

# Maryland Apprenticeship Training Fund



## MATF Imposes New Burdens on Contractors - *By Maury Baskin, Esq.\**

Effective July 1, 2013, each contractor performing a state prevailing wage contract valued at more than \$100,000, must pay 25 cents per hour for every covered worker on the project into the new state fund or into an eligible state-approved apprenticeship program.

The monies paid for this purpose can then be credited (or deducted) from the fringe benefit portion of the prevailing wage determination on the project, if there is one. There are many areas of confusion about how the new fund payments are going to work in practice, and the Department of Labor, Licensing and Regulation (DLLR) itself apparently does not yet have all the answers. But the following are answers to some of the Frequently Asked Questions about the new law according to guidance received from DLLR.

### **Q. 1 - What contractors are covered by the new law?**

**A. 1** - Only those contractors who enter into a contract to perform work on a Maryland state-funded project covered by the state prevailing wage law after July 1, 2013, with a value exceeding \$100,000, are affected by the new regulations. The regulations do not apply to private work, nor do they apply to federally-funded projects covered by the Davis-Bacon Act, nor to county-funded projects covered by the counties' prevailing wage laws.

### **Q. 2 - What does the new law require contractors to do?**

**A. 2** - On a Maryland state-funded project covered by the state prevailing wage law after July 1, 2013, with a value exceeding \$100,000, contractors and sub-contractors must pay 25 cents per hour worked by every tradesman, laborer, and apprentice either to the new state fund or to an eligible, state-approved apprenticeship program. Contractors can satisfy this requirement by paying the 25 cents per hour to the apprenticeship programs sponsored by Associated Builders and Contractors.

### **Q. 3 - Is the 25 cents per hour supposed to be paid only for apprentices actually being trained?**

**A. 3** - No. The contractor must pay 25 cents per hour worked by every worker in a "covered craft" on the state-funded project: tradesmen, laborers, and apprentices, regardless of whether the contractor is actually training any apprentices on the project.

### **Q. 4 - Will the 25 cents per hour be paid by contractors over and above the amounts they are already required to pay employees on state prevailing wage projects, or can credit be taken against the fringe benefits that already must be paid under the prevailing wage determinations published by the State?**

**A. 4** - Under the new law, credit can be taken for the 25 cents per hour payments as a deduction from any fringe benefit requirements listed in the project wage determinations. Most wage determinations already require contractors to pay more than 25 cents per hour in bona fide fringe benefits, in addition to the base hourly rate that the DLLR has determined to be "prevailing" on state-funded projects. In effect, under this rule, the contractor's bottom line should not be affected because they are permitted to deduct the 25 cents per hour from the fringes that employees would otherwise be entitled to on the project. Unfortunately, not all wage determinations include fringe components. Where no fringe is listed in the wage determination, the DLLR's position is that contractors will have to pay the 25 cents per hour as a penalty or tax over and above the amounts already owed to employees on state-prevailing wage jobs.

\* Mr. Baskin is a Shareholder with the Washington, D.C. office of Littler Mendelson, PC, general counsel to Associated Builders and Contractors, Inc. He advises merit shop contractors on all aspects of labor and employment law including apprenticeship and prevailing wage compliance.

**Q. 5 - How do contractors learn where they can send their 25 cents per hour?**

**A. 5 -** When contractors are awarded a state-funded project, they will be required to register electronically with the DLLR at the DLLR's website: <http://www.dllr.state.md.us/labor/prev>. Once registered, contractors will be directed to a series of screens that will identify the project being worked on and the apprenticeship program to which the contractor wants to pay the required 25 cents per hour. Again, this could be an existing program that the contractor is already using to train apprentices, or a program that trains apprentices generally even though the contractor does not participate in that program or for crafts that the contractor uses to get training, or the contractor can pay the money into the state fund.

The contractor will be required to report to the State which program received the money, using "drop down" screens listing all of the State's current approved apprenticeship programs. To verify that the money was actually paid to the designated program, the DLLR is also requiring each of the state-approved apprenticeship programs to file monthly reports identifying the funds received by any reporting contractors.

**Q. 6 - With respect to a GC who self-performs a portion of the work, is the GC required to pay the fee? What happens if the self performed amount is less than \$100,000? Is the fee waived?**

**A. 6 -** A GC is required to make contributions if they are self-performing work on a covered project (one that exceeds \$500,000 in total contract value). The state's Prevailing Wage Unit will look at the value of the GC's contract with the public body, NOT at the value of the subcontracted work the GC intends to perform itself. So in all likelihood, if a general contractor is filling out a certified payroll report for their own employees, this law would apply (unless the total contract amount was less than \$500,000).

**Q. 7 - Will the GC be held responsible for their subcontractors making their contributions?**

**A. 7 -** Initially we were told that the GC would not carry this responsibility. We have since heard conflicting answers from the State. When we get a firmer answer, we will certainly pass that information along to you or, you may contact DLLR directly at [prevailingwage@dllr.state.md.us](mailto:prevailingwage@dllr.state.md.us) or 410.767.2342.

**Q. 8 - How is this money going to be used?**

**A. 8 -** Per the regulation guidelines, the funds will be used to make critical improvements to our apprenticeship programs including, but not limited to:

- Enhancements to hands-on training laboratories, i.e., equipment, tools, materials and supplies
- Support and training for instructional staff
- Expansion of staff to include more trade specialists
- Industry outreach

**For more info, please contact ABC - ABC is a registered apprenticeship program sponsor eligible to receive the required payments.**



**Baltimore Metro Chapter**

1220B E. Joppa Road, Suite 322  
Towson, MD 21286  
410.821.0351  
[info@abcbaltimore.org](mailto:info@abcbaltimore.org)  
[www.abcbaltimore.org](http://www.abcbaltimore.org)



**Chesapeake Shores Chapter**

100 West Street  
Annapolis, MD 21401  
410.267.0347  
[ajackson@abc-chesapeake.org](mailto:ajackson@abc-chesapeake.org)  
[www.abc-chesapeake.org](http://www.abc-chesapeake.org)



**Cumberland Valley Chapter**

530 N. Locust Street  
Hagerstown, MD 21740  
301.739.1190  
[abccvc@myactv.net](mailto:abccvc@myactv.net)  
[www.abccvc.com](http://www.abccvc.com)



**Metro Washington Chapter**

4061 Powder Mill Road, Suite 120  
Calverton, MD 20705  
301.595.9711  
[info@abcmetrowashington.org](mailto:info@abcmetrowashington.org)  
[www.abcmetrowashington.org](http://www.abcmetrowashington.org)