STATE OF CALIFORNIA GRAY DAVIS, *GOVERNOR*

DEPARTMENT OF INDUSTRIAL RELATIONS
OFFICE OF THE DIRECTOR
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

ADDRESS REPLY TO:
P.O. Box 420603
San Francisco CA 94142-0603

February 8, 2002

IMPORTANT NOTICE TO AWARDING BODIES AND OTHER INTERESTED PARTIES CONCERNING INSPECTION AND SOILS AND MATERIALS TESTING

Dear Public Official/Other Interested Party:

This notice provides clarification to many questions from the public regarding the scope of work of the testing and inspection determinations. In addition, it answers many questions from the public regarding work performed by architects and engineers.

Attached please find letters from Operating Engineers Local Union No. 3 dated February 4, 2002, and Operating Engineers Local Union No. 12 dated December 6, 2001, clarifying the scope of work for the following determinations:

SOUTHERN CALIFORNIA
BUILDING/CONSTRUCTION INSPECTOR AND FIELD SOILS AND MATERIAL TESTER, page 10E

SAN DIEGO COUNTY
BUILDING CONSTRUCTION INSPECTOR AND FIELD SOILS AND MATERIAL TESTER, page 27C

NORTHERN CALIFORNIA
OPERATING ENGINEER (Heavy and Highway Work): Group 6 (Soils and Materials Tester), page 39
OPERATING ENGINEER (Building Construction): Group 6 (Soils and Materials Tester), page 40A

Scope of work for each of these classifications has been posted on the Internet at http://www.dir.ca.gov/DLSR/PWD. This information may also be requested from the Division of Labor Statistics and Research, Prevailing Wage Unit by calling (415) 703-4774, by faxing a request to (415) 703-4771 or by writing to:

California Department of Industrial Relations
Division of Labor Statistics and Research
Prevailing Wage Unit
P.O. Box 420603
San Francisco, CA 94142

When referring to questions 7 and 8 in the letters from Operating Engineers Local No. 3 and Local No. 12 respectively, please note that testing and inspection is covered at off-site manufacturing and/or fabrication facilities only if the off-site facility is determined covered under prevailing wage laws. If there are any questions pertaining to this area please contact the Division of Labor Statistics and Research at the above address. Please include all relevant documents including but not limited to the contract, financial documents, plans, specifications, as well as contact information for the Awarding Body.

Please refer to an Important Notice dated December 29, 2000 for additional information pertaining to testing, inspection, and field surveying.

Sincerely,

Chuck Cake

Chuck Cake
Chief Deputy Director

OPERATING ENGINEERS LOCAL UNION NO. 3

1620 SOUTH LOOP ROAD, ALAMEDA, CA 94502-7090 • (510) 748-7400 • FAX (510) 748-7401

Jurisdiction: Northern California, Northern Nevada, Utah, Wyoming, South Dakota, Hawaii and Mid-Pacific Islands

February 4, 2002

Ms. Maria Y. Robbins, Deputy Chief
California State Department of Industrial Relations
Division of Labor Statistics and Research
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102

RE: Prevailing Wage Determination - Soils and Materials Tester (SMT) On Site

Dear Ms. Robbins:

Please find enclosed the response of Operating Engineers Local Union No. 3 in support of a Prevailing Wage Determination for a Soils and Materials Tester as set forth in the Master Construction Agreement for Northern California.

The data enclosed, we believe, justifies and establishes the Scope of Work Conforming to SB1999 for a Soils and Materials Tester performing on-site work in Northern California.

We respectfully request that a conclusive determination be made that the wage rates and fringe benefit rates applicable to this classification are the prevailing wage for this type of work within the geographical jurisdiction established in the Master Agreement and are consistent with the requirements of SB1999.

Your continuing assistance is appreciated. If there are any further questions, do not hesitate to contact myself or Dean Dye at 510/748-7400.

