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PW-2010-09-07.20.10

Opinion Letter

PW-2010-09-07.20.10

July 20, 2010

Re: Confirmation of the Classification under the Massachusetts Prevailing Wage Law of Work Performed on Source Capture Vehicle Exhaust Systems

Your letter to Heather E. Rowe, dated June 24, has been referred to me for response. In the letter, you request that the Division of Occupational Safety (“DOS”) confirm the job classification under the Massachusetts Prevailing Wage Law for workers who repair and replace components of source capture vehicle exhaust systems in public works projects at various fire stations. Specifically, you have asked that DOS confirm the classification during the time period from June 4, 2008 to April 10, 2009, for the following categories of tasks, described in your letter, as follows:

1. The workers repair and replace “nozzles” and “pneumatic grabbers” which provide an airtight connection between the system and the vehicle exhaust pipe.
2. The workers repair and replace “airlines” which are housed inside the “system exhaust hose.” The “airlines” are connected to the grabber and facilitate the air-tight fit, as well as facilitate the extraction of the exhaust fumes from the building via the system.
3. The workers repair and replace “upper exhaust hoses” and “lower exhaust hoses” on the system, which house the inner airlines, and connect the pneumatic grabber to the system duct work.
4. The workers repair and replace “uncoupling valves” and “quick release fittings” on the system, which facilitates the disconnection of the system from the vehicle, when the vehicle exits the fire station.
5. The workers repair and replace the “regulator,” which regulates the air flow.
6. The workers repair and replace the “balancer”, which keeps the hose elevated above the floor.
7. The workers repair and replace “shut off valves,” “pressure switch,” “compressors,” “pressure sensors,” “chrome elbows,” “five horse power motors,” safety disconnect mechanisms,” back draft dampers,” “drain cocks,” and various other components.
8. The workers repair and replace sheet metal duct work and/or fittings.

Explanation

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 and 27*. The term “construction” includes “additions and alternations of public works” including repair or replacement of fixtures which are part of a public building or public work. *See c. 149, § 27D*^[1]

DOS sets prevailing wage rates established by “collective agreements or understandings in the private construction industry between organized labor and employers.” *G.L. c. 149, §26*. DOS also looks to these agreements and understandings to determine the appropriate job classifications under the prevailing wage law. The repair and replacement of components of source capture vehicle exhaust systems work, as described herein, is paid at the rate for “Sheet metal worker” as indicated on the rate sheet, established pursuant to the collective bargaining agreements known as the Sheet Metal, Roofing, Ventilation and Air Conditioning Agreement between the Contracting Divisions of the Construction Industry and the Sheet Metal Workers Local 17 (Fall River-New Bedford Area); the Sheet Metal, Roofing, Ventilation and Air Conditioning Agreement between the Contracting Division of the Construction Industry and the Sheet Metal Workers Local 17 (Boston Area) and the Sheet Metal Workers’ International Association Local Union 63 and the Western Massachusetts Sheet Metal Contractors’ Association and the Building and Trades Employers’ Association.^[2]

I hope this information has been helpful. If you have any further questions, please feel free to contact me.

Sincerely,
Patricia A. DeAngelis
Acting Deputy Commissioner

^[1] See also, DOS Opinion Letter PW-2002-08-11.15.02 (heat system repairs); DOS Letter to Holloway, February 27, 2003 (heating system maintenance and repair) and DOS Letter to Isaac, May 2, 2003 (installation of electrical distribution equipment.) It is undisputed that the repair and replacement of components of source capture vehicle

exhaust systems in fire stations is an “addition or alteration” of a public work under the prevailing wage statute.

[\[2\]](#) This determination is consistent with the definition of “sheet metal work” contained in c. 112, § 237, which provides in relevant part that “sheet metal work” includes the manufacturing, fabrication, assembling, handling, erection, installation, dismantling, alternation and repairing of all commercial duct or air exhaust systems . . . installation of commercial fans, sheaves, belts, guards, dampers, louvers, screens, registers, grilles, diffusers, sound traps, attenuators, mixing boxes and access doors in connection with ducts or air exhaust systems...”.

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