



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Prevailing Wage
PO Box 44540 • Olympia, Washington 98504-4540
360/902-5335 Fax 360/902-5300

November 13, 2012

Keith Schlosser
Mass. Electric Construction Company
502 Rainier Avenue, Suite 206
Seattle, WA 98144

Re: U830 University Link Light Rail Project – Tunnel Pay Requirement

Dear Mr. Schlosser:

This is a determination of the industrial statistician regarding coverage of the referenced work under Washington's prevailing wage laws and is made pursuant to [RCW 39.12.015](#). See the attached document, "*Prevailing Wage Determination Request and Review Process*." References to the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC) are included.

Thank you for your letter dated August 23, 2012 requesting a determination of the appropriate prevailing wage rate for electrical system installations on the Sound Transit U-830 University Link Light Rail project. The systems will be installed in underground tunnels and below-grade shafts. Your question involves the prevailing wage "tunnel" rate for Inside Wireman Electricians, [WAC 296-127-01323](#).

Attached are two prevailing wage rate determinations related to the tunnel electrician prevailing wage rate. These determinations were made under the authority of RCW 39.12.015, are posted on our web site at <http://www.lni.wa.gov/TradesLicensing/PrevWage/Policies/default.asp> and remain in full force and effect. Please read and consider them in detail.

Briefly, the referenced determinations apply the tunnel prevailing wage rate to work in the tunnel, but not to work in shafts or "cut and cover" tunneling methods. Once a new tunnel construction is complete, the tunnel rate is not required. New tunnel construction in the situation you describe, which appears consistent with the situation in the enclosed July 14, 2008 determination is considered complete when (1) most of the work is complete and there has been successful operation of train(s) that will ultimately make use of the tunnel through both tunnels or (2) final acceptance of the project by Sound Transit, whichever occurs first.

Kevin Schlosser
November 13, 2012
Page 2 of 2

Your letter also mentioned work to be performed in the existing downtown transit tunnel. The downtown transit tunnel was completed many years ago. Since this is not new construction under the two-part analysis discussed above, the tunnel prevailing wage rate will not apply in that location.

This determination is based on the information you provided. If the facts vary or new facts are introduced, the answer could be different.

I hope this provides the information you requested. If you have further questions, please let me know.

Sincerely,



L. Ann Selover
Industrial Statistician/Program Manager
Ann.Selover@Lni.wa.gov
(360) 902-5330

Attachments

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.



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Prevailing Wage
PO Box 44540 • Olympia, Washington 98504-4540
360/902-5335 Fax 360/902-5300

July 14, 2008

Barnaby Peters, General Manager of Construction
Elcon Corporation
1720 75th Street SW
Everett, WA 98203

RE: Applicability of Inside Electricians 10% Tunnel Differential to the Sound Transit Beacon Hill Light Rail Tunnel Project

Dear Mr. Barnaby:

This letter is to respond to your request for a determination on the applicable prevailing rate of wage for Inside Electricians working in the tunnels on the above-referenced public works project. Your question specifically asks for a delineation of when the tunnel pay differential no longer applies to the work within the tunnels.

In order to fully understand this project I met with you, representatives of: IBEW local 46, the Seattle/King County Building and Construction Trades Council, Sound Transit, and Obayashi Corporation. Two site visits to the Beacon Hill Project were made with tours of the tunnels and station each time. Construction workers still brass in and out. Construction was still on-going in the tunnels and station, including shotcrete work, other cement work, as well as work on the rails. One tunnel had the rails installed and workers were measuring and adjusting their tolerances, the other was not yet at the point of installing the rails.

As you know, the prevailing wages for Inside Electricians working in Clallam, Jefferson, King, and Kitsap counties establishes a separate wage rate for Inside Electrician working in a tunnel. This separate wage rate is established because the union wage rate prevailed when establishing the prevailing wage rate for the majority of Inside Electricians in King County (as well as other counties stated above). The tunnel rate as reflected in IBEW Local 46's Collective Bargaining Agreement (CBA) and is recognized as the prevailing rate.

Language in the CBA Section 3.33 Tunnel Construction states: (a) All workers employed under the terms and conditions of this Agreement working on **new tunnel construction and working in the tunnel** shall be paid the regular hourly wage plus ten percent (10%) for such work (emphasis added). However, this shall not apply to tunnels constructed by the open cut method.

**PREVAILING WAGE PROGRAM – (360) 902-5335
SPECIALTY COMPLIANCE SERVICES DIVISION
PO BOX 44540, OLYMPIA, WA 98504-4540**

April 20, 2006

Ms. Miriam Israel Moses
Executive Director
REBOUND
2701 First Avenue, Suite 240
Seattle, WA 98121

RE: Applicability of Inside Electricians 10% Tunnel Differential to Shafts for Sound Transit Beacon Hill Light Rail Tunnel Project

Dear Ms. Moses:

This letter is to respond to your request for a determination as to the applicable prevailing rate of wage for Inside Electricians working in the shafts on the above-referenced public works project.