Sincerely,

Robert E. Clark,
Director/Contracts Department

cc: Don Doser, Local 3 Business Manager
Dean Dye, Director - Testing & Inspection Division
and Technical Engineers Division

REC:mer
opeiu-3-afl-cio(3)

DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA
CLARIFICATION REQUEST - SOILS & MATERIALS TESTER (SMT)
WITH
OPERATING ENGINEERS LOCAL 3'S RESPONSES

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1. Summarize the intent of the coverage of the SMT classification in your No. CA Master Agreement, which serves as the basis for the prevailing wage determination.

All visual, physical and non-destructive testing that is done at a jobsite, on-site lab, fabrication site (yard), or off-site lab used exclusively for covered work.

2. Define the following and indicate if done by the SMT classification:

a) Magnetic particle testing -- used for welding, laminations and other steel inspections; done by SMT
b) Non-destructive inspection -- used for welding, laminations and other steel inspections; done by SMT
c) Ultrasonic testing -- used for welding, laminations and other steel inspections; done by SMT
d) Keying -- excavation at the toe of a slope; done by equipment operator
e) Benching -- process of removing noncompacted or "soft" soil in order to properly place the compacted soil on unyielding materials; done by equipment operator
f) Scarifying -- process of ripping or otherwise preparing the existing surface; done by equipment operator
g) "Rolling of slopes" -- process of compacting the slope to the required density (also called "back rolling"); done by equipment operator
h) One-pointer -- test made to roughly determine the weight and maximum density of the soil being used as fill material; done by SMT
i) "Correction for rock" -- used during a compaction test to mathematically remove all oversize rock from the equation; done by SMT

3. Does lab work fall within the jurisdiction of the SMT? Does the on/off site location of the lab make a difference?

Lab work done offsite normally does not fall under the Construction Inspectors jurisdiction. If a field lab is set up at the project site in the field, it then falls under the Construction Inspectors jurisdiction.

4. What is the civil engineer's job when working with the SMT? Is the civil engineer covered under the scope of the SMT sections of the collective bargaining agreement (CBA)?

A Civil Engineer generally provides direction, plan interpretation and engineering type decisions. They may be either on- or off-site (depends on the nature of the project). They generally do not do the Construction Inspector type work; but if they do, then it is covered work.

5. The MLA (p.5) lists employees excluded from coverage. Does this imply that engineers and architects, project managers, off-site laboratory workers are excluded?

Engineers, Architects, Project Managers, off-site Lab Workers, as long as they do not perform the Construction Inspector work, would not be covered.

6. Some signatories perform mechanical & electrical inspections. Are these jobs covered under the Operating Engineers Agreement? If so, how is work performed?

We (OE3) consider Mechanical Inspectors to be covered by our CBA, therefore the prevailing wage (at the SMT rate) would be paid. Electrical should be covered work by the electrical craft.

7. Regarding manufacturing sites, if inspectors visit plants, is that inspection of the plant and its processes covered under the Agreement, is that the intent of SB1999?

Steel fab shops, concrete and asphalt batch plants, prestressed yard and fabrication shop, etc. (such as those for piles & girders, gul lam beams) is covered work under the intent of SB1999, including mechanical and electric.

8. Are the following inspectors included in the scope of the agreement: Geotechnical, Concrete, Painting, Steel and Electrical?

Concrete, Steel, Painting and Electrical Inspectors are covered work. Also Inspectors such as Roofing, Mechanical (HVAC), Suspended Ceiling, Plumbing, Geotechnical (unless registered Geologists/Engineer is specifically required by the plans & specs) Masonry, Fireproofing, Gul lam beams, Shotcrete, etc. In essence all inspection as required by the Uniform Building Code (UBC) is considered covered work.

9. Is visual observation inspection covered? For example: Using tape measures…

The Construction/Special Inspector shall observe the work for conformance…….” is part of the UBC requirements. The majority of inspection work is visually by nature. Slump of concrete, length of weld, depth of footings, pile caps, width of footings, pile caps etc. are but a short list of work that a Construction Inspector would use a tape measure for.

