

Prevailing Wage Ordinance

BAY MILLS INDIAN COMMUNITY

101. PURPOSE – In accordance with 25 U.S.C. 4114(b)(3) Indian Tribes’ prevailing wage determinations supersede federal prevailing wages (Davis-Bacon Act, 40 U.S.C. 276) provided that the Indian Tribe has established, by law or regulation, a prevailing wage.

102. SCOPE – This Prevailing Wage Ordinance does not adjust or otherwise change the Bay Mills Indian Community employee compensation, rather it is intended to supersede all federal wage determinations to the greatest extent allowed under federal law and to the fullest authority of Tribal law. In addition, tribally established prevailing wage may be assigned to tribally funded projects at the discretion of the Executive Council.

103. DEFINITIONS – As used in this Chapter, the following terms have the meanings prescribed herein:

- A. “Acts” means any United States federal law containing requirements for establishment and payment of a determined prevailing wage, including but not limited to wage determinations of the Secretary or wage determinations set under the Davis-Bacon Act, 40 U.S.C. 276 applicable to Indian Tribes.
- B. “Agreement” means any contract or other written document for assistance, sale, or lease funded by any United States’ Act applicable to Indian Tribes and specifically including the Native American Housing Assistance and Self-Determination Act of 1996, as amended, 25 U.S.C. 4101, et. seq.
- C. “Housing” means the Bay Mills Indian Community Housing Authority.
- D. “Human Resources” means the Bay Mills Indian Community’s Human Resources Department.
- E. “Prevailing Wage” means the wages as determined by the Tribe prevailing on the Tribe’s reservation and with the Tribe’s and Housing’s areas of operations for each category of employee including, but not limited to, architect, technical engineer, draftsman, technician, laborer, plumber, electrician, and mechanic.
- F. “Secretary” means Secretary of Housing and Urban Development, Secretary of Bureau of Indian Affairs, Secretary of Health and Human

Services, or their designees.

- G. "Tribe" means the Bay Mills Indian Community, its agencies, departments, enterprises, or other subdivisions thereof.
- H. "Executive Council" means the Bay Mills Indian Community Executive Council.

104. PAYMENT OF PREVAILING WAGE REQUIRED

- A. Payment Required in Agreements. To the extent allowable under federal law, any Agreement pursuant to Acts with the Tribe for construction, installation, alteration, repair or maintenance of buildings or other works or for provision of labor/services/materials to be performed for the Tribe must contain a provision requiring not less than Prevailing Wages shall be paid to the contractor/employer. Agreements not pursuant to Acts are exempt from this requirement unless Executive Council requires the use of Prevailing Wages on a project.
- B. Volunteers. Prevailing Wages shall not apply to any individual who receives no compensation or is only reimbursed or paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered. No individual currently employed under an agreement for the same or similar services on a project shall be considered a volunteer on the same project.

105. DETERMINATION OF TRIBAL PREVAILING WAGE

- A. After the initial setting of Prevailing Wage through year-end 2025, Executive Council shall consider changes to the established Prevailing Wage at the first Executive Council meeting of each fiscal year. If Executive Council desires to make any changes to the Prevailing Wage, the changes shall be made by motion.
 - 1. Prior to the first Executive Council meeting of the new fiscal year, Human Resources must conduct a wage survey and submit the recommended Prevailing Wage, based on a wage survey to the Executive Council.
 - 2. Human Resources shall obtain wage rates from available sources of each class of profession or trade included in the survey and shall recommend to Executive Council that the Prevailing Wage at not less than the average wage paid to each class of profession or trade

included in the survey. The survey shall also include the classification for trainee in all trades.

3. Human Resources shall maintain the names and addresses of all sources contacted and the wage rates reported by each source for a minimum of three years.
4. Wage rates shall include at a minimum the monetary salary but can also include the value of fringe benefits paid to or on behalf of the employees as long as that is identified in the wage rate schedule.
5. If there are years where the Tribe does not update the wage survey, or Executive Council does not enact the Prevailing Wages, the Prevailing Wage shall be adjusted by Human Resources pursuant to the published Cost of Living Index for the area.

106. EMPLOYER REQUIREMENTS

- A. Payment of Prevailing Wages. Each contractor and sub-contractor, when performing under an agreement pursuant to Acts or an agreement designated by Council, shall pay the established Prevailing Wage, and shall maintain payroll records reporting the hourly wages paid to each employee.
- B. Each Contractor and sub-contractor must submit to the Tribe's Human Resources Department, bi-weekly certified payroll reports documenting wages earned by each employee and those of subcontractors. A sample form is available from the Human Resources Department. An alternative form may be used as long as the same information is documented.
- C. Prevailing of Wage to be Provided. Upon request by bidders, or contractors/employers pursuant to an Agreement pursuant to the Act, the Tribe shall provide the current established Prevailing Wage.
- D. Posting of Prevailing Wage. Each contractor/employer, while performing under an Agreement, pursuant to an Act, shall:
 1. Post in a conspicuous location site the current established Prevailing Wage
 2. Allow the Tribe's auditors, project managers, or other authorized staff to inspect and copy payroll records and/or interview

employees in order to verify compliance with this Ordinance.

