

ON PETITION FOR REVIEW * BEFORE THE
OF PREVAILING WAGE * COMMISSIONER OF LABOR
RATES * AND INDUSTRY
*** PWU-25-01**
*** * * * ***

DECISION AND ORDER

This matter arose under the Prevailing Wage Law, State Finance and Procurement Article §§ 17-201 through 17-226, *Annotated Code of Maryland*. On December 22, 2025, the Philadelphia/Baltimore/Washington Laborers' District Council, affiliated with the Laborers International Union of North America, AFL-CIO, (collectively "PBWLDC" or "Petitioner") filed a verified petition for review with the Maryland Commissioner of Labor and Industry ("Commissioner") seeking review of the prevailing wage rates for the Highway Laborer Group I categories for Calvert, Carroll, Charles, Howard, and St. Mary's counties and as well as the Highway Laborer Group II categories for Calvert, Harford and Prince George's counties. (Ex. 1).

With respect to the rates for the Highway Laborer Group II submissions, the petition alleged that one submitter (Submitter X) had submitted false and inaccurate information, including an inaccurate selection of its peak week. The petition further alleged that Submitter X had falsely and inaccurately failed to report the wages of employees to whom it was required to pay the applicable prevailing wage rates.

With respect to the Highway Laborer Group I submissions, the Petitioner identified two other submitters (referred to in the Petition as the "October 22 Submitter" and "October 31 Submitter") that Petitioner alleged submitted wage data that was below the minimum wage rate that each submitter was required to pay in the respective jurisdictions. Upon receipt of the petition, the Commissioner initiated an investigation and, pursuant to §17-211(d) of the State Finance and Procurement Article, conducted a hearing on the petition on January 12, 2026, at the Division of Labor and Industry at 10946 Golden West Drive, Hunt Valley, Maryland 21031.

EXHIBITS

At the hearing, the following exhibits were entered into evidence.

<u>No.</u>	<u>Description</u>	<u>Dated</u>
1	Verified Petition for Review PBWLDC, with Exhibit A Exhibit B (native) Exhibit C (native) Exhibit D (native) Exhibit E (native)	12/22/25
2	Wage Determinations using 2025-2026 rates (Highway - Laborer I & II) (a) Calvert County (b) Carroll County (c) Charles County (d) Harford County (e) Howard County (f) .St. Mary's County	

3	PWU email to MOOT Re: challenge filed by PBWLDC	12/23/25
4	PWU email to WSSC Re: challenge filed by PBWLDC	12/23/25
5	PWU email to Submitter X re: additional info (redacted)	12/31/25
6	PWU email to Submitter 10/31/25 re: additional info (redacted)	12/31/25
7	PWU email to Submitter 10/22/25 re: additional info (redacted)	12/31/25
8	Hearing Notice	1/06/26
9	Hearing Notice through Gov Delivery	1/08/26
	THE 2025-2026 SURVEY	
10	DLI email notice re: survey opening	8/8/25
11	DLI annual survey notice	8/8/25
12	Sarah Harlan email to Submitters re: deadline for Additional information	1/09/25
13	• Sarah Harlan email to Petitioner's counsel Re: additional information received from Submitter X, Submitter 10/31/25 and 10/22/25 with attachments (redacted)	1/09/26
14	Sarah Harlan email to Petitioner's counsel Re: additional information received from Submitter X	1/11/26

FINDINGS OF FACT

Based on the testimony and exhibits presented at the hearing, the Commissioner finds the following facts:

The Annual Survey

1. Pursuant to §17-209 of the State Finance and Procurement Article, the Commissioner of Labor and Industry is required to annually determine the prevailing wage rate for workers in each classification in each locality in the State of Maryland.
2. To satisfy this requirement, the Prevailing Wage Unit ("PWU") conducts an annual survey. The survey is electronic and is accessible through a portal on the Department of Labor's ("Department") website. The survey opens on September 1 each year, and submissions are accepted through October 31. (Ex. 10).
3. On August 8, 2025, the Prevailing Wage Unit sent notice of the annual prevailing wage survey through GovDelivery to all entities registered in the Prevailing Wage data base. (Ex. 10). The notice included a letter with detailed instructions about how to submit wage information for the survey. The letter included several hyperlinks to resources and other informational materials regarding the survey and the requirements for submissions. (Ex. 11).
4. Following the close of the survey, the submitted data was processed, and the prevailing wage rates were calculated based upon the submitted data.
5. The new rates were loaded into the prevailing wage data base on December 9, 2025 and added to the prevailing wage landing page on the Department's website on December 10, 2025.

