

Prevailing Wage Opinion Letter 08-13-08

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, §§26-27D. Specifically, you have asked what job classification applies to the installation of certain water meter reading equipment.

In your letter of June 27, 2008, you stated that the Town will be contracting for the installation of radio transmitters on the exterior of buildings, which make it possible to remotely read the water meters. The existing meter-reading pads will be disconnected from low voltage wires and removed; new transmitters will be connected to the wires and attached to the buildings. The town believes that the *Laborer* prevailing wage rate is appropriate for this 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. When public awarding authorities contract for construction work, within the meaning of the statute, the Division of Occupational Safety (DOS) sets prevailing wage rates for these projects 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.

Since at least 1990, water meter installation and maintenance has been considered "public works" under the prevailing wage law. [1] See Decision of Department of Labor and Industries, In Re: City of Malden Installation of Water Meters, February 6, 1990 (the project is "public works" as the town owns the water meters, they are attached to town-owned water lines and the public water system, and the town is responsible for water meter maintenance and repair). For the Town of Yarmouth, the Joint Agreement between the New England Mechanical Contractors Association and the Plumbers & Pipefitters Local 51 establishes the rate for *Water Meter Installer*, which is the same rate as that of *Plumber & Pipefitter*. This rate covers all work associated with water meters. We note that if the Town was changing out water meters, and installing new transmitters at the same time, the entire scope of work would be covered under the prevailing wage law, and the appropriate job classification would be *Water Meter Installer*. Given this fact, it would be illogical to segregate the radio transmitter portion of the work and determine it is not covered, or covered at some other rate, simply because it was contracted for separately. The appropriate rate for the work you have described is *Water Meter Installer*.

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] It is my understanding that work performed on public water systems, including water meters, is also considered "public work" under the public construction bid law, G.L. c. 30, §39M.