

# Southern Oregon University pays \$2.5 million wage settlement to workers who built new campus dorms

By Michael Gutwig  
Editor & Manager

A \$2.5 million wage settlement announced in December by the Oregon Bureau of Labor and Industries (BOLI) on a construction project at Southern Oregon University (SOU) in Ashland had nothing to do with rogue contractors cheating workers. It was about how the public university handled the bidding process.

The \$56.6 million project — the largest construction project in Ashland's history — included nearly 200,000 square feet of new residence halls and a 25,300-square-foot dining hall/common area. The 700-bed Leadership in Energy and Environmental Design (LEED)-certified facility replaced the university's Cascade dormitory with two, four-story buildings.

SOU was the contracting agency on the project, which was completed in September 2013.

Several sub-contractors were union shops.

SOU has undergone more than \$130 million in scheduled and completed capital improvements since 2010. According to the Medford Mail Tribune, about \$47 million of the funding was state-allocated, roughly \$29 million was paid for through student fees, and the remainder — \$56 million — was part of a public/private investment agreement tied to the two new residential halls.

A report on SOU's web site in March 2012 (prior to the start of construction of the dorms and dining hall) stated that the university had entered into a partnership with the publicly-traded Texas-based American Campus Communities (ACC) and its team of general contractor Adroit Construction of Ashland, and SERA Architecture of Portland to build the dorms.

The university said the partnership "allows SOU to enter into a ground-lease arrangement that results in the university owning the structures at the end of the lease. The project is financed through a separate non-profit foundation, freeing capacity to fund other campus projects. No public funds are spent on the project."

Construction union leaders say public/private partnerships are often schemes used to skirt



state prevailing wage laws. Under the state "little" Davis Bacon Act, construction workers on public works projects must be paid wages and benefits that prevail in that region of the state. BOLI regularly establishes prevailing wage rates for commercial work, and a separate wage rate for residential work, which is lower than commercial rates.

According to BOLI's investigation, SOU put out a single request for qualifications, stating that the demolition of the existing residential/dining facility "will require the development of a new dining hall that will accommodate the updated resident total. The dining facility replacement should be integrated into the development concept." SOU's request for proposals also referenced the "ground lease" arrangement, with the developer to build the dorms and replacement dining facility, referring to both aspects as "The Project."

Jon Flegel, a business agent for IBEW Local 659 and head of the Southern Oregon Building Trades Council, said two electrical sub-contractors on the project were union shops. He said the union — using BOLI's prevailing wage determination book — advised its signatory contractors to bid at state residential prevailing wage rates for the dormitory work, and at state commercial prevailing wage rates for the dining hall work. Flegel said no issues were raised about wages. When electricians worked on the dorm they were paid at union-scale residential rates. When they worked on the dining hall they were paid commercial prevailing wage rates, he said.

Drew Waits, a union rep for

Plumbers and Fitters Local 290, said he initially advised signatory contractors not to bid the dorm, concerned that they might not be able to find enough workers to staff the project because of the lower residential pay scale. Two signatory contractors went ahead and bid it at union scale for residential, and Peninsula Plumbing of Portland won the contract.

Plumbing on the dining hall went to a nonunion company.

Starting in late 2013, BOLI's Wage and Hour Division initiated a series of prevailing wage audits after questions arose

about the SOU project during a separate investigation. Investigators determined it to be a single project that was improperly divided. As such, it should have been bid as a public works project under commercial prevailing wage rates.

Charlie Burr, a spokesman for BOLI, told the Labor Press that in making that determination, investigators found in part that SERA designed all three buildings; their drawings and specifications referred to the entire project as the "SOU North Campus Village;" and the drawings and specifications for the dining hall were included with the drawings and specifications for the residence halls. The agency also noted that Adroit Construction acted as general contractor on the whole project, and most of the first-tier subcontractors worked on both the residence halls and the dining hall. All three buildings, which are adjacent to each other, were completed in the first week of September 2013.

The prevailing wage inquiry — comprised of 80 audits — determined that 383 workers employed by 44 contractors and/or sub-contractors on the

dorm project weren't paid in accordance with state commercial prevailing wage rates, and were owed \$2,569,387. On the plumbing side alone the difference was \$124,502.85.

In late December 2014, BOLI sent wage demands for the unpaid wages. The agency secured \$52,000 in wage payments for 58 workers. Not surprisingly, the remaining contractors and sub-contractors refused to pay.

BOLI said that according to Oregon statute, as the contracting agency, SOU was liable for the unpaid wages.

SOU hired the law firm of Stoel Rives to argue their case. Following months of negotiations, a deal was reached on Dec. 7, 2015. As per the agreement, the university sent a check to BOLI in the amount of \$1,508,542.88 on behalf of 179 workers. The agency mailed payments to those workers on Dec. 30, 2015. One member of Plumbers and Fitters Local 290 received a check for about \$14,000, Waits said.

For the remaining 146 workers — collectively owed around

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