



# **IPA Power Hour 4—Prevailing Wage and Project Labor Agreements**

May 23, 2024

# Agenda

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- 1. Introductions and Housekeeping**
- 2. IDOL Department Overview**
- 3. Discussion on Prevailing Wage Law & Project Labor Act**
- 4. Long-Term Plan**
- 5. IPA Wage Requirements & Renewable Projects**
- 6. Q&A**

# IPA Power Hour Webinars



- **Today's Power Hour:**

- Explore Prevailing Wage Law and Project Labor Act in Illinois. The webinar will also look into prevailing wage and project labor agreements for renewable energy projects participating in the IPA renewable energy programs and procurements.

**Power Hour is a series of educational and informative presentations on a wide range of clean energy topics and emerging issues.**

- Power Hour webinar series started in 2021.
- To-date, the Agency has hosted 31 Power Hour webinars.
- Invited energy thought leaders and experts locally and nationally.

**WEBINAR ARCHIVES: <https://ipa.illinois.gov/about-ipa/ipa-events/previous-power-hour-events.html>**

## About the IPA

### **Vision:**

*"A clean, reliable, and cost-effective energy future for residents and businesses across Illinois"*

- Independent State Agency created in 2007
- Responsible for the development of an annual Electricity Procurement Plan for customers of electric utilities
- Supports the Illinois Renewable Portfolio Standard (RPS) through the development and implementation of:
  - Long-Term Renewable Resources Procurement Plan
  - Competitive procurement for utility-scale projects
  - Solar incentive programs for homes and businesses

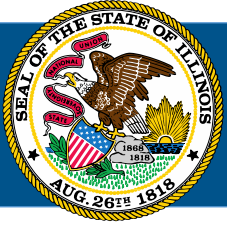


# *Illinois Department of Labor Background on Prevailing Wage & PLAs*



Illinois Department of  
**LABOR**

# Agenda



I. Department overview

II. Prevailing Wage overview

III. Project Labor Agreement (PLA) overview

# Mission statement



The mission of the Illinois Department of Labor is to protect and promote the wages, welfare, working conditions, and safety of Illinois workers by enforcing State labor and employment laws, providing compliance assistance to employers, and increasing public awareness of workplace protections.

# About IDOL



- ❖ Charged with enforcing laws protecting workers' rights on the job.
- ❖ Enforce about 25 different workplace protections and safety standards with offices in Chicago, Springfield, and Marion.
- ❖ Currently 4 labor law enforcement divisions: Fair Labor Standards; Conciliation and Mediation; Leave Rights and IL OSHA.
- ❖ Fun fact: IDOL also inspects carnival and amusement attractions!



# PWA Requires



Contractors and subcontractors must pay workers employed **on covered public works projects** no less than the general prevailing rate of wages (hourly cash wages plus fringe benefits) for work of similar character in the locality where the work is performed.

# What are Public Works?



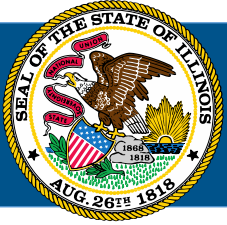
- All fixed works constructed by any public body.
- Work financed in whole OR part with public funds, including but not limited to general revenue funds; capital funds; bonds; grants; and loans.
- Renewable energy projects required to pay prevailing wage pursuant to the Illinois Power Agency Act.
- Construction projects performed by a third-party contracted by any public utility.

# What are “prevailing” wages?



- Rates that “prevail” for each craft and trade ascertained in June.
- New rates, by trade and county, published to IDOL website each July.
- Section 9 hearings to challenge any rate determination.
- New trade classifications established through admin hearing process.

# What are IDOL's Duties?



- Ascertain and post prevailing wages through the annual survey process.
- Collect certified transcripts of payroll records through online portal.
- Issue required workforce data reports.
- Take and investigate complaints of prevailing wage noncompliance and collect back wages and penalties for workers.

