

## **Prevailing Wage Program Opinion Letter March 31, 2010**

March 31, 2010

Re: Confirmation of the Classification under the Massachusetts Prevailing Wage Law of Catch-Basin Cleaning Work

Your letter to Laura Marlin, dated March 9<sup>th</sup>, has been referred to me for response. In the letter, you request that the Division of Occupational Safety ("DOS") confirm the job classification under the Massachusetts Prevailing Wage Law for workers who perform catch basin cleaning on public works projects. Specifically, you have asked that DOS confirm that the "Laborer" classification is not the correct classification for catch basin cleaning work performed using "Vac Haul" equipment and/or "clamshell" equipment. Please be advised that the Laborer classification is *not* the correct classification for such work. Our explanation follows.

### **Explanation**

The Massachusetts prevailing wage law applies to the construction of public works by the commonwealth, or by a county, town, authority or district. *G.L. c. 149, §§26 and 27*. Section 27F of the law requires that any lease, rental or other arrangement under which a truck or other vehicle or equipment is to be engaged in public works contain a stipulation requiring that prevailing wages, as determined by the DOS, be paid to the operators of such trucks, vehicles or equipment. When public awarding authorities enter into agreements subject to § 27, including for the cleaning of catch basins, DOS sets prevailing wage rates based on "collective agreements or understandings in the private construction industry between organized labor and employers." *G.L. c. 149, §26*. DOS also looks to these agreements and understandings to determine the appropriate job classifications under the prevailing wage law.

Catch basin cleaning work using vacuum or "Vac-Haul" trucks is paid at the rate for "Vac-Haul/Catch Basin Cleaning" as indicated on the rate sheet, established pursuant to the state-wide collective bargaining agreement known as the "Massachusetts Heavy Construction Agreement" between the International Brotherhood of Teamsters, Locals 42, 49, 59, 170, 251, 25, 404 and 653, and the Labor Relations Division of the Construction Industries of Massachusetts.

As you note, catch basin cleaning may also be performed using "clamshells". We understand that there are two types of clamshell trucks. The type that is generally used for catch basin cleaning has a cable that runs up the boom. The boom is manually operated from inside the cab of the truck using pedals and levers. The proper classification for work performed with such equipment is the "Clamshell/SlurryBucket/Heading Machine" rate as indicated on the rate sheet, established pursuant to the collective bargaining agreement between the Operating Engineers, Local 4 and the Labor Relations Division of Construction Industries of Massachusetts et al.

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

Sincerely,  
Patricia A. DeAngelis  
Legal Counsel