

Prevailing Wage Opinion Letter-12-15-09

Re: Request to Determine Job Classifications and Applicable Wage Rates on XXXX Project

I am writing in response to your request that we advise the Attorney General's Office regarding the applicability of the Massachusetts Prevailing Wage Law, M.G.L. c. 149, §§ 26-27. You have asked for the appropriate job classifications and wage rates applicable to persons who perform certain tasks, related to underground cable, along side roadways. Specifically, you have asked whether persons who operate trucks and, also, lay cable on the XXXX Project No. 000000 (Traffic Management/IT Equipment Installation) I-91 project in Franklin County, should be paid at the truck drivers rate or at the groundsmen/trucker driver rate. Our analysis answers your question and, further, delineates other job classifications and wage rates related to underground cable work.

Analysis

As you know, when public awarding authorities contract for construction work, the Division of Occupational Safety ("DOS") sets prevailing wage rates for those projects based on "collective agreements or understandings in the private construction industry between organized labor and employers." *M.G.L. c. 149, § 26*. DOS also looks to these agreements and understandings, and other relevant information, to determine the appropriate job classification. *M.G.L. c. 149, § 27*.

Based upon a review of the applicable collective bargaining agreements and understandings in the industry, the truck driver rate is not applicable to the subject work. The job classifications and the applicable wage rates for the work are established by the Outside Teledata Agreement between Henkels & McCoy, Inc. and Local 42, IBEW and/or The Inside Construction Agreement between the National Electrical Contractors Association, Western Massachusetts Chapter and Local 7, IBEW. We have examined the collective bargaining agreements between the parties and other relevant information provided to us by the unions and different employers in the industry. Our review reflects the following classifications:

- Persons performing underground installation of empty fiber duct inside trenches along roadways (cable is pulled through at later time) should be paid at the teledata/lineman/equipment operator rate.
- Persons performing incidental truck driving, together with above task, should be paid at the groundsmen/driver rate.
- Persons installing cable between the top of a utility pole and the metering can should be paid at the journeyman/linesman rate.
- Persons installing cable on the "load side" of the metering can to, e.g., the control panel, substation or other equipment, should be paid at the journeyman/electrician rate.

If you have any further questions, please feel free to contact me.

Sincerely,
Patricia A. DeAngelis
Legal Counsel