# Prevailing Wage Act – Payroll Records



## Certified transcript of payroll (820 ILCS 130/5)

- Any contractor and each subcontractor who participate in a public works project must **make and maintain time and payroll records for five years**. This includes time records, check stubs/direct deposit records, and payroll summaries.
- Certified transcript of payroll must be filed in the Department's online database.
- Members of the public may create account to upload or search:  
<https://labor.illinois.gov/laws-rules/conmed/certifiedtranscriptofpayroll.html>

# Certified Transcript of Payroll



## Login Page

### 1 Creating an Illinois Public ID Account

- You will need to create an Illinois Public ID Account.
- To create an Illinois Public ID Account click <https://www2.illinois.gov/sites/accounts/Pages/default.aspx>
- Click "Create a new Account" and complete the registration form.
- Once your account is created, continue with the instructions below

### 2 Certified Transcript of Payroll Portal

- After your Illinois Public ID Account is created you can access the certified transcript of payroll portal using the URL: <https://webapps.illinois.gov/DOL/PayrollCertification/>
- After clicking the link above, select "Public Account" and login using the username/password you just created.

**ILLINOIS.gov**  
Authentication Portal

Sign in with one of these accounts



Public Account



Partner Account



Employee Account

© 2016 Microsoft Privacy Help

# Workforce Data Reporting



- Various laws requires IDOL to analyze certified transcript of payroll to report on workforce characteristics on public works projects:
  - IL Works report
  - Clean Energy project report to Illinois Power Agency
  - PA 103-347 will require quarterly reporting after 1/1/24

# Prevailing Wage Act - Enforcement



- IDOL receives complaints and conducts investigations.
- Violators pay workers the difference between the wage paid and the prevailing wage.
- Majority of investigations resolved informally.
- Contractors may be subject to penalties, punitive damages, and debarment.



# Project Labor Agreements



A Project Labor Agreement (PLA) is:

- A form of pre-hire collective bargaining agreement
- Covers all terms and conditions of employment on a specific project
- Contractor who wins a bid must sign letter of assent to PLA
- Contractor does not have to be unionized but must comply with CBAs and other terms and conditions established through PLA for life of the contract.

# IL Project Labor Agreement Act



Pursuant to this Act, any project labor agreement shall:

(a) Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional labor disputes and grievances arising before the completion of work.

(b) Contain guarantees against strikes, lockouts, or similar actions.

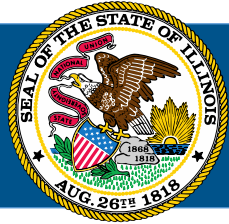
(c) Ensure a reliable source of skilled and experienced labor.

(d) For minorities and women as defined under the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, set forth goals for apprenticeship hours to be performed by minorities and women and set forth goals for total hours to be performed by underrepresented minorities and women.

(e) Permit the selection of the lowest qualified responsible bidder, without regard to union or non-union status at other construction sites.

(f) Bind all contractors and subcontractors on the public works project through the inclusion of appropriate bid specifications in all relevant bid documents.

(g) Include such other terms as the parties deem appropriate.



# Project Labor Agreements

- Typical use: large scale, complex projects; need for technical or safety expertise; “predictable costs and steady supply of skilled labor” over an extended period of time.
- Seminal case: *Building and Construction Trades Council of Metropolitan District v. Associated Builders and Contractors of Massachusetts/Rhode Island Inc.*, 507 U.S. 218 (1993) (“Boston Harbor”)
- Enforced pursuant to terms set forth in the PLA (no public enforcement)



# **Prevailing Wage and Project Labor Agreement for IPA Renewable Energy Projects**

**Kelly Turner**  
**Chief Legal Counsel, Illinois Power Agency**

# The Illinois Power Agency



- **Independent State Agency created in 2007**
- **Agency duties include**
  - **Development and implementation of procurement plans for electricity supply for utility customers**
  - **Development and implementation of other renewable energy programs**
  - **Development of the Long-Term Renewable Resources Procurement Plan**
    - **Implement programs and run procurement events to incentivize the development of new renewable energy resources**



# Long-Term Renewable Resources Procurement Plan

- **Details of the RPS are outlined in the Agency's Long-Term Plan**
  - **Approved by Illinois Commerce Commission**
  - **ICC Docket No. 23-0714, Final Order entered February 20, 2024**
- **Long-Term Plan details programs and procurements which incentivize the development of new renewable resources through the purchase of Renewable Energy Credits (RECs)**
  - **Competitive procurements**
  - **Illinois Solar for All**
  - **Illinois Shines**
- **Self-direct Program**
  - **Large customers receive an offset of RPS charges from utility for retirement of RECs from new utility-scale developments**



