



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Prevailing Wage
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360/902-5335 Fax 360/902-5300

January 29, 2016

Lonny Brian Spaulding
Flint Services
P.O. Box 38
Rathdrum, ID 83858

Re: Flint Services – Request for Prevailing Wage Scope of Work Determination With Respect to the Wage Correction Notices On the SCC Boiler Replacement Project
File # (15-116-D)

Dear Mr. Spaulding:

Thank you for your undated letter requesting a determination of the appropriate classification of labor, under chapter 39.12 RCW, prevailing wage law, for work you described. The work involves flushing and filling a hydronic heating system. The specific project in question is the SCC Boiler Replacement project.

This is a determination of the Industrial Statistician regarding the appropriate scope of work under Washington's prevailing wage laws and is made pursuant to RCW 39.12.015. See the enclosed document, "*Prevailing Wage Determination Request and Review Process*." The answer below is based on the information you provided. Copies of pertinent Revised Code of Washington (RCW) and Washington Administrative Code (WAC) sections are enclosed.

In your letter you have asked about which classification applies to the work your firm performed on this project. You have suggested two options—the Laborer classification or the classification of Inspection, Cleaning and Sealing of Sewer or Water systems. In preparing an answer to your question, I have reviewed the following information and regulations:

- The process for flushing and adding glycol to a hydronic system;
- The scope of work for Laborers, WAC 296-127-01344;
- The scope of work for Plumbers, Pipefitters and Steamfitters, WAC 296-127-01364;
- The scope of work for Inspection, Cleaning and Sealing of Sewer and Water Systems;
- The scope of work for Remote Controlled Cleaning, Sealing and Inspection of Sewer and Water Systems, WAC 296-127-01369;
- Bid documents, exhibits, and Prime Contractors's intent; and
- Statement of Intent No. 687842

Work Process Reviewed

Your statement of intent lists the following information related to the work you performed on this project:

-- On 4/13/2015 by 44165:--

- A.) "Remove 7 existing boilers, and install 7 new boilers in 4 different building. Install new hydronic piping at hookups and flush system."*
- B.) helped drain the glycol solution from the building so they can perform the Installation of new Boilers. Then we filled the system back up with the solution that was drained down.*
- C.) The only tool that was used would be some hoses and a pump.*

-- On 4/15/2015 by 44165:--

These guys are not Journeyman Plumbers.

- A.) "Remove 7 existing boilers, and install 7 new boilers in 4 different building. Install new hydronic piping at hookups and flush system."*
- B.) Connect our hoses to existing or temporary fittings provided by the plumbing contractor. drain the glycol solution, connecting to existing or temporary fittings provided by the General Contractor's Plumbing Contractor Flush systems using existing hose bibbs from domestic water system. Add glycol using gear pump provided by Flint Services.*
- C.) The only tool that was used would be some hoses and a pump."*

The exhibits you provide also clarify that your firm will not be supplying the piping or making modifications to the piping system, but will be draining and flushing the hydronic system and charging the system with proper fluids which include water and glycol.

In your letter, you state:

We clean and install glycol and other inhibitors into the fluid that is in the piping system. We also perform flushing of the water system to meet the standards for the fluid that is in the specification section 232500 of this project (see exhibit B). We don't assemble, alter, or maintain any piping systems. We use only preexisting temporary connections to connect garden hoses to the systems to do our work, in fact our work....

Analysis

As you have stated in your letter, the nature of the work is the controlling factor in determining the correct scope of work applicable for the project. The department has adopted scope of work descriptions to delineate the various classifications of labor for prevailing wage purposes based on the nature of the work performed. The tasks performed on a public works project fit into one or more of the scope of work descriptions, which then establishes the appropriate wage rate(s) for the purposes of satisfying Chapter 39.12 RCW. Typically, where a scope of work describes a task with specificity the department classifies that task under that scope, and requires the payment of the corresponding prevailing wage rate. If no scope of work describes a task with specificity, the department looks to see whether a scope comprehensively identifies a broader body of work that includes the specific task(s) in question.

