

Prevailing Wage Opinion 01-06-11

January 6, 2011

Re: Duration of Wage Rates for Multiyear School Bus Contracts

I write in response to your request for a written opinion from the Division of Occupational Safety ("DOS") regarding the applicability of the Massachusetts Prevailing Wage Law to school bus drivers, pursuant to G.L. c. 71, § 7A. Specifically, you have asked that we confirm the duration of wage rates issued for contracts between school districts and school bus companies.

Analysis

Section 7A provides, in relevant part, that: "no contract [for the transportation of pupils] shall be awarded except upon the basis of prevailing wage rates..." Section 7A further provides that "[P]rior to awarding a contract, the school committee . . . shall request the commissioner . . . to determine the rate of wages to be paid to each person to be employed by the bidder under said contract, and shall forward to the commissioner a list of jobs to be performed under the contract." Because the statute specifies that a list of all jobs shall be provided to the commissioner and included in the prevailing wage schedule, those words should be given full effect by the commissioner in applying the statute. [1] Accordingly, the plain language of the statute directs the commissioner to set wage rates for the bus driver and any other personnel that the bidder is required to provide under the contract.

As we have discussed, the DOS interprets the phrase "contract term" with respect to the plain language meaning of the term. Accordingly, if the original term of a school bus contract is, for e.g., three years, then the wage rates contained on the wage schedule for the contract are applicable to that three year term. Any extension of the original term would therefore trigger the requirement to obtain updated wage rates. This is consistent with the way awarding authorities treat renewals/options to renew. As you may be aware, it is at that juncture that an authority can re-bid the contract or, if it exercises the option to renew, it can propose and negotiate different contract terms, require the posting of a new performance bond, updated insurance certificates etc. Finally, the interpretation is consistent with the statutory requirement that the wage rate paid to school bus drivers under contract be "prevailing."

I hope this answers your question.

Yours truly,

Patricia A. DeAngelis

Acting Deputy Commissioner

[1] A statute must be construed as a whole, so that no clause, sentence or word shall prove superfluous, void or insignificant. See e.g. Commonwealth v. Mendonca, 50 Mass. App. Ct. 684, 687 (2001), quoting Board of Appeals of Hanover v. Housing Appeals Committee in the Department of Community Affairs, 363 Mass. 339, 364 (1973).