# Prevailing Wage Requirements Under the IPA Act



# Prevailing Wage Requirements

- **Prevailing Wage applies to most projects receiving state-administered funding through a REC Contract**
  - **Provisions under the Prevailing Wage Act – 820 ILCS 130/2**
    - “Public Works” definition includes “renewable energy projects required to pay the prevailing wage pursuant to the Illinois Power Agency Act.”
  - **Provisions under the Illinois Power Agency Act – 20 ILCS 3855/1-75(c)(1)(Q)(1)**
    - Utility-scale wind and solar; hydropower; brownfield solar projects
    - Projects incentivized Illinois Shines Program with exceptions
  - **Provisions under the IPA Act – 20 ILCS 3855/1-56(b-15)**
    - Projects incentivized under Illinois Solar Program with exceptions
  - **Provisions under the IPA Act – 20 ILCS 3855/1-75(c)(1)(R)(2)(vii)**
    - Projects participating in the Self-direct Program

# Prevailing Wage Requirements

- **Renewable energy projects required to pay the prevailing wage pursuant to the Illinois Power Agency Act**
  - **20 ILCS 3855/1-75(c)(1)(Q)(1) – eff. 9/15/21**
    - Utility-scale wind
    - Utility-scale solar
    - Brownfield site photovoltaics
    - Projects participating in the Self-direct Renewable Portfolio Standard Compliance Program
    - Projects incentivized Illinois Shines Program with exceptions
  - **20 ILCS 3855/1-56(b-15) – eff. 6/30/23**
    - Projects incentivized under Illinois Solar Program with exceptions

- **Certain project types are exempt from PW under IPA Act:**

- **Illinois Shines and Illinois Solar for All projects:**
  - Projects serving residential buildings (single-family or multi-family)
  - Projects no more than 100kW in size that serve "houses of worship"
  - Illinois Shines Large DG projects waitlisted as of Dec 14, 2021
- **Illinois Shines projects constructed prior to September 15, 2021**
- **Illinois Solar for All projects that went under contract prior to June 30, 2023**
- **Self-direct projects with a REC Contract entered into prior to September 15, 2021**

- **Illinois Shines and Solar for All**
  - **Attestation in project applications**
  - **Copies of CTPs submitted to IDOL required**
  - **CTPs available in IDOL database**
- **Applies to construction, maintenance, repairs**
- **Applies to Approved Vendors, contractors, subcontractors**

- **Competitively-bid REC Contracts**

- **Commitment to pay prevailing wage made during the bid process**
- **Any out-of-state project must comply with local prevailing wage or applicable Davis-Bacon wages**

- **Self-direct Program**

- **Applications must demonstrate that projects were built in compliance with prevailing wage**



# **Project Labor Agreement Requirements Under the IPA Act**

# Project Labor Agreements

- **Project labor agreements are required for certain projects participating in IPA programs/procurements under the IPA Act**
  - **Section 1-75(c)(1)(Q)(2) applies to:**
    - Utility-scale wind projects
    - Utility-scale solar projects
    - Brownfield site photovoltaic projects
    - Not applicable to hydropower
- **This requirement is in addition to the prevailing wage requirements under 1-75(c)(1)(Q)(1).**

# Project Labor Agreements

- **Requirements under Section 1-75(c)(1)(Q)(2):**
- **New utility-scale wind, solar, and brownfield site projects must be "built by general contractors that must enter into a project labor agreement"**
- **IPA Act defines "project labor agreement" as a "pre-hire collective bargaining agreement that covers all terms and conditions of employment on a specific construction project"**
- **All PLAs must be consistent with the Illinois Project Labor Agreements Act**



# Compliance with PLA requirements

- **All of the projects which require PLAs are competitively-bid REC Contracts**
  - **Bidder confirms commitment in the bid process**
- **REC Contract requires project owner to submit PLA to the Director of the IPA within the later of:**
  - **60 days prior to construction starts**
  - **30 days after execution of the PLA**
  - **30 days of the Commission Bid Approval Date, if construction is underway**
- **IPA confirms submitted PLA meets requirements, provides confirmation to the project owner**

# Self-direct Program

- **Projects participating in the Self-Direct RPS Compliance Program must also be built under a PLA**
  - **Required under 1-75(c)(1)(R)(2)(vii)**
  - **Only applicable to projects where the REC Contract is entered into after September 15, 2021**
- **Confirmation of compliance conducted during the application review**



**Q&A**

# Contact Us

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