



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR STANDARDS

MAURA HEALEY
GOVERNOR

KIM DRISCOLL
LIEUTENANT GOVERNOR

LAUREN E. JONES
SECRETARY

MICHAEL FLANAGAN
DIRECTOR

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BY EMAIL

Lauren Moran, Chief
Heather Rowe, Chief of Investigations
Fair Labor Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
lauren.moran@mass.gov
heather.rowe@mass.gov

Re: Clarification Regarding G.L. c. 149, § 27

Dear Chief Moran and Chief Rowe,

This letter responds to your request to the Department of Labor Standards (DLS) for a clarification of its interpretation of G.L. c. 149, § 27 regarding whether a prevailing wage rate schedule must be attached to advertisements or calls for bids for the construction of public works or whether the appropriate prevailing wage rate sheet may be incorporated by reference.

Pursuant to G.L. c. 149, § 27, prior to awarding a contract for the construction of public works, the public official and/or public body shall submit to the Director of DLS a list of jobs on the project in question that mechanics, apprentices, teamsters, chauffeurs, and laborers will perform. The Director then determines the prevailing rate of wages to be paid for each of these jobs and furnishes to the public official or public body a schedule of these prevailing wage rates. In any advertisement or call for bids for the construction of public works, the awarding official or public body “shall incorporate said schedule in the advertisement or call for bids by an appropriate reference thereto, and shall furnish a copy of said schedule, without cost, to any person requesting the same.” The plain language of G.L. c. 149, § 27 allows a public official or public body to attach the relevant prevailing wage rate schedule(s) to its advertisement or call for bids for the construction of public works, but a public official or public body may also satisfy this requirement of G.L. c. 149, § 27 by incorporating by reference the relevant prevailing wage rate schedule(s) and by making those schedules available at no cost to any party requesting them. DLS notes that any such incorporation by reference must make clear to any potential bidder that prevailing wage rates apply to the public works construction project in question.

100 CAMBRIDGE STREET • SUITE 500 • BOSTON, MA 02114
PHONE: (617) 626-6975 • FAX: (617) 626-6965
www.mass.gov/dols

Your office also requested clarification regarding whether the statement on DLS's standard prevailing wage rate schedule that "[t]he wage schedule shall be incorporated in any advertisement or call for bids for the project as required by M.G.L. c. 149, § 27" requires a public official or public body to attach the schedule itself rather than incorporate it by reference. The statement in question does not require that the relevant prevailing wage schedule be attached to or included in an advertisement or call for bids; to the contrary, it specifically requires only that the rate schedule be incorporated as required by G.L. c. 149, § 27.

Finally, DLS notes that this clarification only applies to advertisements and calls for bids. Both G.L. c. 149, § 27 and DLS's standard prevailing wage rate schedule explicitly state that the relevant prevailing wage rate schedule(s) "shall be made a part of the contract" for the construction of public works. G.L. c. 149, § 27 also requires that "[a]ny person engaged in the construction of said works shall cause a legible copy of said schedule and subsequent updates to be kept posted in a conspicuous place at the site of said works during the life of the contract."

Thank you in advance for your cooperation regarding this matter. If you have any additional questions or concerns, please do not hesitate to contact me.

Regards,

A handwritten signature in cursive script that reads "Michael Flanagan".

Michael Flanagan, Director
Department Labor Standards