The Massachusetts Prevailing Wage Law

(M.G.L. c. 149, §§26-27, et. seq.)

An Important Guide for Contractors on Public Works Projects

MASSACHUSETTS DEPARTMENT OF
LABOR STANDARDS

The Massachusetts Prevailing Wage Law

Prevailing Wage Schedules

Every contractor should obtain a schedule of prevailing wage rates for any public works project from the awarding authority (city, town, county, district, state agency or authority). It is the awarding authority's responsibility to ensure that a copy of the wage schedule is provided to all contractors from whom bids or quotes are sought. The Department of Labor Standards (DLS) will not issue original wage schedules directly to contractors or employees. Once a wage schedule has been issued for a project by DLS, it will remain in effect for the entire project, except in the case of multi-year projects. For projects lasting more than one year, contractors must obtain updated wage rate schedules from the awarding authority. Appeals of wage determinations or classifications of employment may be made directly to the DLS Commissioner.

A copy of the wage schedule must be posted at the work site. A wage schedule issued for another project may not be used on any other project. If an awarding authority fails to provide you with a wage schedule, do not use one you may have from another project. In this event, you should contact DLS immediately, and urge the awarding authority to contact DLS to correct the oversight prior to the bid opening.

The failure of an awarding authority to provide a wage schedule does not excuse a contractor from paying the prevailing rate.

Bidding

The Office of the Attorney General Fair Labor Division enforces the prevailing wage law. All bids must reflect prevailing wage rates. Contractors may be required by an awarding authority to demonstrate how they could complete the project and comply with the prevailing wage law.

Paying Employees

Prevailing wages must be paid to all employees on public works projects regardless of whether they are employed by the general contractor, a filed sub-bidder, or any sub-contractor. The prevailing wage applies equally to unionized and non-unionized workers.

All employees who perform work on a public works project must be paid the rate per hour according to the schedule issued for the particular project.

The wage schedule issued for each project is in effect for the duration of that project, except in the case of multi-year projects. For projects lasting more than one year, contractors must obtain updated wage rate schedules from the awarding

authority. All wage increases listed on the schedule, if any, must be paid on the specific dates.

Employers are limited in the deductions that may be made from the hourly rate (represented as the "total rate" on the wage schedules).

Only contributions to the following plans may be deducted:

- Health and Welfare
- Pension
- Supplemental Unemployment

All contributions must be made to *bona fide* plans.

If an employer contributes to any, or all, of the above plans, it may deduct the hourly amount contributed from the "total rate." If the employer does not contribute to any of the benefit plans listed above, then the employee's hourly rate of pay will be the "total rate" from the wage schedule.

All other deductions, including but not limited to any of the following, may not be subtracted from the employee's hourly prevailing wage rate:

- Vacation Time
- Sick Time
- Training Funds
- Charitable Contributions
- Workers' Compensation
- Unemployment Insurance
- Uniforms

Overtime, which must be paid to all covered employees who work more than 40 hours in a given work week, shall be at least time-and-one-half the base rate ("total rate" less benefits, if any).

Any "separate check" given to an employee as the "benefit portion" of the prevailing wage may not be treated differently than the check for "base wages."

All "separate checks" are considered wages and subject to state and federal taxes, unemployment insurance, and workers' compensation requirements.

Payroll Records

Employers are required to submit weekly payroll reports directly to the awarding authority and keep them on file for three years. A reporting form that may be used is sent along with each wage schedule. Each report must contain at least the employee's name, address, occupational classification, hours worked, and wages paid*.
Do not submit weekly payroll reports to DLS.

After each contractor completes its portion of the public works project, the contractor must submit a *Statement of Compliance* directly to the awarding authority. A Statement of Compliance form is also sent along with each wage schedule issued.

Apprentices

If your company employs apprentices, they must also be registered with the Department of Labor Standard's Division of Apprentice Training in order to qualify for payment of the applicable apprentice wage rate set forth on the wage schedule. Any apprentice that is not registered with the Department of Labor Standards, Division of Apprentice Standards **must** be paid at the journeymen's wage rate as set forth on the wage schedule. Payment of the apprentice wage rate to unregistered apprentices may subject your company to potential civil and criminal liability.

Commonwealth of Massachusetts
Executive Office of Labor
and Workforce Development
Department of Labor Standards

Penalties

Failure to pay the prevailing wage subjects the contractor to potential civil and criminal liability.

Wage schedules are issued by:

Department of Labor Standards
Commonwealth of Massachusetts
100 Cambridge Street, Suite 500
Boston, MA 02114
(617) 626-6975
www.mass.gov/dols

Wage laws are enforced by:

Office of the Attorney General
Fair Labor Division
100 Cambridge Street
Boston, MA 02202
(617) 727-3465
www.mass.gov/ago

Department of Labor Standards
100 Cambridge Street, Suite 500
Boston, MA 02114
(617) 626-6975
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