10. What is the difference between a Geotechnical Inspector and a Geotechnical Engineer? Are they covered under the Operating Engineer Agreement?

A Geotechnical Engineer normally would be a registered person with a college degree. They may be a Geologist/Engineer in training also. Geotechnical Engineer performs/supervises the analyses, design and documents preparation associated with the geotechnical aspects of the project. They would not normally be covered, unless doing Construction Inspector work.

A Geotechnical Inspector ascertains through inspection and/or testing that the Geotechnical Engineer’s requirements/recommendations are complied with. A Geotechnical Inspector would normally be covered.

11. Is a Project Manager whose duties include weekly meetings, approving, contracts, managing engineers, managing subcontracts and preparing monthly reports be covered under the CBA?

A Project Manager, (who would normally not be doing construction inspection work) would not be covered.

12. Is a Resident Engineer whose duties include logging correspondence amongst contractors and subcontractors, performing soil, concrete, masonry, and HVAC tests, and acting as a liaison between contractors and engineers be covered?

Resident Engineers, normally a professional registered person is not covered unless doing Construction Inspector work (such as performing soils, concrete, masonry & HVAC tests).

13. Is the SMT an apprenticeable classification?

Yes.

14. Is inspection of bridges and piers covered under the SMT classification under Operating Engineers Local #3's agreement?

Yes.

The following, in addition to the above, are also considered covered inspection work: high strength bolting; shearwall & diaphragms; metal connectors, anchors or fasteners for wood construction; piling; drilled piers; caissons; bolts installed in concrete; post tensioning steel; pre-stressed steel. Also includes, but not limited to, underground construction (sewers, gas lines, drainage devices, water lines, backfilling, welding, bedding). SMT rates apply.

WM. C. WAGGONER
Business Manager
and
General Vice-President

INTERNATIONAL UNION OF OPERATING ENGINEERS

LOCAL 12

December 6, 2001

Via Fax & U.S. Postal Service
Maria Y. Robbins, Deputy Chief
State of California Department of Industrial Relations
Division of Labor Statistics & Research
455 Golden Gate Avenue, Eighth Floor
San Francisco, CA 94102

Re: Building Construction Inspector (BCI) and Field Soils and Material Tester (FSMT) Classifications

Dear Ms. Robbins:

Pursuant to your request for clarification contained in your November 20, 2001 correspondence we submit the following:

1. What is the difference between the Building Construction Inspector (BCI) and the Field Soils and Materials Tester (FSMT) classifications? There appears to be some overlap of duties. Could you summarize the intent of the coverage between Southern California Contractors Association, Inc. and the International Union of Operating Engineers Local No. 12, which serves as the basis for the prevailing wage determination?

As stated in our June 5, 2001 correspondence to your office, a Building Construction Inspector (BCI) is a licensed inspector who generally works under the direction of a registered civil engineer. The BCI is used when higher stresses are involved, e.g., welding, reinforced concrete, masonry, non-destructive testing and other related disciplines. The term "building inspector" or "construction inspector" has the same meaning as "special inspector." The BCI classification is meant to include inspection of all structures, including but not limited to, residential and commercial buildings, bridges, piers, warehouses, oil/water tanks, docks, refineries, heavy highway construction, underground construction, water works, sewers, water reclamation, flood control, dams, dredge, etc.

A field soils and material tester (FSMT) performs a variety of duties. They include special grading, excavation filling, soils used in construction, concrete sampling, density testing and various types of verification tests.

Occasional overlap of duties may occur between the BCI and FSMT, such as taking concrete specimens in the field, however, one must look at the overall scope of work/duties to determine the proper prevailing wage/rate classification.

2. *How is grading inspection different when performed by a BCI or by a FSMT?*

"Grading inspection is generally the work of a FSMT. The City of Los Angeles certifies/licenses grading inspectors whose duties are similar, but more stringent than those of the FSMT. The grading inspector in the Los Angeles area is covered under the BCI classification/wage rate.

