

WAC 296-127-220 Distribution of recovery. (1) Upon making a recovery pursuant to RCW 39.12.065(2) against a contractor's retainage or bonds, the department shall distribute the proceeds and any award of attorneys' fees and costs as follows:

(a) The recovery shall be paid to the employees of the violator who did not receive the correct prevailing wage. The distribution among employees shall be based on the evidence of wage loss produced at the hearing on the violation.

(b) Next shall be paid the costs the department incurred in making the recovery. The department shall pay these costs from the attorney's fees and costs awarded by the courts.

(2) A contractor who is the subject of an investigation or who has received a notice of violation may choose not to contest the matter and may tender to the department the amount of unpaid prevailing wages the department determines is owed. The department, after identifying and notifying the affected employees pursuant to WAC 296-127-140, shall accept the tender if the contractor in writing acknowledges that the department, by accepting the tendered amount, does not absolve the contractor from liability to any employee for unpaid prevailing wages.

(3) If an employee for whom the department has recovered unpaid prevailing wages cannot be found, the department shall retain the wages for the one-year period required by RCW 63.29.150. After the statutory period has lapsed, the department shall pay the wages to the department of revenue in accordance with RCW 63.29.170.

[Statutory Authority: RCW 39.12.050, 39.12.065, 43.22.270 and 51.04.020. WSR 86-03-063 (Order 85-28), § 296-127-220, filed 1/17/86.]