

APPRENTICES

All apprentices must be registered individually with the Massachusetts Division of Apprenticeship Standards (DAS) in order to be paid at the lower apprentice rates. All apprentice programs must also be registered with DAS. Note: registration with another state or federal agency's apprentice program does not satisfy this requirement. All apprentices must keep his/her apprentice identification card on his/her person during all work hours. If an employee is not registered with MA DAS, he/she must be paid the journeyworker "total rate" listed on the wage rate schedule regardless of experience or skills.

OSHA CONSTRUCTION 10-HOUR TRAINING

For public construction jobs estimated to be greater than \$10,000.

All covered employees who are entitled to receive the prevailing wage while on the worksite, as well as any other employee of an entity that is required to pay the prevailing wage at the worksite, must have completed the OSHA 10 training. Contractors must provide documentation of the OSHA 10 training on the CPR for each employee the first time the individual is listed on a weekly payroll record. All covered employees must carry documentation of OSHA 10 training on their person when they are on the worksite or be able to immediately direct a representative of the AGO to the documentation. See AGO OSHA 10 Advisory.

PENALTIES

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

ADMINISTRATION AND ENFORCEMENT

Two state government agencies have different responsibilities related to the prevailing wage laws:

Administration and Interpretation

The Department of Labor Standards (DLS) is responsible for issuing wage schedules and job classifications, and making determinations on the applicability of the prevailing wage. Appeals of prevailing wage rate schedules may be made to DLS.

MA Department of Labor Standards
19 Staniford Street, 2nd Floor
Boston, MA 02108
(617) 626-6953
www.mass.gov/dols/pw

Enforcement

The Office of the Attorney General's Fair Labor Division is responsible for enforcing the prevailing wage laws and receives all bid protests.

Office of the Attorney General
Fair Labor Division
One Ashburton Place
Boston, MA 02108
(617) 727-3465
www.mass.gov/ago/fairlabor

This information is brought to you by:
Office of Attorney General Maura Healey

THE MASSACHUSETTS PREVAILING WAGE LAWS

M.G.L. c. 149, §§ 26-27D



AN IMPORTANT GUIDE FOR PUBLIC WORK CONSTRUCTION CONTRACTORS

PREVAILING WAGE IN MASSACHUSETTS

The Massachusetts prevailing wage laws require that covered employees on public works projects be paid a minimum hourly rate set by the Department of Labor Standards (DLS). The prevailing wage laws apply to both union and non-union employers/employees. The Attorney General's Office (AGO) enforces these laws.

PREVAILING WAGE RATE SCHEDULES

DLS issues the required rates for each public construction project and determines which rates apply to which classifications. This is called the "prevailing wage rate schedule." Prevailing wage rate schedules are set by DLS based upon the rates established in local collective bargaining contracts. DLS also determines whether the prevailing wage applies to a given public works project.

- It is the awarding authority's (city, town, county, district, state agency or authority) responsibility to ensure that a copy of the prevailing wage rate schedule is provided to all contractors from whom bids or quotes are sought. DLS will not issue original wage rate schedules directly to contractors or employees.
- Once a wage rate 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 construction projects. For construction 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 Director.

- A copy of the wage rate schedule must be posted in a visible location at the work site.
- If an awarding authority fails to provide a contractor with a wage schedule, the contractor should not use one from another project. The contractor should contact the awarding authority immediately and urge the awarding authority to contact DLS to correct the oversight.

PAYING EMPLOYEES

In Massachusetts, all workers are presumed to be employees. (Please see: Attorney General's Advisory on the Massachusetts Independent Contractor/Misclassification Law for more information). Prevailing wages must be paid to covered employees on public works projects regardless of whether they are employed by the general contractor, a filed sub-bidder, or any sub-contractor.

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. If you are unsure which rate to pay an employee for any particular work, you must contact DLS at 617-626-6953 for guidance.

All wage increases listed on the wage rate schedule, if any, must be paid effective the specific dates listed.

Employers are limited in the deductions that may be made from the hourly rate "total rate" on the wage rate schedules.

Only contributions to the following bona fide plans may be deducted:

- Health and Welfare
- Pension
- Supplemental Unemployment

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, then the employee's hourly rate of pay will be the "total rate" from the wage rate schedule.

All other deductions, including but not limited to any of the following, may not be deducted from the employee's hourly prevailing wage rate. Please note, even if these deductions are allowable under federal law, they are not permitted under Massachusetts law.

- Vacation Time
- Sick Time
- Training Funds
- Charitable Contributions
- Workers' Compensation
- Unemployment Insurance
- Uniforms

CERTIFIED PAYROLL RECORDS

Contractors are required to submit weekly payroll reports directly to the awarding authority and keep them on file for three years. These weekly payroll reports are commonly known as "certified payroll records" (CPRs).

Each CPR report must contain at least the employee's name, address, occupational classification, hours worked and wages paid. A sample reporting form is available from DLS. A completed Statement of Compliance form as well as copies of apprentice ID cards for any employees being paid the apprentice rate must accompany each submitted weekly payroll report.