

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY

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November 1, 1999

Peter H. Fengler, Manager
Municipal Division
Asplundh Tree Expert Co.
708 Blair Mill Road
Willow Grove, PA 19090-1784

Re: Prevailing Wage Rates; Various Issues

Dear Mr. Fengler:

This letter responds to your request dated October 4, 1999 for clarification on the applicability of prevailing wage rates to the following issues:

1. Q. "Is there a dollar threshold for contract coverage under the state's prevailing wage laws?"

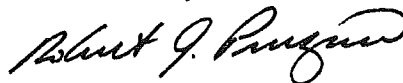
A. No.
2. Q. "Do prevailing wage rates apply to all types of contracts, i.e. construction, service and maintenance? If not, for which of the above categories are they applicable? If they do apply to all categories of work, how do the regulations regarding their implementation differ, if at all, from category to category?"

A. Prevailing wage rates apply to the construction of public works, M.G.L. ch. 149, §§ 26 -27D; the lease or rental of equipment by a public awarding authority, M.G.L. ch. 149, § 27F; the transportation of pupils in all cities and towns with a population of at least 16,000, M.G.L. ch. 71, § 7A; the cleaning and maintenance of public buildings and space rented by the Commonwealth, M.G.L. ch. 149, § 27H; the moving of office furniture by an awarding authority, M.G.L. ch. 149, § 27G; and certain printing contracts by the Commonwealth, M.G.L. ch. 5, § 1. No regulations have been promulgated under any of the statutory provisions pertaining to the prevailing wage.

3. Q. "Are tree trimming and tree removal considered maintenance, construction, or service functions?"
- A. Tree trimming and tree removal projects are considered public works projects if they are undertaken by public agencies (cities, towns, counties, authorities, and state agencies).
4. Q. "When prevailing wage rates are required for a particular contract, does the agency letting the bid have the responsibility of providing the appropriate rates for the work to be done and of making them part of the specifications? If not, where can they be obtained, and whose responsibility is it to obtain them - the contractor's or the bidding agency's?"
- A. Public awarding authorities are required to make a copy of the prevailing wage schedule available to all contractors and individuals that wish to submit a bid or a price for a project covered by the prevailing wage law.
5. Q. "How are prevailing wage rates established?"
- A. In most cases, prevailing wage rates are established by collective bargaining agreements between organized labor and employers.
6. Q. "Is a subcontractor subject to the same regulations regarding the payment of prevailing wage rates as the primary contractor? If so, is the prime contractor held liable if the subcontractor fails to comply with the law?"
- A. All subcontractors and filed sub-bidders are required to pay their employees prevailing wage rates in the same manner as general contractors. Specific questions about compliance should be directed to the Office of the Attorney General, Fair Labor and Business Practices Division.

If you have any further questions concerning these matters, please do not hesitate to contact me.

Sincerely,



Robert J. Prezioso
Deputy Director

cc: Linda Hamel, General Counsel, DOS
Benjamin B. Tyman, DOS
Francis X. Flaherty, Jr., Office of the Attorney General