

Prevailing Wage Opinion Letter 04-25-02

April 25, 2002

Re: Applicability of Prevailing Wages regarding XXXX Street Demolition Project.

This letter responds to your request of the Division of Occupational Safety ("DOS") to determine if the requirements of the Massachusetts prevailing wage law (M.G.L. ch. 149, sec. 26-27D) apply to the XXXX Street Demolition project which calls for the demolition of four buildings as the first part of a housing rehabilitation project.

As stated in your letter, the project is being funded by the City of XXXX with funds acquired through a Community Block Grant from the federal government. The property is owned by the developer, not the City of XXXX. You also state that when block grants are used for demolition, if the contract is for demolition only, federal wage rates do not apply. It should be noted that even though federal wage rates do not apply, this has no bearing on whether the Massachusetts prevailing wage law applies to this project.

First of all, the project is being undertaken by, a public agency --the City of XXXX--covered by the prevailing wage law. Section 26 clearly states that projects undertaken by "the commonwealth, or by a county, *town* or district..." [emphasis added] shall be covered.

Second, M.G.L. ch. 149, sec. 27D states that construction work includes "...certain work done preliminary to the construction of public works, namely, soil explorations, test borings and demolition of structures incidental to site clearance and right of way clearance; and for the demolition of any building or other structure ordered by a public authority for the preservation of public health or public safety." This project, according to your letter, involves demolition as described in section 27D and is therefore an activity deemed to be construction under the statute.

Given that this project is being conducted by the City of XXXX and involves construction activities specifically covered by section 27D, the Massachusetts prevailing wage law applies to this project. Attached is a request form that you may use to acquire a wage schedule for the upcoming project.

This determination is based on the above-mentioned facts and would require further review if the information provided to me were found to be in error or if the underlying facts were amended.

If you have any further questions concerning this matter, or if there is additional information that you have not provided, please do not hesitate to contact me.

Sincerely,
Ronald E. Maranian
Program Manager