The Petition

6. On December 22, 2025, Petitioner filed a verified petition for review of the rate for the Highway Laborer Group I categories for Calvert, Carroll, Charles, Howard, and St. Mary's counties and as well as the Highway Laborer Group II categories for Calvert, Harford and Prince George's counties. In its petition, Petitioner challenged survey submissions from three submitters identified as "Submitter X", "October 22 Submitter" and "October 31 Submitter."
7. With respect to Submitter X, Petitioner alleged that between 3:14 pm and 4:40 pm on October 30, 2025, Submitter X submitted wage data for 134 workers and that "Submitter X censored the data it submitted to exclude any wage data reflecting the payment of prevailing wages to its employees." (Ex. 1, if30). The petition further alleged that "Submitter X's censoring activity calls jnto question the veracity of its submission with regard to its attestation of the peak weeks it reported for its work under its MSA with Utility 1, which comprises the vast majority of Submitter X's wage data."
8. With respect to the October 22 Submitter, Petitioner contended that based on the classifications it reported, it was a "large-scale paving contractor" working throughout Maryland." Petitioner noted that in each of the jurisdictions for which the October 22 submitted wages "a great deal, if not all, of their road-paving work contains local prevailing wage requirements."

(Ex 1, if45). Petitioner further asserted that the scale of the work reported by the October 22 Submitter "strongly supports that it would exceed Maryland's \$250,000 threshold for triggering prevailing wage requirements." (Ex. 1, if46). Petitioner noted that in light of local and State prevailing wage requirements, it was likely that the work for which the October 22 Submitter submitted wages was subject to a prevailing wage requirement but none of the submitted rates reflected compliance with those requirements.

9. With respect to the October 31 Submitter, Petitioner contended that the submitter was a gas-utility contractor subject to PUA §5-305¹ and that prevailing wage rates applied to the work for which it reported wages. (Ex. 1, if 54-56).
10. The petition requests the following: (i) the wage data submitted by Submitter X be excluded as false and misleading; (ii) the wage data from the October 22 Submitter and the October 31 Submitter be excluded to the extent the wage rates submitted by those submitters were unlawfully less than the required prevailing wage rates applicable to the work performed

¹ Section 5-305(b) of the Public Utilities Article requires that an investor-owned utility require a contractor or subcontractor to pay its employees not less than the prevailing wage rate for any work involving construction, reconstruction, installation, demolition, restoration, or alteration of any underground gas or electric infrastructure of the company, and any related traffic control activities. The prevailing wage requirement applies to any work performed under a contract with an investor-owned utility that has been executed, amended, or altered after March 1, 2024.

and (iii) the Highway Laborer Group I in Calvert, Charles, Carroll, Howard and St. Mary's Counties, and Group II Laborer in Calvert, Harford, and Prince George's Counties be recalculated using the remaining data.

11. A petition for review is ripe when a public body issues a call for bids or proposals using the rate for which review is requested. Md. State Fin. & Proc. Code Ann. § 17-211(b). Wage determinations, including the rates subject to challenge in the petition, have been issued for Calvert, Carroll, Charles, Harford, Howard, Prince George's and St. Mary's counties. (Ex. 1 and Ex. 2).

12. On December 23, 2025, notice of the challenge was sent to the public bodies who requested the wage determinations that included the challenged rates. (Exs. 3 & 4).

The Investigation

13. On December 31, 2025, PWU sent emails to each of the submitters advising of the rate challenge and requesting that they provide additional documentation supporting their survey submissions, including records of hours worked for each employee, pay records, job classification records, and documentation regarding fringe benefits. (Exs. 5-7). For each submitter, the PWU request for additional information ("RFI") included a chart with the submitter's original submission and the additional information sought. The RFI further advised that if a submitter contended that work performed under a contract otherwise subject to §5-305 was

exempt, the submitter should "provide a brief explanation, and cite and attach any documentation [the submitter] wish[es] the Commissioner to consider." (Exs. 5-7).

14. Notice of an "in person" hearing on the challenge was sent directly to the Petitioner and the submitters. (Ex. 8). Notice was also sent to all entities registered in the PWU database via GovDelivery. (Ex. 9).