3. *Please define the following and identify which classification performs this work:*
   - *a) Magnetic particle testing*
   - *b) Nondestructive inspection*
   - *c) Ultrasonic testing*
   - *d) Keying*
   - *e) Benching*
   - *f) Scarifying*
   - *g) "Rolling of slopes"*
   - *h) One-pointer*
   - *i) "Correction for rock"*

a) b) c) Magnetic and ultrasonic testing are two different forms of non-destructive testing (NDT). They use mechanical devices to check defects in structures such as welds. The use of magnetic and ultrasonic waves in the evaluation process does not cause any damage to the structure, hence, the term non-destructive testing. Other forms of non-destructive testing include radiography (x-rays) and penetrant testing. All of this work is that of the BCI.

d) Keying in is benching into existing material while filling up an adjacent fill, to bind the two areas (materials) together, eliminating the chance of a soft or uncompacted area in between the two materials or areas. A "stair-step" procedure is usually used.

e) Benching is using a piece of equipment (usually a dozer) to cut into existing material while filling up an adjacent fill, to bind the two areas (materials) together. This eliminates the chance of soft or uncompacted area in-between the two materials or areas. A "stair-step" procedure is usually used.

f) Scarifying is a procedure performed by equipment that rips up existing material approximately one foot deep, then processing that material by watering and mixing it.

g) Rolling of Slopes is a compaction technique used on the slopes of a new fill area. The time required for compaction on the slope of a fill is the same as the required compaction on the top of the fill.

h) A One-Pointer is one test made on the soil by a field soils and material tester (or FSMT).

i) Correction for Rock is a calculation made for oversized rock in soil, done by a field soils and material tester (FSMT).

Items a, b and c are performed by the BCI. Items d, e, f, g, h and i are performed by the FSMT.

To perform items a, b, and c, the individual would have to obtain certification as required by the agency. If certified, for example, in "Ultrasonic Testing," one could perform FSMT work and then move to BCI work if certified to do so.

4. Does lab work fall within the jurisdiction of the BCI? Does the on/off site location of the lab make a difference?

No, lab work is not covered. If a lab is located on-site and the individual stays "inside" the lab, there is no coverage. However, if the individual goes on-site and performs "field work," then he or she is covered for all hours worked.

5. What is the civil engineer's job when working with the BCI or FSMT? Is the civil engineer covered under the scope of the BCI or FSMT sections of the collective bargaining agreement (CBA)?

The civil engineer usually acts in a supervisory role, directing the BCI or FSMT activities. The civil engineer work would not be covered unless he or she performs "field work."

6. The Master Labor Agreement (page 5) lists employees excluded from coverage. Does this imply that engineers, architects, project managers and off-site laboratory workers are excluded?

Yes.

7. Some signatories perform mechanical & electrical inspections. Are these jobs covered under the Operating Engineers agreement? If so, how is work performed?

Not covered.

8. When inspectors visit manufacturing sites, is the inspection of the plant and its processes covered under the agreement? Is that the intent of SB 1999?

Yes, pursuant to the agreement. The intent of SB1999 was to further define coverage in the public work arena.

9. Are the following inspectors included in the scope of the agreement: Geotechnical, Concrete, Painting, Steel and Electrical?

Geotechnical, yes. Concrete, yes. Painting, no. Steel, yes. Electrical, no.

10. Is visual observation inspection (e.g., using tape measures) covered?

Yes. Visual inspection is a component of the Inspector's duties.

11. What is the difference between a Geotechnical Inspector and a Geotechnical Engineer? Are they covered under the Operating Engineer agreement?

A Geotechnical Inspector is "on-site" performing the "field work" and is covered. The

Geotechnical Engineer is usually "in-house," a supervisory position, "off-site."

12. Is a project manager whose duties include weekly meetings, approving contracts, managing engineers, managing subcontracts and preparing monthly reports covered under the CBA?

