



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR STANDARDS

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Re: Prevailing Wage and Volunteers

May 11, 2021

Andrea Woods, MCPPO
Chief Procurement Officer
Franklin Regional Council of Governments
12 Olive St, Suite 2
Greenfield, MA 01301

Dear Ms. Woods,

This letter responds to your request for a legal opinion from this Office regarding the applicability of the Prevailing Wage Act to volunteer labor. The prevailing wage law applies to the construction of public works in the Commonwealth. M.G.L. c. 149, §§ 26 and 27. The law requires the payment of prevailing wages to “employees” engaged in the construction of public works. Specifically, it applies “[i]n the employment of mechanics and apprentices, teamsters, chauffeurs and laborers in the construction of public works by the commonwealth, or by a county, town, authority or district . . .”. M.G.L. c. 149, § 26.

The building of an accessible nature trail on public land at the direction of the public agency is construction of a public work. Payment of the prevailing wage is required in the employment of mechanics and apprentices, teamsters, chauffeurs and laborers on public works projects. In this instance, AmeriCorps volunteers will perform the work on the project. Bona-fide volunteers are not employees¹ and have no expectation of being paid wages for their work, be they minimum or prevailing. As volunteers have no expectation of compensation, they may contribute their services on a public works project without the requirement that they be paid prevailing wages. When no wage is paid, the prevailing wage need not be paid. Notably, if the work is compensated, it must be paid at the prevailing wage.

Very Truly Yours,

Michael Flanagan, Director
Department of Labor Standards

¹ A bona-fide volunteer is an individual who performs services for civic, charitable, or humanitarian reasons, and without promise, expectation, or receipt of compensation for rendered services; see e.g., Fair Labor Standards Act of 1938, 29 U.S.C. § 203(e)(4)(A); 29 CFR § 553.100 et seq.