In your letter, you suggest that the classification of general laborer or the classification of “inspection, cleaning, and sealing of sewer and water systems” should be applicable. However, as you note, the latter of these is not an active classification with published rates. Therefore, it would not be available for work performed on this project. There is a similar scope which is WAC 296-127-01369 “Remote Controlled Cleaning, Sealing and Inspection of Sewer and Water Systems.” However, that scope states that the work “must be performed [on a sewer or water system] by remote control.” The work your firm performed was on a boiler system as opposed to a sewer or water system, and the work was not performed by remote control. This scope will not apply to the work you performed on this project.

Next, you suggest the scope of work for Laborers (WAC 296-127-01344). That scope includes a passage related to piping systems (“Position, join, align, wrap and seal pipe sections”), which is not a description of the work you performed on the project.

Finding no scope of work description that includes the specific task, we then look to see if a scope of work describes the work using more general, comprehensive language. The scope of work for Plumber, Pipefitter and Steamfitter (WAC 296-127-01364) includes such a description.

In the opening language of the plumbers and pipefitter’s scope is the following: “...plumbers, pipefitters, and steamfitters assemble, install and maintain piping systems, fixtures and equipment for the transportations of water, steam, gas” The work to drain and refill this hydronic system, as well as adding the glycol to the system corresponds with the work to maintain a piping system. The boiler and hydronic system will not function properly without the correct amount of fluid and glycol added to the system. Because the hydronic system is both a piping system, as well as one of the main components for the boiler heating system under the facts presented, the Plumbers, pipefitters, and steamfitters scope of work applies to the work you performed.

Determination

After taking into account all information provided, looking at a number of scope of work descriptions, as well as the details about the work performed on the project the correct classification for the work performed on this project is Plumber, Pipefitter and steamfitter (WAC 296-127-01364). We also considered whether the Boilermaker classification should be applied to your work, but dismissed that in favor of the Pipefitter classification because your work maintains the entire piping system as opposed to being limited to only the boilers which are a part of the systems. You further noted in your letter that a variety of labor classifications apply to various types of work on this project; however, this letter only relates to the scope of work for your firm.

I appreciate the opportunity to provide this determination of the proper prevailing wage classification of labor for flushing and filling hydronic heating systems. I understand the relative simplicity of this flushing and filling work compared to constructing the piping or boiler structures and mechanical systems. I also understand that the skills and training required to flush and fill these hydronic systems are arguably a small subset of the skills required to construct those same systems. Many of the tasks performed by a journey-level construction craft workers are subsets of all the skills mastered by them.

The question is not whether all the skills of a journey-level pipefitter are utilized to flush and fill a hydronic system. The relevant question is whether the tasks performed are included within the broader set of journey-level pipefitter skills. Here, the work performed corresponds with the installation and/or maintenance of a piping and/or boiler system described in WAC 296-127-01364. Accordingly, the corresponding pipefitter wage rates must be paid.

I appreciate your interest in prevailing wage compliance and the opportunity to address your concerns. If you have further questions, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Christensen", written over a circular scribble.

Jim Christensen
Industrial Statistician
Program Manager

Enclosures

cc: Elizabeth Smith, L&I Assistant Director for Fraud and Labor Standards

Prevailing Wage Determination Request and Review Process

RCW 39.12.015 is the basis for requesting a determination, since it provides:

All determinations of the prevailing rate of wage shall be made by the industrial statistician of the department of labor and industries.

If you disagree with a determination the industrial statistician provides, WAC 296-127-060(3) provides for a review process:

(3) Any party in interest who is seeking a modification or other change in a wage determination under RCW 39.12.015, and who has requested the industrial statistician to make such modification or other change and the request has been denied, after appropriate reconsideration by the assistant director shall have a right to petition for arbitration of the determination.

(a) For purpose of this section, the term "party in interest" is considered to include, without limitation:

(i) Any contractor, or an association representing a contractor, who is likely to seek or to work under a contract containing a particular wage determination, or any worker, laborer or mechanic, or any council of unions or any labor organization which represents a laborer or mechanic who is likely to be employed or to seek employment under a contract containing a particular wage determination, and

(ii) Any public agency concerned with the administration of a proposed contract or a contract containing a particular wage determination issued pursuant to chapter 39.12 RCW.

