



Dated: June 18, 2010

The power of putting WALP to work for you – This statement became so apparent with the effort that began last September to explain landscape contractors’ concerns about changes in the Department of Labor & Industries’ staff interpretation of the scope of work for landscape construction and the application of prevailing wage requirements for work being done for the State.

Since September, representatives from WALP and WSNLA have worked diligently providing input to Labor and Industries staff and helping them understand the type of work landscape contractors do. Numerous meetings were held, conference calls conducted, and communications exchanged.


As a result, the Department recently issued a memorandum outlining changes in the scope of work for landscape construction as it pertains to prevailing wage work. The memorandum is posted in its entirety below and a hard copy will be mailed to each WALP member in the near future.

Thanks to each and every WALP member who contributed to this effort – protecting the Green Industry by providing a strong collective voice. Special thanks to WALP’s lobbyist, Heather Hansen, who helped lead the charge and kept us on track.

Questions on any of the topics addressed in this “WALP Watch”? Contact the WALP Office at info@walp.org or (425) 967-0729.



PREVAILING WAGE POLICY MEMORANDUM

DATE: May 19, 2010
TO: All Interested Parties
FROM:  David J. Soma, Industrial Statistician/Prevailing Wage Program Manager
SUBJECT: Landscape Construction

Policy Disclaimer

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Prevailing Wage should be consulted.

The July 23, 2009 Landscape Construction policy is rescinded. This document is effective as of the date of print. Letters and clarifications posted on the L&I web site provide continuing guidance. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

Application of the Landscape Construction Scope of Work

The Landscape Construction scope of work, WAC 296-127-01346, is organized with (1) an introductory paragraph that establishes a context for potential uses of the scope; (2) a description of specific tasks that may be within the scope for Landscape Construction if they are not otherwise excluded by (3) a list of activities that are not included in Landscape Construction.

1) The Landscape Construction scope's introductory paragraph reads:

For the purposes of the Washington state public works law, chapter 39.12 RCW, landscape construction involves the beautification of a plot of land by changing its natural features through the addition or modification of lawns, trees, bushes, etc.

2. Work performed within the Landscape Construction scope of work:

- Constructing or maintaining lawns, yards, gardens or other landscaped surfaces.
- Mixing and spreading mulches, ground covers, soil amendments, decorative bark or decorative rock.
- Seeding, sodding or hydroseeding.
- Applying chemicals or fertilizers.
- Planting trees, shrubs or plants.
- Installing, servicing or repairing above ground lawn or landscape sprinkler systems.
- Installing, servicing or repairing underground lawn or landscape sprinkler systems to a maximum depth of three feet below finish grade.
- Assembling or placing premanufactured trellis work, play equipment, benches or picnic tables.
- Constructing rock walls to a maximum height of four feet.
- Land clearing.
- Spreading top soil to a maximum depth of six inches below finish grade.
- Trenching to a maximum depth of three feet below finish grade.
- Installing french drains or other subsurface water collection systems to a maximum depth of three feet below finish grade.
- Hauling top soil, plants or other landscaping materials in trucks with only one rear axle.

3. The Landscape scope of work makes exclusions that will override the list of allowed tasks in (2) above.

Landscape Construction does not include:

- Any activity or task (including those mentioned above) when performed preparatory to any nonlandscaping construction work.
- Constructing roads, footpaths, trails or rock walls more than four feet high.
- Custom fabrication of trellis work, play equipment, benches or picnic tables.
- Constructing restrooms, shelters or similar structures.
- Installing sewer systems, storm sewer systems, catch basins, vaults or drainage systems for impervious surfaces (such as parking lots).
- Installing drainage systems or underground sprinkler systems more than three feet below final grade.
- Land clearing, dozing, grading, excavating or hauling except as permitted above.
- Tree falling or bucking.
- Subgrade preparation.
- The use of power equipment with more than ninety horsepower.
- The use of trucks with more than one rear axle except hydroseeders.
- Demolition of structures.
- Asphalt or concrete work except incidental anchorage for play equipment, benches or picnic tables.

- Welding.
- Installing agricultural irrigation systems.
- Encapsulation of landfills.

NOTE: the scope of work for Utilities Construction, WAC 296-127-01389, places the “cleanup and restoration of right of way (e.g., restore landscaping)” for such work exclusively in Utilities Construction and that work may not be performed as Landscape Construction.

4). The following are specific areas where the department has received frequent questions regarding this scope of work. These activities are not allowed as Landscape Construction under WAC 296-127-03146.

a. “Land Clearing” that cannot be performed as Landscape Construction such as:

- Clearing preparatory to other construction
- Use of equipment over 90 horsepower;
- Tree falling and bucking; and
- Dirt or materials work beyond the up to six (6) inches of topsoil allowed to be graded in the Landscape Construction scope of work.

b. Erosion control work, including the following, cannot be performed as Landscape Construction:

- Erosion control blankets or fabric;
- Jute matting installation;
- Silt fence installation and maintenance;
- Trenching and installation of straw wattles;
- Sediment trap installation;
- Straw bale barriers;
- Brush barriers;
- Construction or other storm water filtration;
- Straw application for erosion control;
- Sand bag installation;
- Erosion control fence;
- Construction project dust control;
- Water bars;
- Pipe slope draining;
- Outlet protection;
- Interceptor dike and/or swale;
- Check dam installation;
- Turbidity curtain installation;
- Level spreader installation;
- Silt dikes installation;
- Storm drain inlet protection;
- Slope protection; and
- Storm water infiltration.

Note: Seeding or hydroseeding, mulch/bark application, sod installation, planting vegetation, and landscape maintenance associated with these erosion control activities may still be performed under the Landscape Construction scope unless the work is exclusive to another scope of work such as the scope for Utility Construction, WAC 296-127-01389.

- c. Except for those tasks allowed as Landscape Construction in WAC 296-127-01346, stream or river channel modifications, wetlands creation or enhancement projects, as well as construction of environmental mitigations, habitat improvements, swales, etc. *cannot* be performed as Landscape Construction.**
- d. Except for spreading up six (6) inches of topsoil, and mulches, and planting, golf course construction (land grading and contouring not permissible under the Landscape Construction scope of work) *cannot* be performed as Landscape Construction.**

Whenever your fact set is less than a perfect match from those specifically addressed above, check with the Industrial Statistician/Prevailing Wage Program Manager for specific answers. The Department is happy to provide guidance on your fact set. Please identify the actual circumstances and describe them in full to the Department. You may contact us by phone: 360-902-5335 or by e-mail at: PW1@LNI.WA.GOV