

Prevailing Wage Opinion Letter

2007 05 – 9.26.07

Your letter to Commissioner Marlin, dated September 24, 2007, has been forwarded to me for response.

I understand that you are seeking 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 certain contracts for the installation and "servicing" of heating and air conditioning (HVAC) systems. Your letter states that the work in question involved "connecting copper and black iron pipes by threading and soldering, installing and calibrating electrical controls using electrical meters and pressure gauges, [and] testing and balancing for air and water."

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 a covered public entity which constitutes an addition or alteration to a public work is subject to the prevailing wage law. Prevailing wage schedules issued by this office clearly indicate that HVAC Ductwork, HVAC Electrical Controls, HVAC Pipe and HVAC Testing and Balancing (Air and Water) are activities covered by the prevailing wage law, and the schedules include the appropriate prevailing wage rates. (See attached sample rate sheet for the City of Boston). The work you described would constitute covered activities, including testing and balancing when performed in connection with installation or repair work.

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