



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY
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September 17, 2001

Ms. Jennifer Bosco, Assistant Attorney General
Office of Attorney General
Fair Labor and Business Practices Division
200 Portland Street
Boston, MA 02114

Re: Applicability of Prevailing Wages for Installation, Service, Maintenance, Repairs,
Overhauls, and Testing of Emergency Electrical Generators.

Your letter to Robert J. Prezioso dated August 30, 2001 has been forwarded to me for a response.

In your letter, you request a determination on the applicability of the prevailing wage law, M.G.L. ch. 149, §§ 26 - 27D, to work associated with generators. According to the telephone conversation I had with you on September 13, 2001, your request contemplates generators that are permanent components of the buildings where they reside, and not portable generators.

As you know, the prevailing wage law applies to the "construction of public works," according to M.G.L. ch. 149, §§ 26 and 27. The term "construction," as used in those sections, is defined in Section 27D as "... additions to and alterations of public works ..." The answers to your questions are based on whether the activities described fall within this definition of "construction."

First, you ask whether the prevailing wage law applies to "The servicing of emergency electrical generators, which includes routine service calls and emergency service calls, overhauls, repairs of generators, repairs of transfer switches." Servicing emergency electrical generators, whether routinely or in an emergency, is covered by the prevailing wage law if it involves the alteration of a public work. Likewise, overhauls and repairs of generators and transfer switches are covered by the prevailing wage law if alterations are involved. (Alterations



include replacing parts of the generator, connecting the generator to distribution lines within the building, etc. Alterations do not include applying grease, oil, changing filters, or adjusting controls.)

Second, you ask whether the prevailing wage law applies to "Generator Installations." Yes. The installation of a generator that is a permanent component of the building where it will reside is covered by the prevailing wage law.

Lastly, you ask whether the prevailing wage law applies to "Transfer switch testing and generator testing." Transfer switch testing and generator testing, when conducted as part of a construction or alteration project, would require payment of prevailing wages. Whether the testing is part of the installation of a new system or the repair of an existing system, such tasks are necessary for components to be installed correctly and to bring the system into proper service. In other circumstances when testing is not part of a construction or alteration project, prevailing wages would not apply. Any construction or alterations performed to repair defects uncovered during testing would, however, require payment of prevailing wages.

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

Sincerely,



Ronald E. Maranian
Program Manager

cc: Robert J. Prezioso
Deputy Director
Division of Occupational Safety

Daniel Field
Division Chief
Office of the Attorney General

Kathryn B. Palmer
General Counsel
Division of Occupational Safety