(b) For good cause shown, the director may permit any party in interest to intervene or otherwise participate in any proceeding held by the director. A petition to intervene or otherwise participate shall be in writing, and shall state with precision and particularity:

(i) The petitioner's relationship to the matters involved in the proceedings, and

(ii) The nature of the presentation which he would make. Copies of the petition shall be served on all parties or interested persons known to be participating in the proceeding, who may respond to the petition. Appropriate service shall be made of any response.

If you choose to utilize this review process, you must submit your request within 30 days of the date of the applicable industrial statistician's determination or response to your request for modification or other change. Include with your request any additional information you consider relevant to the review.

Direct requests for determinations, and for modification of determinations via email or letter to, the prevailing wage industrial statistician:

Jim P. Christensen
Industrial Statistician/Program Manger
Department of Labor & Industries
Prevailing Wage
P O Box 44540
Olympia, WA 98504-4540
Jim.Christensen@Lni.wa.gov

Prevailing Wage Determination Request and Review Process

Direct requests via email or letter seeking reconsideration (redetermination) by the assistant director to:

Elizabeth Smith, Assistant Director
Department of Labor & Industries
Fraud Prevention and Labor Standards
P O Box 44278
Olympia, WA 98504-4278
Elizabeth.Smith@Lni.wa.gov

Direct petitions for arbitration to:
Joel Sacks, Director
Department of Labor & Industries
P O Box 44001
Olympia, WA 98504-4001

If you choose to utilize this arbitration process, you must submit your request within 30 days of the date of the applicable assistant director's decision on reconsideration (redetermination). Submit an original and two copies of your request for arbitration to the Director personally, or by mail. The physical address for the Director is 7273 Linderson Way, SW, Tumwater, WA 98501.

WAC 296-127-061 also contains the following provisions regarding petitions for arbitration:

In addition, copies of the petition shall be served personally or by mail upon each of the following:

- (a) The public agency or agencies involved,
 - (b) The industrial statistician, and
 - (c) Any other person (or the authorized representatives of such person) known to be interested in the subject matter of the petition.
- (2) The director shall under no circumstances request any administering agency to postpone any contract performance because of the filing of a petition. This is a matter which must be resolved directly with the administering agency by the petitioner or other party in interest.
- (3) A petition for arbitration of a wage determination shall:
- (a) Be in writing and signed by the petitioner or his counsel (or other authorized representative), and
 - (b) Identify clearly the wage determination, location of project or projects in question, and the agency concerned, and
 - (c) State that the petitioner has requested reconsideration of the wage determination in question and describe briefly the action taken in response to the request, and
 - (d) Contain a short and plain statement of the grounds for review, and
 - (e) Be accompanied by supporting data, views, or arguments, and
 - (f) Be accompanied by a filing fee of \$75.00. Fees shall be made payable to the department of labor and industries.

Laborers.

For the intents and purposes of the Washington state public works law, chapter 39.12 RCW, laborers perform a variety of tasks such as:

- Erect and repair guard rails, median rails, guide and reference posts, sign posts and right of way markers along highways.
 - Mix, pour and spread asphalt, gravel and other materials, using hand tools, and mix, pour, spread and rod concrete.
 - Lift, carry and hold building materials, tools and supplies.
 - Measure distances from grade stakes, drive stakes and stretch tight line.
 - Bolt, nail, align and block up under forms.
 - Signal operators of construction equipment to facilitate alignment, movement and adjustment of machinery to conform to grade specifications.
 - Level earth to fine grade specifications, using pick and shovel.
 - Mix concrete, using portable mixer.
 - Position, join, align, wrap and seal pipe sections.
 - The placement and testing of plastic conduit for electrical cable, when the conduit is buried underground.
 - Erect scaffolding, shoring and braces.
 - Mop, or spread bituminous compounds over surfaces for protection (outside buildings).
 - Spray material such as water, sand, steam, vinyl, or stucco through hoses to clean, coat or seal surfaces.
 - Apply caulking compounds by hand or with caulking gun to seal crevices.
 - The application of penetrating sealer and primer protective coatings to concrete floors and steps when safe to walk on.
 - Installation of plastic panels on the inside of existing window frames for insulation (instead of storm windows). The panels are held in place magnetically (with metal brackets) and with self-taping screws.
- The cleaning and grinding of concrete floors and walls by high pressure waterblasting or sandblasting preparatory to the application of waterproofing.
- The removing of rough or defective spots from concrete surfaces, using grinder or chisel and hammer and patching holes with fresh concrete or epoxy compound when not preparatory to sacking (finishing a large surface of patched holes).
 - The setting of concrete curb, gutter and sidewalk forms as a composite crew with cement masons.
 - The laying of concrete, granite and brick pavers in beds of sand.
 - General cleanup required after damage caused by water or fire.