No.

13. Is a resident engineer whose duties include logging correspondence amongst contractors and subcontractors, performing soil, concrete, masonry and HVAC tests, and acting as a liaison between contractors and engineers covered?

When a Resident Engineer logs correspondence among contractors and subcontractors, the work is not covered. When the Resident Engineer acts as a liaison between contractors and engineers, the work is not covered. When performing soil, concrete or masonry tests, the work **is** covered. HVAC tests are not covered.

14. Is the BCI an apprenticeable classification?

Yes.

15. Is the FSMT an apprenticeable classification?

Yes.

16. Is inspection of bridges and piers covered under the BCI and/or FSMT classifications under your agreement?

Yes. Please see the coverage language in the CBA. Both classifications are covered pertaining to bridge work.

We hope the information provided herein is beneficial to you. Please call this office if you should have any questions.

Sincerely,

Fred C. Young

Fred C. Young, Financial Secretary
I. U. O. E., Local Union No. 12

FCY:smc
cc: David Lanham, Contract Compliance

STATE OF CALIFORNIA GRAY DAVIS, *GOVERNOR*

DEPARTMENT OF INDUSTRIAL RELATIONS
OFFICE OF THE DIRECTOR
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

ADDRESS REPLY TO:
P.O. Box 420603
San Francisco CA 94142-0603

December 29, 2000

IMPORTANT NOTICE TO AWARDING BODIES AND OTHER INTERESTED PARTIES CONCERNING INSPECTION, FIELD SURVEYING AND SOILS TESTING

The passage of Senate Bill 1999 (Chapter 881), effective January 1, 2001, codifies existing Department of Industrial Relations administrative decisions, determinations and regulations concerning the above referenced work. This work when done on or in the execution of a "Public Works" project requires the payment of prevailing wages. In accordance with SB 1999, Inspection and Testing determinations will be strictly enforced for all public works projects advertised for bids on or after January 1, 2001. Field surveying determinations have been and will continue to be enforced for all public works projects.

The classifications that perform this work have been published in the Director's General Prevailing Wage Determinations for over 20 years and can be found on the Basic Trades pages (Building Inspection, Soils Testing) and on the individual county sheets (Field Surveying). For the basic trades, please use the following determinations:

SOUTHERN CALIFORNIA
OPERATING ENGINEER, Group 2 (Soils Field Technician), page 7
BUILDING CONSTRUCTION INSPECTOR (OPERATING ENGINEER), page 10E

SAN DIEGO COUNTY
OPERATING ENGINEER, Group 2 (Soils Field Technician), page 25
BUILDING CONSTRUCTION INSPECTOR (OPERATING ENGINEER), page 10E

NORTHERN CALIFORNIA
OPERATING ENGINEER (Heavy and Highway Work): Group 6 (Soils and Materials Tester), page 39
OPERATING ENGINEER (Building Construction): Group 6 (Soils and Materials Tester), page 40A

Advisory scope of work covered by each of these classifications has been posted on the Internet at http://www.dir.ca.gov/DLSR/PWD. This information may also be requested from the Division of Labor Statistics and Research, Prevailing Wage Unit by calling (415) 703-4774, by faxing a request to (415) 703-4771 or by writing to:

California Department of Industrial Relations
Division of Labor Statistics and Research
Prevailing Wage Unit
P.O. Box 420603
San Francisco, CA 94142

In addition, Director's precedential Public Works coverage determinations concerning inspection and testing work will be enforced for all public works projects advertised for bids on or after the dates the precedential decisions were designated as such. For determinations of the applicability of prevailing wage requirements to other work covered by SB 1999, please contact the Division either via fax number or by mailing your request to the address indicated above. Requests of this nature should include all of the relevant documents including, but not limited to, the contract for the work and a detailed description of the work to be performed. Future clarifications regarding the scope and application of Senate Bill 1999, if needed, will be posted on the DLSR website and mailed to those on the Prevailing Wage mailing list.