

Prevailing Wage Program Opinion Letter August 24, 2010

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I write in response to your letter to Commissioner Heather Rowe, dated July 21, 2010, in which you request that the Division of Occupational Safety ("DOS") confirm the job classifications, under the Massachusetts Prevailing Wage Law, for workers who perform certain tasks related to the repair and replacement of existing reinforced concrete and steel bridge elements on highway projects. Your letter specifies that you are particularly interested in work performed between the dates of May 1, 2008 and May 31, 2010, covering various locations across the Commonwealth of Massachusetts.

Explanation

The Massachusetts Prevailing Wage Law applies to the construction of public works by the commonwealth, or by a country, town, authority or district. G.L. c. 149 §§ 26 and 27. The term "construction" includes "additions and alternations of public works, including the repair and replacement of public works. See c. 149, § 27D. DOS sets prevailing wage rates established by "collective agreements or understandings in the private construction industry between organized labor and employers." c. 149 §26. DOS also looks to these agreements and understandings to determine the appropriate job classifications under the prevailing wage law. Following are the DOS job classifications of the tasks listed in your letter:

1. The cutting of concrete with a hand held machine with a diamond blade is paid at no less than the rate for "Demo: Concrete Cutter/Sawyer".
2. The removal of deteriorated concrete with a hand held pneumatic chipping hammer is paid at no less than the rate for a "Pneumatic Drill/Tool Operator."
3. Drilling and Installing reinforcing dowels utilizing an electric hammer drill or pneumatic rock drill is paid at no less than the rate for a "Pneumatic Drill/Tool Operator."
4. Striking off concrete to proper grade with hand held shovel or screed is paid at no less than the rate for a "Laborer."
5. Placing concrete in work concrete formwork and vibrate with a hand held or form vibrator is paid at no less than the rate for a "Laborer."
6. Erecting and dismantling of exterior scaffolds for all trades for heavy highway and bridge work is paid at no less than the rate for a "Laborer." [\[1\]](#)

The classifications for the tasks listed in items 1 to 6, above, are paid at no less than the rates indicated, which were established by reference to the "Heavy and Highway Agreement between The Labor Relations Division of Construction Industries of Massachusetts, Inc. and Massachusetts Laborers' District Council of the Laborers' International Union of North America", effective June 1, 2008 through May 31, 2012, [\[2\]](#) and its predecessor agreement, effective June 1, 2004 through May 31, 2008. [\[3\]](#)

7. Construct, and assist in constructing, concrete forms from 2 x 4s and plywood utilizing a handheld hammer, tape measure, level and skill saw.
8. Erect, and assist in erecting, wood concrete forms to proper line and grade.
9. Secure concrete forms with timber walers utilizing a handheld hammer and wrench.

The tasks designated in items 7 through 9, above, are paid at no less than the rate for a "Carpenter" as indicated on the rate sheet which rate is established by reference to the collective bargaining agreements of the United Brotherhood of Carpenters and Joiners of America Local Unions 26, 33, 40, 67, 107, 111, 218, 275, 424, 475, 535, 624, 723, 1305 and the Labor Relations Division of the Associated General Contractors of Massachusetts et al. and the New England Region Council of

Carpenters, Local 108, and the Construction Industry Association of Western Massachusetts. The task of stripping wood concrete forms and timber walers with hand held hammers, pry bars, and wrenches is paid at the rate of a "Carpenter" if the wood forms are to be reused. [4] However, if such forms are to be demolished after the stripping, the task is paid at the rate for a "Laborer."

As to the remaining items in your letter: the removal of deteriorated reinforcing mat elements and the subsequent cutting, handling, placing the mats or wire mesh is paid at no less than the rate for an "Ironworker" as indicated on the rate sheet. Cutting and removing rebar with an oxygen acetylene torch, bolt cutter or cutoff saw is also paid at the rate for an "Ironworker". These classifications are established by reference to the agreement between the Local 7 of the International Association of Bridge, Structural, Ornamental, and Reinforcing Iron Workers and the Building Trades Employers' Association of Boston and Eastern Massachusetts and the Labor Relations Division of the Associated General Contractors of Massachusetts, effective September 16, 2004 to September 15, 2010 [5]

I hope this information is helpful. If you have any further questions, or additional information which you believe would affect the accuracy of the above determinations, please contact me at XXX-XXXX.

Sincerely,
Patricia A. DeAngelis
Acting Deputy Commissioner

[1] See Article XXIX sec 4 of the collective bargaining agreement which provides, in relevant part, that "the building, erecting, dismantling and maintenance thereof, or all exterior scaffolds for all trades..." the work is to be paid at the rate for a laborer. Please note that the collective bargaining agreement from which we have established this classification is limited to heavy highway work.

[2] See, e.g., Article XXIX, section 14(a) of the collective bargaining agreement, which states in pertinent part that "Placing of concrete...whether poured, pumped, gunnited, or placed by any other process" and that "All vibrating...by hand or mechanical means..." is to be paid at the rate for a laborer.

[3] See also, DOS Opinion Letter PW-2004-02-9.2.2004.

[4] See Article 1 of the collective bargaining agreement which provides, in relevant part, that "when a form is stripped and immediately...for re-erection in a new position" the work is to be paid at the rate for a carpenter.

[5] See definition of Ironwork in Article 1, Section 1 of the collective bargaining agreement which provides, in relevant part, that "All reinforcing work in connection with...handling,...cutting,...welding,...of all material used to reinforce concrete including reinforcing rods on any structure whether on roads bridges, or other use and construction shall be done by Ironworkers." *See also, DOS Opinion Letter PW-2009-01-4.9.2009.*