- E. Payments withheld. In addition to the remedies available in Section 107, the Tribe, has the authority to withhold payment to contractors/employers if the Tribe in good faith believes that a contractor/employer is not complying with any provision of this Ordinance.

107. COMPLAINT RESOLUTION

- A. The Bay Mills Indian Community delegated Contracting Officer shall have the authority to review complaints arising from this Ordinance in order to enforce the provisions of this Ordinance. Unless otherwise delegated by memorandum of the Executive Council, the Human Resources Director shall act as Contracting Officer for Bay Mills Indian Community.
- B. A complaint form may be submitted by an employee of a Contractor or Sub-contractor governed by this ordinance must include at least the following:
 - 1. The name and address of the employee.
 - 2. A statement identifying which of the provisions of this Ordinance has been violated.
 - 3. A brief description of the facts and events that gave rise to the alleged violation.
 - 4. The remedy sought. Remedies are limited to actual monetary damage based on non-compliance with tribally established wage rates.
- C. The Contracting Officer shall set a review period for each complaint, but may reject complaints that are filed after the construction project has concluded or contract has terminated.
- D. Upon a finding by the Contracting Officer, based upon credible evidence that a violation of this Ordinance has occurred, the Contracting Officer shall issue a decision either dismissing the complaint or ordering a monetary award.
- E. Tribal enforcement of the Contracting Officers decision shall include contractual remedies such as dispute resolution, suspension of project work up to an including contract termination and a prohibition on future projects.

108. SOVEREIGN IMMUNITY – Nothing in this Ordinance shall provide or be interpreted to provide a waiver of the Bay Mills Indian Community, or any of its governmental officers’ and/or agents’ and/or employees’ sovereign immunity from suit.

109. SEVERABILITY – If any section, or any part thereof, of this Ordinance shall be held invalid or illegal by a court of competent jurisdiction, the remainder of the section, or part of the Ordinance shall not be affected and shall remain in full force and effect as though no section, or part thereof, has been declared to be invalid or illegal.

110. EFFECTIVE DATE – This Ordinance shall take effect ten days after Bureau of Indian Affairs approval. This Ordinance applies only to projects that the Tribe has not yet accepted for bid. In no way should this Ordinance apply to projects already where the Tribe has accepted bids or bids/projects that are currently in progress.

Certification

This is to certify that the above Prevailing Wage Ordinance was adopted at a meeting of the Bay Mills Indian Community Executive Council held at Bay Mills, Michigan on November 25, 2024 by Res. No. 24-11-25E.

**2024 through 2025
BMIC Prevailing Wage Rate Schedule**

Position Match	Rates	Fringes	Rate No Benefits
Carpenter Helper	\$ 17.23	\$ 3.50	\$ 20.73
Carpenter Apprentice	\$ 18.30	\$ 3.50	\$ 21.80
Carpenter	\$ 22.34	\$ 3.50	\$ 25.84
Lead Carpenter	\$ 23.37	\$ 3.50	\$ 26.87

Master Plumber	\$ 28.81	\$ 3.50	\$ 32.31
Plumber	\$ 22.62	\$ 3.50	\$ 26.12

Tilesetter	\$ 22.99	\$ 3.50	\$ 26.49
Carpet Installer	\$ 22.42	\$ 3.50	\$ 25.92
Flooring Installer	\$ 18.25	\$ 3.50	\$ 21.75
HVAC Installer	\$ 22.51	\$ 3.50	\$ 26.01
Insulation Installer	\$ 18.88	\$ 3.50	\$ 22.38

Bricklayer	\$ 22.62	\$ 3.50	\$ 26.12
Cement Mason	\$ 22.31	\$ 3.50	\$ 25.81

Laborer	\$ 17.64	\$ 3.50	\$ 21.14
Laborer/Snowplow Driver	\$ 22.19	\$ 3.50	\$ 25.69
Roofer	\$ 17.82	\$ 3.50	\$ 21.32

Heavy Equipment Repairer	\$ 22.82	\$ 3.50	\$ 26.32
Lead Operator	\$ 24.36	\$ 3.50	\$ 27.86
Operator	\$ 22.86	\$ 3.50	\$ 26.36

Lead Painter	\$ 20.36	\$ 3.50	\$ 23.86
Painter	\$ 18.03	\$ 3.50	\$ 21.53

Electrician	\$ 28.77	\$ 3.50	\$ 32.27
Foreman	\$ 28.86	\$ 3.50	\$ 32.36