The Massachusetts Prevailing Wage Law
(M.G.L. c. 149, §§26-27, et. seq.)

An Important Guide for Contractors on Public Work Projects

Commonwealth of Massachusetts
Executive Office of Labor and Workforce Development
Department of Labor Standards

Payroll Records

Employers are required to submit weekly payroll reports directly to the awarding authority and keep them on file for three years. A reporting form that may be used is sent along with each wage schedule. Each report must contain at least the employee’s name, address, occupational classification, hours worked and wages paid.* Do not submit weekly payroll reports to DLS.

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Apprentices

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Penalties

Failure to pay the prevailing wage subjects the contractor to potential civil and criminal liability.

Wage schedules are issued by:
Department of Labor Standards
Commonwealth of Massachusetts
19 Standard Street, 2nd Floor
Boston, MA 02108
(617) 626-6975
www.mass.gov/dols

Wage laws are enforced by:
Office of the Attorney General
Fair Labor Division
100 Cambridge Street
Boston, MA 02202
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*Employees who are paid on a “separate check” basis are considered paid on a “base wages” basis. All “separate checks” are considered wages and subject to state and federal taxes, unemployment insurance, and workers’ compensation requirements.

Federal law requires employers to report wages, hours worked, and other information to the federal government and state agencies. Contractors are encouraged to review their payroll records to ensure compliance with federal and state laws.
The Massachusetts Prevailing Wage Law

Prevailing Wage Schedules
Every contractor should obtain a schedule of prevailing wage rates for any public works project from the awarding authority (city, town, county, district, state agency or authority). It is the awarding authority’s responsibility to ensure that a copy of the wage schedule is provided to all contractors from whom bids or quotes are sought. The Department of Labor Standards (DLS) will not issue original wage schedules directly to contractors or employees. Once a wage schedule has been issued for a project by DLS, it will remain in effect for the entire project, except in the case of multi-year projects. For projects lasting more than one year, contractors must obtain updated wage rate schedules from the awarding authority. Appeals of wage determinations or classifications of employment may be made directly to the DLS Commissioner.

A copy of the wage schedule must be posted at the work site. A wage schedule issued for another project may not be used on any other project. If an awarding authority fails to provide you with a wage schedule, do not use one you may have from another project. In this event, you should contact DLS immediately, and urge the awarding authority to contact DLS to correct the oversight prior to the bid opening.

The failure of an awarding authority to provide a wage schedule does not excuse a contractor from paying the prevailing rate.

Bidding
The Office of the Attorney General Fair Labor Division enforces the prevailing wage law. All bids must reflect prevailing wage rates. Contractors may be required by an awarding authority to demonstrate how they could complete the project and comply with the prevailing wage law.

Payback Employees
Prevailing wages must be paid to all employees on public works projects regardless of whether they are employed by the general contractor, a filed sub-bidder, or any sub-contractor. The prevailing wage applies equally to unionized and non-unionized workers. All employees who perform work on a public works project must be paid the rate per hour according to the schedule issued for the particular project. The wage schedule issued for each project is in effect for the duration of that project, except in the case of multi-year projects. For projects lasting more than one year, contractors must obtain updated wage rate schedules from the awarding authority. All wage increases listed on the schedule, if any, are automatically retroactive to the date they were first listed on the schedule (the ‘base rate’ on the wage schedules).

Employers are limited in the deductions that may be made from the hourly rate (represented as the “total rate”). If the employer does not contribute to any of the above plans, it may deduct the hourly amount contributed from the “total rate.” If the employer contributes to any, or all, of the above plans, it may deduct the contribution. If an employer contributes to any, or all, of the above plans, it may deduct the hourly amount contributed from the “total rate.” If the employer does not contribute to any of the above plans, it may deduct the hourly amount contributed from the “total rate.” If the employer contributes to any, or all, of the above plans, it may deduct the hourly amount contributed from the “total rate.”

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Pension
Supplemental
Vacation
Sick
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If an employer contributes to any, or all, of the above plans, it may deduct the hourly amount contributed from the "total rate. " If the employer does not contribute to any of the benefit plans listed above, all contributions must be made to the employee’s hourly prevailing wage rate:

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• Health
• Supplemental Retirement
• Workers’ Compensation
• Uniforms

Overtime, which must be paid to all covered employees, must be paid at time-and-one-half the base rate ("total rate" less benefits, if any). Any "separate check" given to an employee as the "benefit portion" of the prevailing wage may not be included as time-and-one-half earnings with respect to the base rate ("total rate" less benefits, if any).
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All contributions must be made to the appropriate plans, and all deductions, including but not limited to the following, may not be subtracted from the “total rate.”

- Health
- Supplemental Unemployment
- Retirement
- Uniforms
- Sick Time
- Training Funds
- Charitable Contributions
-Workers’ Compensation
- Unemployment Insurance
- Vacation Time
- Sick Time
- Training Funds
- Charitable Contributions
- Workers’ Compensation
- Unemployment Insurance
- Vacation Time
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District attorneys have been instructed that the prevailing wage statutes are akin to unemployment insurance and workers’ compensation laws. Violations of the law can result in potential civil and criminal liability for the contractor. Penalties for non-compliance can be significant, therefore contractors are strongly encouraged to ensure that they are in compliance.

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Wage schedules and wage rates set forth on the wage schedule are final and cannot be changed. Rates of pay for apprentices, journeymen, and mechanics are to be paid in accordance with the wage schedules. Payment of theprevailing or special rate is not to be made to any employee, without further question or discussion, as wages in cash or at any different rate because the employee held himself or herself out to a reasonable person to be employed at a lower rate.

Constructors, contractors and subcontractors, in the construction, erection or alteration or repair of public works, shall be bound and hold themselves as well as their agents, employees and successors, to abide by and comply with the provisions of the prevailing wage law and wage schedules.

Contracts for public works, for the construction, alteration or repair of buildings, exclusive of the work of constructing, altering or repairing the interior of, or the external work of constructing, altering or repairing the curbs, sidewalks, or roads, undertaken by the Commonwealth, or any county, city, town, school district, or special district or authority of the Commonwealth, or any county, city, town, school district, or special district or authority in consequence of any order or contract entered into on or after the 24th day of December, in the year of our Lord nineteen hundred and sixty, shall be void if such contract fails to contain the provisions of the prevailing wage law as set forth in this chapter.