

Minimum Wage Opinion Letter 08-25-05

August 24, 2005

I am writing in response to your request for this Office's written opinion regarding the applicability of the Massachusetts Prevailing Wage Law, G.L. c. 149, §§26-27. Specifically, you have asked for confirmation that the Prevailing Wage Law does not apply to Building Automation Service (BAS) Technicians employed by XXXX Company.

Your request included a position description for a "Controls Technician," which you have indicated is the appropriate explanation of job duties for a BAS Technician. As is the case with most position descriptions, the duties listed vary in both the level of detail and the type of activity. The position description you provided includes duties that are clearly not prevailing wage work such as "provides sales leads to appropriate personnel," or "maintaining files." However, there are other duties listed such as "[r]esponsible for end-to-end testing, downloading programming, starting up, and commissioning on assigned projects" which may include work subject to the prevailing wage law. As is always the case, it is necessary to evaluate the particular tasks performed on a specific work site. This Office has consistently taken the position that testing in connection with an installation or repair project requires the payment of prevailing wage rates. However, prevailing wages are not required for routine testing not associated with installation, alteration, or repair work. (See attached letter to YYYY, dated May 17, 2005.)

I hope this information has been helpful. If you have any further questions, please feel free to contact me.

Sincerely,
Lisa C. Price
Deputy General Counsel