All clean-up work required in connection with the above work. Clean tools, equipment, materials and work areas:

(1) When the cleanup is performed for more than one trade (usually employed by general contractor).

(2) When assisting those trades for which laborers have been specifically designated as tenders, e.g., carpenter tender, cement finisher tender, etc.

[Statutory Authority: Chapter 39.12 RCW, RCW 43.22.270 and 43.22.051. WSR 00-15-077, § 296-127-01344, filed 7/19/00, effective 7/19/00.]

Plumbers, pipefitters, and steamfitters.

For the purpose of the Washington state public works law, chapter 39.12 RCW, plumbers, pipefitters and steamfitters assemble, install, and maintain piping systems, fixtures and equipment for the transportation of water, steam, gas, air, sewage, oil, fuels, liquids, gases, or similar substances.

The work includes, but is not limited to:

(1) Piping systems installed in structures (e.g., buildings, industrial plants, etc.).

(a) The handling and moving of any plumbing, pipefitting and steamfitting materials, supplies, and equipment on the job site.

(b) Cutting, threading, and bending pipe.

(c) Joining pipes by use of screws, bolts, fittings, solder, welding and caulking, or any other method of making joints in the pipefitting industry.

(d) Assembling, installing, and repairing valves, pipe fittings, and pumps.

(e) Testing the piping system.

(f) Installing and repairing plumbing fixtures, such as sinks, bathtubs, water heaters, and water softeners.

(g) Cutting holes in floors and walls for pipes:

- With point and hammer.

- Core-drilled.

(h) Responsible for all cleanup required in connection with plumbers, pipefitters and steamfitters work.

(2) Distribution lines (e.g., water mains, sewer mains, oil and gas lines, etc.).

(a) The handling and moving of any plumbing, pipefitting and steamfitting materials, supplies, and equipment on the job site.

(b) Steel pipe: Welding of pipe joints and joining pipes with screws, bolts, fittings, solder, caulking, or any other method for making joints in the industry.

(c) Ductile iron pipe: Joining pipes by using any method for making joints in the industry, when the pipe will be under pressure.

Assembling, installing, and repairing valves and pumps.

(d) Testing the piping system.

(e) Responsible for all cleanup required in connection with plumbers, pipefitters and steamfitters work.

[Statutory Authority: Chapter 39.12 RCW, RCW 43.22.270 and 43.22.051. WSR 00-15-077, § 296-127-01364, filed 7/19/00, effective 7/19/00.]

WAC 296-127-01369

No agency filings affecting this section since 2003

Remote controlled cleaning, inspection and sealing of underground sewer and water systems.

For the purpose of the Washington state public works law, chapter 39.12 RCW, this special method of repairing in-place, underground sewer and water pipes, includes the following work:

- Cleaning of interior pipe surface.
- Closed circuit television inspection.
- Electronic air testing of joints, cracks and breaks.
- Internal sealing of joints, cracks and breaks with chemical grout.
- All the above functions must be performed by remote control.

[Statutory Authority: Chapter 39.12 RCW, RCW 43.22.270 and 43.22.051. WSR 00-15-077, § 296-127-01369, filed 7/19/00, effective 7/19/00.]