

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
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August 30, 2002

Thomas W. Kovacich, Esq.
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17871 Park Plaza Drive, Suite 200
Cerritos, CA 90703-8597

Re: Public Works Case No. 96-004
Traffic Signal Maintenance
Sonoma County

Dear Mr. Kovacich:

This letter constitutes the determination of the Director of the Department of Industrial Relations regarding coverage of the above-named work under the public works laws and is made pursuant to Title 8, California Code of Regulations ("CCR"), section 16001(a). Based upon my review of the documents submitted and the applicable laws and regulations pertaining to public works, it is my determination that the various aspects of traffic signal work are a public work within the meaning of the Labor Code.

In your April 30, 2002 letter, you requested a reconsideration of Precedential Public Works Case No. 96-004, Traffic Signal Maintenance (June 3, 1996) ("Determination") and a clarification of certain aspects of traffic signal work. Your letter attached an agreement entered into by the City of Sonoma for what you term "traffic signal service" at traffic signal intersections throughout the City's jurisdiction. While you acknowledge that the Determination renders certain aspects of traffic signal work to be maintenance and repair¹ subject to prevailing wage obligations, you argue that a portion of the work is exempt from the definition of maintenance under the janitorial and custodial exception to maintenance under 8 CCR section 16000. Specifically, you contend that the following work is janitorial or custodial in nature because it consists primarily of routine cleaning and visual inspection:

1. Opening the controller cabinet and vacuuming and dusting the unit;

¹ You correctly note that the Determination would denominate as "maintenance" or "repair" the changing of a bulb and work relating to the controller, the installation of new wire conduit, troubleshooting field wire problems, repairing damaged conduit and other general maintenance work on the traffic signals.

2. Checking the functions of the control equipment and timing; visually checking all signal displays to confirm they are functioning; visually checking the intersection lights to see that they work properly; walking in the intersection to make sure the signal displays are functioning properly; checking the pedestrian push buttons to ensure proper function;
3. Reviewing timing charts in controller cabinet to confirm that timing frequencies are met;
4. Checking the four to six volt street loops, which set up a magnetic field that sends a low voltage signal to the controller when a vehicle disturbs it.

After the above work is performed on a traffic signal, the worker signs a chart confirming the inspection. A screwdriver is used to open the controller cabinet, and a hand-held vacuum and broom are used to vacuum and dust the unit. The contractor performing the work is paid a monthly fee of approximately \$95 per intersection.

The Determination held that the traffic signal maintenance of the kind described in the Requests for Proposal by the cities of Banning and Corona constitutes public work for which prevailing wages must be paid. The determination described the work:

The work includes inspecting, cleaning and resetting controllers pursuant to city specifications. Persons assigned to this work may be required to set timers, reprogram microprocessors or repair a bad connection in the traffic signal. They perform monthly maintenance, check the operation of the equipment by using the push buttons, check the bulbs, look for open wires, perform necessary repairs, and verify the proper functions of the controller and control program with a laptop computer.

Labor Code section 1771 requires the payment of general prevailing wage rates for maintenance work done under contract for a public agency by persons other than the public agency's own employees. The only statutory exception is for projects costing one thousand dollars or less.

8 CCR section 16000, defines "maintenance," in relevant part, as including:

- (1) Routine, recurring and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility (plant, building, structure, ground facility, utility system or any real property) for its intended purposes in a safe and continually usable condition for which it has been designed, improved, constructed, altered or repaired... ."
- (2) Carpentry, electrical, plumbing, glazing, touchup painting and other craft work designed to preserve the publicly owned or operated facility in a safe, efficient and continuously usable condition for which it was intended, including repairs, cleaning and other operations on machinery and other equipment permanently attached to the building or realty as fixtures.

EXCEPTION: 1: Janitorial or custodial services of a routine, recurring or usual nature is excluded.

...

In requesting reconsideration, you state that the Determination was based on incomplete information. A review of the work described in the Determination, however, reveals that the particular work for which you seek an exemption was in fact referenced therein. Specifically, as noted above, the Determination lists as "maintenance" the inspecting and cleaning of the traffic signal controllers. The visual inspection and routine cleaning work that you seek to be exempted falls within the definition of maintenance under 8 CCR 16000(1) because the work is a component of the routine, recurring and usual work for the preservation, protection and keeping of the traffic signals, which are publicly owned and operated facilities and/or structures, for their intended purpose in a safe and continually usable condition for which they have been designed.

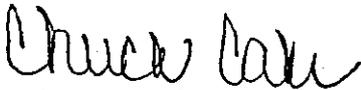
You argue that, because the contracting parties agree to pay a lower contract rate for the above-described work, this work should be excluded from the definition of maintenance. However, those differing contract prices do not alter tasks involved or the purpose these tasks serve.

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To the extent you rely on Public Works Coverage Determination No. 95-020, County of Nevada, Contract for Snow Removal Services (November 7, 1995), please note that this determination has not been designated precedential under my authority to issue precedential public works coverage determinations. As such, it has no force and effect and may not be relied upon in support of arguments concerning the public works status of a project or type of work. Further, I specifically reject the reasoning in that determination.

For the foregoing reasons, the work described above is subject to the prevailing wage requirements of the Labor Code.

Sincerely,



Chuck Cake
Acting Director