

## RESOLUTION # 3333

### Federal Wage Rate Requirement

The **City of Red Lodge Montana**, as an applicant for federal ARRA TIGER-3 funding certifies that they will comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code (Federal Wage Rate Requirement (Federal wage rate requirements), as required by the FY 2011 Appropriations Act.)


*Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors **on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act** shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. (Emphasis added.)*


The effect of the ARRA language was to limit the imposition of federal labor law requirements of Subchapter IV, Chapter 31, Title 40 on a going forward basis, to included funds used in combination with the appropriated funds, but not retroactively. The problem that has been created by the difference in the language from ARRA and PL111-88 is EPA has interpreted the FY 2010 appropriation as follows:

*Application of the Davis-Bacon Act requirements extend not only to assistance agreements funded with Fiscal Year 2010 appropriations, but to all assistance agreements executed on or after October 30, 2009 and prior to October 1, 2010, whether the source of the funding is prior year's appropriation, state match, bond proceeds, interest earnings, principal repayments, or any other source of funding so long as the project is financed by an SRF assistance agreement. If a project began construction prior to October 30, 2009, but is financed or refinanced through an assistance agreement executed on or after October 30, 2009 and prior to October 1, 2010, Davis-Bacon Act requirements will apply to all construction that occurs on or after October 30, 2009, through completion of construction (see EPA November 30, 2009 Memorandum.)*

The **City of Red Lodge, Montana**, certifies to this provision within its annual Certification and Assurances to the Federal Transit Administration.

PASSED BY A MAJORITY OF THE RED LODGE CITY COUNCIL AT THEIR REGULAR MEETING ON SEPTEMBER 27, 2011.

  
Brian C. Roat  
Mayor

  
Debbie Tomicich  
City Clerk