15. On January 9, 2026, a follow-up to the December 31, 2025 request for information was sent to all of the submitters. The submitters were instructed that if they wished to remain anonymous, they would need to provide any documents with proposed redactions by 2:00 pm on January 9, 2026. (Ex. 12). They were apprised that redacted documents would "be disclosed to the Petitioners to ensure that they have an opportunity [for] review and [to] provide rebuttal." The January 9, 2026 communication again advised the submitters that ***"if the project for which you submitted data was on behalf of an investor-owned utility that you contend is exempt from Section 5-305 of the Public Utilities Article, please provide a copy of the contract including any amendments or alterations."*** (Ex. 12 emphasis added).

16. All three submitters provided some additional information by the 2:00 pm deadline. The redacted documents were provided to the Petitioner at the end of the day on June 9, 2026. (Ex. 13). One document was initially omitted and was subsequently sent to Petitioner at 6:48 pm that evening. (Ex. 15).

17. In its response to the RFI, Submitted X provided a written narrative explanation of its survey submissions as well as additional wage information. Submitter X represented that all of the wages submitted for the survey were for work performed under master service agreements ("MSA") for utility clients. (Ex. 13).

18. As part of the RFI, the October 22 Submitter was provided a chart of 11 projects for which it submitted wage data and the additional information sought. (Ex. 7). The request included the following projects: BGE Large Patch; BGE Small Patch; BGE Laurel Fiber; Wellesley Apartments; Green Valley Fire Station; The Flats at College Park; Joe Baker Court; Woodmont Park Apartments; the Montgomery County Transfer Station; 8241, 8242 and 8246 Sandy Court and Red Barn Way. (Ex. 7). The October 22 Submitter failed to provide any additional information with respect to the Sandy Court and Red Barn Way projects. For the three BGE projects, the October 22 Submitter provided a redacted document entitled "Special Amendment to the Services and Materials Agreement between Baltimore Gas and Electric Company and [the October 22 Submitter]" as well as two invoices. With respect to the Green Valley Fire Station, the Woodmont Park Apartments and the Montgomery County Transfer Station, the work was performed in jurisdictions that were not subject to challenge in the petition. For the Flats at College Park, the October 22 Submitter provided a proposal dated November 7, 2024 for asphalt paving at various locations in Prince

George's County. The October 22 Submitter provided additional narrative information in the chart regarding the Wellesley Apartments and the Joe Baker Court project but did not provide any additional contracts or supporting documentation.

19. The October 31 Submitter submitted wage data for a total of 31 projects that appeared to have been part of an MSA. The projects were listed as job numbers such as "Job 22-22" and "Job 25-15." In response to the RFI, the October 31 Submitter provided more detailed information about each job. Despite the two requests for copies of relevant contract documents to support any contention that the work was not subject to PUA §5-305, the October 31 submitter did not provide them. It did include a note at the end of its response stating that the work was performed pursuant to a contract that was executed prior to March 1, 2024 and it had not been "amended, altered or re-executed since that date." The note added that "the contract is subject to a confidentiality agreement." (Ex. 13).

The Hearing

20. The Hearing was held on Monday January 12, 2025 at the Division of Labor and Industry Offices located at 10946 Golden West Drive, Hunt Valley, Maryland 21031. The hearing on the petition commenced at 10:30 a.m. and was transcribed by a court reporter. The three submitters requested that their identities remain confidential. The Commissioner advised that, while confidentiality could not be promised, to the extent that the hearing

could proceed without compromising the rights of the Petitioner or the record, she was inclined to honor the request for confidentiality. (Tr. 38).

21. Counsel for Petitioner began its argument by addressing the submissions of the October 22 Submitter. Counsel acknowledged that Petitioner was not challenging the rates submitted for work performed on the Woodmont Park Apartments, the Green Valley Fire Station or the Montgomery County Transfer Station. (Tr. 56, 59). Counsel argued that the Wellesley Apartments project in Harford County, the Flats at College Park project in Prince George's County and the Joe Baker Court project in St. Mary's County² were not reportable as highway work under the survey because the work would be considered residential work, a type of building construction. (Tr. 58). With respect to the three BGE projects, counsel for Petitioner acknowledged that on the face of the documents and without any other information, it had no basis to challenge the data on the basis that it was covered by a contract subject to PUA §5-305 because it had been entered into, altered or amended after March 1, 2024. (Tr. 60-63).

