

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

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Deputy Director

January 9, 2003

Jeff Place
Recording Secretary
International Brotherhood of Electrical Workers
Local No. 104
130 West Street
Walpole, MA 02081

Re: Outside Electric Work

Dear Mr. Place:

This letter responds to your request that the Division of Occupational Safety ("DOS") consider whether the installation (and removal, presumably) of holiday lights is covered by the prevailing wage law.¹

As you know from prior correspondence, DOS has responded to constituent's questions about whether certain activities related to outside electric work are covered by the prevailing wage law. Our response, dated August 22, 2000, indicated that photo cell and light bulb replacement work is not covered because those activities do not fall under the statute's definition of construction, which includes, *inter alia*, "alteration of public works" (M.G.L. ch. 149, § 27D).

Your inquiry suggests that non-construction activities such as installing holiday lights, photo cells, and light bulbs should be covered by the prevailing wage law to somehow prevent unqualified workers from performing those tasks. In fact, the prevailing wage law does not mandate worker qualifications. It simply prescribes wage rates for workers who perform certain

¹ For purposes of this letter, the installation of holiday lights will not be defined to include construction activities involving the alteration of public works, such as direct wiring. Those activities are clearly covered by M.G.L. ch. 149, §§ 26 - 27D. Here, the installation of holiday lights will be defined to include hanging strings of lights on trees, poles, and other structures where electrical connections are made with plugs and sockets.

tasks on public works projects.

It is important to note, however, that the prevailing wage law goes beyond construction activities, which were addressed in the August 22, 2000 correspondence, by also covering the operators of equipment on public works projects. See M.G.L. ch. 149, § 27F, which reads, in relevant part:

No agreement of lease, rental or other arrangement, and no order or requisition under which a truck or any automotive or other vehicle or equipment is to be engaged in public works by the commonwealth or by a county, city town or district, shall be entered into or given by any public official or public body unless said agreement, order or requisition contains a stipulation requiring prescribed rates of wages, as determined by the commissioner, to be paid to the operators of said trucks, vehicles or equipment.

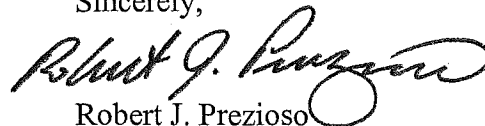
This section covers the use of equipment on all public works projects, not just those involving public works construction.

Therefore, while the tasks of installing holiday lights, replacing photo cells, and replacing light bulbs do not fall within the prevailing wage law's definition of the term construction, the use of a bucket truck, or cherry picker, does fall within the activities covered by Section 27F, the rental of equipment section. Thus the use of a cherry picker on public works is covered by Section 27F of the prevailing wage law, even if the worker is not engaged in construction.

In the future, awarding officials should request a 27F wage schedule, also known as a rental of equipment wage schedule, for upcoming projects that involve the use of equipment as described above.

If you have any further questions concerning this matter, please do not hesitate to contact Ron Maranian, the Division's Prevailing Wage Program Manager, or me.

Sincerely,



Robert J. Prezioso
Deputy Director

cc: Kathryn B. Palmer, General Counsel, DOS
Ronald E. Maranian, Program Manager, DOS
Daniel S. Field, Office of the Attorney General
Robert E. Lague, Business Manager, IBEW Local #7

James Lennon, Business Manager, IBEW Local #96
Thomas J. Lynch, Business Manager, IBEW Local #99
Richard P. Gambino, Business Manager, IBEW Local #103
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