



**DEPARTMENT OF BUSINESS AND INDUSTRY  
OFFICE OF THE LABOR COMMISSIONER**

April 30, 2024

**Via US Mail and Email**

All 5s Construction LLC  
c/o Noah G. Allison  
The Allison Law Firm  
2260 Corporate Circle, Suite 490  
Henderson, NV 89074

**Re: Request for Advisory Opinion—Calculation of Collective Bargaining Agreement Wage When Rate Prevails for Purposes of NRS 338**

Dear Mr. Allison,

Pursuant to Nevada Administrative Code (“NAC”) Section 607.650, an Advisory Opinion has been requested by you on behalf of All 5s Construction LLC (“All 5s”) clarifying the prevailing wage rate for Laborers for the Clark Region of Nevada from the 2023 Prevailing Wage Survey Determination. Specifically, you correctly identify that the published prevailing wage rate, which prevailed for the 2023 Clark Region for the classification of Laborer from the Local Laborers 872 collective bargaining agreement (“CBA”), is higher than the wage rate calculation for Laborers in Local 872’s CBA. This is because the October 1, 2023, published rate for Laborer in the Clark County and Southern Nevada Rural Regions was calculated erroneously from the Local 872 CBA and will be corrected imminently by Amendment 6—Laborer Wage—Clark County and Southern Nevada Rural Region.

As set forth in NAC 607.650, this Advisory Opinion is limited to the facts and circumstances set forth in the request. This Advisory Opinion shall not apply to any pending administrative, civil, or criminal proceeding and shall not be relied upon by any party, whether a party at issue in the facts or not, in any future proceeding unrelated to the specific and unique facts and circumstances set forth in the request.

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WHEN A COLLECTIVELY BARGAINED RATE PREVAILS, THE CALCULATIONS TO DETERMINE PREVAILING WAGE RATES FOR VARIOUS GROUPS UNDER THE CLASSIFICATION MUST BE IDENTICAL TO THE COLLECTIVE BARGAINING AGREEMENT

Your Advisory Opinion Request describes a situation wherein All 5s, a licensed Nevada contractor, is subcontracted to work on a Public Works Project in Clark County, Nevada employing Laborers on the Project. All5s is signatory to the Laborers Local 872 union. Per Local 872's CBA,

pay scale [for Laborers] is broken down into hourly wage rates ("Base Rate") and hourly fringe benefit rates ("Fringe"). The union pay scale lists several Base Rates divided by worker classifications ("Groups"). There is one calculation for Fringe across all Groups. The employer pays the Base Rate to the worker directly and it pays the Fringe to various union trust funds directly.

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If a worker is a Foreman, he/she earns ten percent per hour more than the highest Laborer base rate classification supervised...If a worker is a General Foreman, he/she earns a ten percent increase in Foreman's Base Rate.

However, the 2023 Prevailing Wage Rates from the Clark County Region were published with identical journeyman rates, but instructed contractors that the foreman rate be "10% per hour above highest paid journeyman supervised" and a general foreman "10% per hour above the highest paid foreman supervised." This language excluded the distinction from the CBA that the 10% increase in pay be calculated on the Base Rate, not the Base Rate and Fringe benefits. This is an error in the Prevailing Wage Survey.

In the examples provided in the Request for Advisory Opinion, the Auditor is correctly calculating the Laborer rates as published in the 2023 Prevailing Wage Survey for the Clark Region, but the published prevailing wage rates for foreman and general foreman are erroneously described. The rates should be calculated and published consistent with All 5s position, but the Auditor, without the benefit of the knowledge of the details of the CBA, performed calculations based on the published language, which is incorrectly described.

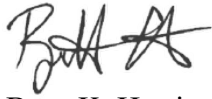
In sum, if a wage prevails for a classification of worker in a region in Nevada, the calculations performed for purposes of complying with the CBA must result in the same calculations and amounts as the published prevailing wage rates. Otherwise, the published prevailing rates would reflect a wage rate that did not actually prevail. As such, the Office of the Labor Commissioner is issuing Amendment 6 to the 2023 Prevailing Wage Survey for the Clark and Southern Rural Regions in Nevada.

Please be advised that this Advisory Opinion is limited to the specific facts and circumstances described herein. The Office of the Labor Commissioner may revisit this issue through the Administrative Rulemaking Process. Please be further advised that subsequent statutory or administrative rule changes or judicial interpretation of the statutes or rules upon which any opinion is based may require modification or abandonment of this Advisory Opinion.

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Thank you for reaching out to the Office of the Labor Commissioner with your questions. We appreciate the opportunity to provide information and education regarding Nevada labor laws, and their application. Should you need any additional clarification, please do not hesitate to contact our office at (702) 486-4650.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett K. Harris". The signature is stylized and cursive.

Brett K. Harris, Esq.  
Labor Commissioner