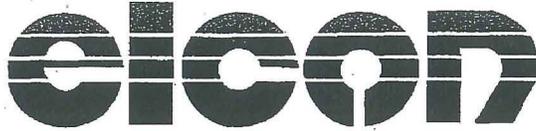
The prevailing wages for Inside Electricians working in Clallam, Jefferson, King and Kitsap counties establishes a separate wage rate for Inside Electrician working in a tunnel. This separate wage rate is established because the union wage rate prevailed when establishing the prevailing wage rate for the majority of Inside Electricians in King County (as well as other counties stated above). The tunnel rate as reflected in IBEW Local 46's Collective Bargaining Agreement (CBA) and is recognized as the prevailing rate. This tunnel rate is reflected in the Prevailing Wage Rate publication for Inside Electricians in the respective counties.

Language in the CBA Section 3.33 Tunnel Construction states: (a) All workers employed under the terms and conditions of this Agreement working on new tunnel construction and working in the tunnel shall be paid the regular hourly wage plus ten percent (10%) for such work. However, this shall not apply to tunnels constructed by the open cut method.

There is no dispute that the tunnel rate, as reflected, is the correct prevailing rate of wage for Electricians working in King County on the above referenced public works project and in the tunnel.

However, the determination the department has been asked to make is whether this wage rate also applies to work in shafts. Specifically, the shafts associated with the above project.

Your position, as stated, is that the tunnel rate established for Electricians in the respective counties should also apply to work in shafts because of past precedent and



ELCON CORPORATION

David Soma
Prevailing wage Program Manager
Department of Labor and Industries
PO Box 44540
Olympia, WA 98504-4540

April 22, 2008

Ph: 360-902-5311 Fax: 360-902-5300

RE: The application of the tunnel pay premium after the tunnel is constructed on the Beacon Hill Project.

Dear David,

Following up regarding our meeting on 3/31/08 and our subsequent phone conversation, please accept this letter as a formal request for your opinion regarding the application of the 10% premium for work performed in a tunnel after the tunnel construction is complete.

Section 3.33 of the union agreement is phrased consistent with the prevailing wage requirements. " All workers employed under the terms and conditions of this agreement working on NEW TUNNEL CONSTRUCTION and working in the tunnel shall be paid the regular hourly wage plus ten percent (10%) for such work."

The question is: If the tunnel is constructed and the final concrete walls are in place, the area is as safe as it will be when open to the general public, is it still considered NEW TUNNEL CONSTRUCTION and still under the requirement of the 10% premium?

We recognize you have already become familiar with this project based on your previous opinion written April 20, 2006. Elcon appreciates your timely efforts and thanks you in advance for your opinion to this matter.

Sincerely

A handwritten signature in black ink, appearing to read "Barnaby Peters", is written over a horizontal line.

Barnaby Peters
Elcon Corporation
General Manager of Construction

ES/PH/RCMB APR 24 '08 AM 07:22

August 23-2012

State of Washington
Dept. of Labor and Industries / Prevailing Wage
PO Box 44540
Olympia, WA 98504
pw1@lni.wa.gov

ATTN: Prevailing Wage Division

RE: U830 University Link Light Rail

Prevailing Wage Division

MEC requests clarification of tunnel pay requirements for the Sound Transit U830 University Link Light Rail project located in Seattle WA. The project is under the PLA Contract No # RTA/LR 148-10C which states the wages are governed by the prevailing wage. The project consists of 4 sections of bored tunnel, 2 cut and cover station platforms and work in the existing downtown transit tunnel and electrical rooms. The station platforms are located below the surface level with access from stair wells located at the surface level and are outside of the bored tunnel. The tunnel bore sections will be complete prior to the rail systems work that MEC/MMJV will be performing.

The Labor and Compliance Manual Part 2 (2.01) states "This contract is subject to WA State Dept. of Labor and Industries prevailing wage requirements as well as the Dept. of Labor prevailing wage requirements. The higher of the two prevailing wage rate will prevail." Local 46 agreement 3.33 (a) New Tunnel Construction states workers shall be paid the regular hourly rate plus 10% tunnel pay for such work.

MEC/MMJV will be providing the train system electrical installation in the tunnel bores and station platforms which includes;

- Cable installation, terminating and testing.
- Device installation - track switch machines, train signals, impedance bonds, detection loops, etc.
- Electrical switch gear and equipment racks with associated conduits and cabling installed in the station platform electrical rooms outside of the tunnel bores.
- No work other than Train Systems will be performed under this contract- All tunnel work will be complete prior to the systems installations.

Equipment / Tools used for installations.

- Flat Bed Truck
- F350 Work Trucks
- Cable pulling equipment
- Typical tools for electrical installations.
- Material access by Crain into the tunnel provided by others

The question we have for this project is in regards for wages falling under the tunnel pay requirements. MEC/MMJV's scope of work is for the Light Rail systems with 25% of the electrical work is located in the tunnel bores and 75% in the platforms and electrical rooms located in the station platform areas. The tunnel construction will be complete as of March 2013 with all concrete walls installed prior to the rail systems work MEC/MMJV will be performing. As the tunnel construction will be complete prior to the systems work we are requesting clarification if the tunnel pay requirements are in affect for the Light Rail systems electrical work located in the tunnel bores and in the station platforms.

MEC appreciates your timely response to this question

If you have any further questions or comments, please feel free to contact me at 503-969-7969

Regards,
MASS. ELECTRIC CONSTRUCTION CO.
Keith Schlosser
503-969-7969
kschlosser@masselec.com