22. With respect to the October 31 Submitter, Petitioner argued that the work appeared to be underground utility work covered by PUA §5-305 and the submitter failed to "supply[] anything to verify [that] what it submitted"

² Submissions for St. Mary's County set the rate for certain classifications in Charles and Calvert counties because there were no submissions for those counties for those classifications and, consequently, the rates were "borrowed" from St. Mary's county.

was not otherwise subject to §5-305. (Tr. 66-67). With respect to Submitter X, Petitioner noted at the outset of its argument that Submitter X was the subject of the Petitioner's challenge petition to last year's survey results. Petitioner noted that in its narrative statement, Submitter X "ratified" or "verified" that the specific weeks for which it submitted data during the survey remained its peak week for some, but not all, of the jurisdictions for which it submitted data. (Ex. 13) Petitioner argued that data for any jurisdiction that Submitter X failed to ratify as its peak week should be excluded from the survey and the relevant rates recalculated.

ANALYSIS

The Commissioner will address each of the three Submitters in the same order that counsel for Petitioner addressed them at the hearing.

The October 22 Submitter

The Commissioner will not address the survey submissions for the Woodmont Park Apartments, the Green Valley Fire Station or the Montgomery County Transfer Station since they were not submitted for jurisdictions subject to challenge in the petition. With respect to submissions for the three BOE projects, the Commissioner will not exclude those submissions. In response to the RFI, the October 22 Submitter provided several documents that it represents were part of "Blanket Contract 02087188." The documents include an agreement titled "Special Amendment to the Services and Materials Agreement" that is dated and executed prior to March 1, 2024. (Ex. 13) Exhibits to this document are a scope of

services and a rate and pricing schedule. In addition to the contract documents, the October 22 Submitter also provided invoices that it represents were for the "BGE Large Project" and the "BGE Small Patch Project." The invoices for both are dated January 1, 2024. At the hearing, the Petitioner acknowledged that it did not have any basis to challenge the veracity of the documentation provided by the October 22 Submitter. (Tr. 62-63). Because all of the documents related to the three BGE projects pre-date March 1, 2024, the Commissioner will let stand the survey wage data provided by the October 22 Submitter with respect to the three BGE projects.

With respect to the the Wellesley Apartments project in Harford County, the Flats at College Park project in Prince George's County and the Joe Baker Court project in St. Mary's County, the Commissioner agrees with the Petitioner that those projects appear to be residential and were not properly reported as Heavy/Highway rates. _The Department's FAQs are hyperlinked in the survey instructions and make it clear that "[d]ata from residential projects is not considered in the survey process." *See* FAQ 26. Accordingly, the wage data submitted for these three projects will be excluded for purposes of calculating the prevailing rates for the classifications at issue in those jurisdictions.³

With respect to the Sandy Court and Red Barn Way projects in Howard County, the October 22 Submitter failed to provide any additional information in

³ The October 22 Submitter represented that the Wellesley Apartments, the Flats at College Park and the Joe Baker Court projects were not underground utility work that could be subject to PUA §5-305.

response to the RFI. Those projects also appear to be residential and not properly reported as Heavy/Highway rates. Accordingly, wage data for those projects will be excluded.

The October 31 Submitter

As set forth above, the October 31 Submitter failed to provide any documentation to support its contention that the projects for which it submitted data were not subject to PUA §5-305. Petitioner acknowledged at the hearing that the work performed could have legitimately not been covered by §5-305 but without any additional information or documentation, Petitioner argued it was not "able to test it." (Tr. 70-71.).

Following Petitioner's argument on the October 31 Submitter's data, the Commissioner asked on the record whether anyone present at the hearing was prepared to offer additional evidence on the issue. (Tr. 100). There was no response. Before concluding the hearing, the Commissioner again asked if anyone had "any other evidence or information pertaining to the . . . challenge." Again, there was no response. (Tr. 101-102).

The Commissioner agrees with Petitioner that the October 31 Submitter failed to provide sufficient information or documentation to support its contention that the work it submitted data for was not covered by PUA §5-305. While the Commissioner attempted to honor the Submitter's request to remain anonymous, this did not override the right of the Petitioner, or anyone else present at the hearing, to probe the issue and demand some level of proof. In light of this, the

Commissioner finds that all of the challenged data submitted by the October 31 Submitter should be excluded, and the relevant rates recalculated.

Submitter X

Submitter X is a traffic control company that provides "flagger" services to utility companies. Submitter X represents that it performs this work under blanket or master service agreements that "cover multiple types of work, including both underground utility work and non-underground work ... across multiple jurisdictions." (Ex. 13). Submitter X submitted survey wage data for three of the jurisdictions subject to challenge in the petition: Calvert County, Harford County and Prince George's County. (Ex. 13).

