement Article, Title 17, Subtitle 6, Annotated Code of Maryland.

B. Contractors and subcontractors are required to submit the Monthly Apprenticeship and Training Verification Report by the 30th calendar day of each month for the previous month.

**.06 Notification to Division of Labor and Industry of Changes to Designated Approved Apprenticeship Programs or Fund.**

A. Contractors and subcontractors shall log onto the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage> and indicate each approved apprenticeship program or the Fund to which it will make contributions.

B. If a contractor or subcontractor intends to change a designation, it shall log onto the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage> to indicate the change in designation 30 days prior to that change.

**.07 Approved Apprenticeship Program Obligations.**

A. Upon notice from the Division of Labor and Industry that the approved apprenticeship program has been designated for contributions by a contractor, an approved apprenticeship program shall complete the registration process at the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage>, including:

- (1) Defining their program; and
- (2) Any other information that the Commissioner requires.

B. Within 30 days of notification from the Division of Labor and Industry, the approved apprenticeship program shall complete the required information, including an acknowledgement of their obligations under this subtitle.

C. After completion of the requirements of §A and B of this regulation, an approved apprenticeship program shall:

(1) Provide on the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage> a monthly report of the contributions received from contractors and subcontractors for each covered craft for each prevailing wage project by the 30th calendar day of each month for the previous month; and

(2) Certify that all funds received are used solely for the purpose of improving or expanding pre-apprenticeship training in the State.

**.08 Audit of an Approved Apprenticeship Program.**

The Commissioner may require an independent audit by a certified public accountant of an approved apprenticeship program to verify that contributions received are used in a manner consistent with this subtitle.

**.09 Enforcement Procedures.**

A. The Commissioner may investigate whether State Finance and Procurement Article, Title 17, Subtitle 6, Annotated Code of Maryland, has been violated:

- (1) On the Commissioner's own initiative;
- (2) On receipt of a written complaint; or
- (3) On referral from another State agency.

B. The Commissioner may require a contractor, a subcontractor, or an approved apprenticeship program to produce records as part of the Commissioner's investigation.

C. The Commissioner may enter a place of business to:

- (1) Interview individuals; or
- (2) Review and copy records.

D. If after an investigation, the Commissioner determines that there is a violation of State Finance and Procurement Article, Title 17, Subtitle 6, Annotated Code of Maryland, or a regulation adopted to carry out the title, the Commissioner shall issue an administrative charge that shall:

- (1) Describe in detail the nature of the alleged violation;
- (2) Cite the provision of law or regulation that is alleged to have been violated; and
- (3) State the penalty, if any.

E. Within a reasonable amount of time after the issuance of the administrative charge, the Commissioner shall send a copy of the administrative charge to the alleged violator by certified mail with notice of the opportunity to request a hearing.

F. Within 15 days after the alleged violator receives the administrative charge, the employer may submit a written request for a hearing on the administrative charge and proposed penalty.

G. If a hearing is not requested within 15 days, the administrative charge, including any penalties, shall become a final order of the Commissioner.

H. If there is a request for a hearing, the Commissioner may delegate the hearing to the Office of Administrative Hearings in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

I. A proposed decision of an administrative law judge shall become a final order of the Commissioner unless, within 15 days of the issuance of the proposed decision:

- (1) The Commissioner orders review of the proposed decision; or
- (2) The alleged violator submits to the Commissioner a written request for review of the proposed decision.

J. After review of the proposed decision under §1 of this regulation, with or without a hearing on the record, the Commissioner shall issue an order that affirms, modifies, or vacates the proposed decision.

J. RONALD DEJULIIS  
Commissioner of Labor and Industry