

Prevailing Wage Opinion Letter 07-31-07

I am writing in response to your request for this Office's written opinion regarding the applicability of the Massachusetts Prevailing Wage Law, G.L. c. 149, §§26-27. Specifically, you have asked if the prevailing wage law applies to a particular contract awarded by the XXXX Authority for repair and maintenance of its subway public address system. (See attached Request for Prevailing Wage Rates submitted by the XXXX Authority, and the Wage Rate Schedule issued by this Office.) If the prevailing wage law applies, you have asked what the proper rate of pay is for various aspects of the work. You have also asked what rate should apply to installation of a new public address system. While this work was not specifically included in the description provided to us by the XXXX Authority, we will also address your questions concerning that scope of work.

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, 27. The term "construction" is defined, in pertinent part, as "additions to and alterations of public works." G.L. c. 149, §27D. Therefore, any contract entered into by the MBTA which constitutes an addition or alteration to a public work, in this instance the subway public address system, is subject to the prevailing wage law. The specific tasks and proper occupational classifications will be discussed below.

Installation of a New Public Address System

Your letter details various tasks involved in installation of a new public address system. The following tasks listed would be covered by the prevailing wage law:

1. Drilling holes into walls, installing anchors and pins, and fastening cables to walls;
2. Running cables into communications rooms at each station;
3. Installation of public announcement systems, telephone lines, power supplies, electronic/telecom wires, speaker lines, amplifiers, microphones, back-up batteries, and antennas;
4. Building of metal or wood boxes and racks to protect and hold equipment, mounting, and painting/stenciling of this equipment (provided this work was done on site);
5. Testing of cable and systems after installation process.

The following task would not be covered by the prevailing wage law:

1. Drawing plans for cable installation to be submitted to the XXXX Authority.

As to the proper occupational classification for the tasks listed above that are covered by the prevailing wage law, the Division of Occupational Safety (DOS) sets prevailing wage rates for public works construction projects based on "collective bargaining agreements in the private construction industry between organized labor and employers. See G.L. c. 149, §26. Additionally, DOS looks to these agreements to establish craft jurisdictions. Telecommunications agreements establish the craft jurisdiction for the *Telecommunication Technician* occupational classification and wage rate. (See attached Scope of Work from the relevant Telecommunications agreement.) Electrical work not included within the scope of work covered by the telecommunications agreement is performed by journeymen electricians and the appropriate rate on the prevailing wage schedules is *Electrician*. [\[1\]](#)

Maintenance of Existing Public Address System

Your letter details various tasks involved in the on-going maintenance of a subway public address system. The following tasks would be covered by the prevailing wage law:

1. Fixing any wiring, non-functioning equipment or other defect discovered in the electrical equipment or cable, provided it is not covered by warranty and contracted for as described in this Office's letter opinion of May 1, 2006.(Letter to Zenny Haczyk, Universal Lighting Technologies)

The following tasks would not be covered by the prevailing wage law:

1. Installing computer updates, i.e. downloading software updates;
2. Creating an inventory of the radio system, including drawing a map of equipment locations.

Your letter also refers to "troubleshooting" and testing of equipment by various methods. This Office has consistently taken the position that any testing performed in connection with an installation or repair project requires the payment of prevailing wage rates. However, prevailing wages are not required for routine testing not associated with installation, alteration, or repair work. Covered testing work would be paid at the *Telecommunication Technician* or the *Electrician* rate, whichever is applicable. (See earlier discussion of work that is included in the Telecommunication Agreement vs. the Inside Construction Agreement.)

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

Sincerely,
Lisa C. Price
Deputy General Counsel

[\[1\]](#) Wage rates for this contract were set based on the Electrical Workers Inside Construction and Telecommunications Agreements between Local 103, IBEW and the Boston Chapter of NECA. Unlike the Telecommunications Agreement, the Inside Construction Agreement does not include a specific scope of work section.