The "peak week" refers to the specific payroll week for a particular classification in a particular jurisdiction that had the highest number of workers. Submitters must submit their "peak week" payroll information for each jurisdiction to avoid duplication and to ensure the greatest number of workers are represented in the submission.

With respect to its submissions for Harford and Calvert Counties, Submitter X affirmatively represented that the week covered by the submission was in fact the "peak week" on the contract for those jurisdictions, and provided data for the remaining employees who performed work in the same classification during that same week under the same contract. (Ex. 13). With respect to Prince George's County, however, Submitter X did not affirm that the week covered by the original

submission was in fact the "peak week" for that jurisdiction when all employees performing work in that classification were taken into account. (Ex. 13).

At the hearing, the Petitioner argued that Submitter X failed to ratify or affirm that the original peak week for which it submitted survey data in Prince George's County remained its peak week for that jurisdiction when taking into account the additional employees performing underground utility work. Petitioner pointed out that with respect to Calvert County, Submitter X affirmed in response to the RFI that the original peak week for which it submitted was "accurate"; with respect to Harford County, it affirmed that the original peak week was "legitimate"; with respect to Prince George's County, however, Submitter X made no such representation. Petitioner argued that because Submitter X failed to ratify the peak week from its original submission (when it had expressly done so for other jurisdictions), it was reasonable to infer that with the inclusion of the omitted underground wage data, the peak week was no longer the same. Petitioner argued that failure to submit for the peak week made it "an inappropriate submission." (Tr. 90).

The Commissioner agrees that it is curious that Submitter X actively affirmed its peak week for two other jurisdictions but failed to do so for Prince George's County. It was evident to anyone in attendance at the hearing that one of Petitioner's primary arguments with respect to Submitter X's data was its failure to ratify the peak week when taking into account the underground work. Even if it had been an oversight, there was ample opportunity at the hearing for an agent of

Submitter X or its representative to request that the hearing be held open to submit additional information. The Commissioner expressly offered to "hold the hearing open to receive that data." (Tr. 89). At the conclusion of the hearing, the Commissioner again advised that she would "go issue-by-issue and ask generally for the folks who showed up today whether there is any evidence or information that they wish to submit on that ... issue." (Tr. 99). When she got to the issue of Submitter X and the peak week, the Commissioner stated on the record at the hearing "given that the other two counties have specifically affirmed that the peak week was provided ... [t]hat was not the case with regard to the Prince George's County submission. So based on this record, again absent any evidence otherwise, I would find that that was not a peak week. I'm capable of being wrong, and certainly want to hear from anybody here who has any, again, evidence or argument to make on that point, and any argument for permitting Prince George's County submission or any argument or evidence that in fact it is a peak week." (Tr. 100-101). No response was provided.

FINDINGS AND ORDER

Upon consideration of the evidence and the arguments raised, the Commissioner orders as follows:

1. With respect to the October 22 Submitter, the wage submissions for the Wellesley Apartments project, the Flats at College Park project, and the Joe Baker Court project are rejected as noncompliant because they represent residential work that is not appropriate for inclusion in the survey. It is hereby ordered that those submissions be excluded and the rates recalculated accordingly;
2. With respect to the October 22 Submitter, it failed to provide any additional information with respect to the Sandy Court and Red Barn Way projects in response to the RFI. Those projects are also rejected as noncompliant. It is hereby ordered that those submissions be excluded and the rates recalculated accordingly;
3. With respect to the October 31 Submitter, the Submitter failed to provide additional information to support its position that the work reported for the jurisdictions in question in the petition was not subject to PUA §5-305. Accordingly, it is hereby ordered that those submissions be excluded and the rates recalculated accordingly;
4. With respect to Submitter X, the record fails to demonstrate that the week for which it submitted data in Prince George's County remained its peak week when taking into account all workers performing the work in the

classification. Accordingly, it is hereby ordered that the wage data submitted by Submitter X for Prince George's County be excluded and the rates recalculated accordingly.

5. With respect to wage data for underground work performed in Harford County that Submitter X failed to include in its original survey submission but subsequently provided in response to the RFI, that wage data will be included and the rates recalculated accordingly.

Isl Devki K. Virk
Devki K. Virk
Commissioner of Labor and Industry

Dated: January 22, 2026