

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
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San Francisco, CA 94102
(415) 703-5050



November 20, 2002

Ms. Sabrina Hernandez
Electrical Industry Service Bureau
55 Fillmore Street
San Francisco, CA 94117

RE: Public Works Case No. 2002-044
Caltrain North CTX/SAMTRANS/Amelco Electric

Dear Ms. Hernandez:

This constitutes the determination of the Director of Industrial Relations regarding worker classification for the above-referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations, section 16001(a) and 16002. Based on my review of the facts of this case and an analysis of the applicable law, it is my determination that the signal maintenance and improvement work performed for Caltrain is a public work subject to the payment of California prevailing wages.

Caltrain awarded a \$64.5 million rail construction contract to a joint venture partnership of Herzog Contracting Corp. and Stacy & Witbeck Inc. ("Partnership"). The Partnership awarded the electrical subcontract work to Amelco Electric SF, Inc. ("Amelco"). Amelco is to perform all electrical work on the project. The project entails the construction or reconstruction of grade crossings including all associated signal and track work, bridge widening including associated track and signal work, reconstruction of station platforms, construction of express tracks, associated turnouts, signal work, and rehabilitation of existing tracks. Among other things, Amelco must install underground cables and conduit, signals and associated wiring, common street signals, station lighting, and an electronic message board and public address system at the Millbrae station. Amelco hires both electricians and signalmen to perform various aspects of the work and apparently segregates the work between the two crafts. The project is paid for by a combination of federal, state, and local funds and is carried out by the Peninsula Corridor Joint Powers Board ("JPB"), the operator of Caltrain). JPB is a California public entity.

Labor Code Section¹ 1720(a) defines "public works" as "construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, ..." Here, JPB concedes that this is a publicly funded project carried out by a California awarding body.² Consequently, prevailing wages must be paid to all workers on the project.³

The second but perhaps more central issue to this determination is the appropriate craft to carry out the "signal work" that is at the heart of this determination dispute. This determination will ultimately set the minimum rate of pay for the work to be performed but will not directly impact which group performs the work.

The Electrical Industry Service Bureau ("EISB") contends that all the electrical work performed in connection with this project should be performed by journeyman electricians or electronic communications and system installers and technicians. Caltrain and Amelco contend that the work should be split between electricians and signalmen and that each should receive the appropriate rate of pay under their respective collective bargaining agreements. The electricians are governed by International Brotherhood of Electrical Workers agreements and the signalmen by agreements with the Brotherhood of Railroad Signalmen.

The provisions of the Labor Code require the awarding body to obtain from the Department of Industrial Relations the rates determined to be prevailing for each craft, classification, or type of worker needed to execute the contract. Title 8, California Code of Regulations section 16202, requires the awarding body to request a special determination for any craft, classification or type of worker not covered by a general determination. The Director has issued special determinations

¹ All section references are to the Labor Code.

² Title 8, Cal. Code Regs., section 16001(b) states: "The application of state prevailing wage rates when higher is required whenever federally funded or assisted projects are controlled or carried out by California awarding bodies of any sort." It should be noted that the contract specifications specifically require the payment of both state and federal prevailing wages. (Volume I, section 840.) The specifications also require the payment of the California prevailing wage when higher than David-Bacon rates. (Volume I, section 840, 1.04.)

³ See Southern California Rail Authority, PW 91-056, (November 3, 1993).

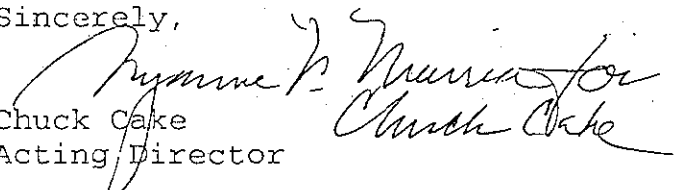
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for railroad signal maintenance in the past. However, these special determinations have been limited to maintenance of way and do not apply to new construction or renovation work. No special determination was requested for this project and if one had been requested it would not have been issued as this project involves new construction. Consequently, the only current rates available for the work as described are those contained in the IBEW collective bargaining agreements and those rates that must be paid. It should be noted that Amelco is entitled to credit, as permitted under Title 8, Cal.Code Regs. 16200(a)(3)(I), for payments made under its agreement with the Brotherhood of Signalmen.⁴

In conclusion, the Caltrain North CTX project is a public works subject to the payment of California prevailing wages. Further, the appropriate classifications of worker to perform this work are the electrical classifications currently published by the Division of Labor Statistics and Research because no other classification presently recognized by DLSR appears appropriate based on the scope of work to be performed.⁵

I hope this determination satisfactorily answers your inquiry.

Sincerely,


Chuck Cake
Acting Director

cc: See Proof of Service

⁴ Based on its view of the scope of work, Amelco argues that the rates for Communications System Installer and Communications System Technicians are applicable to the work performed by the signalmen.

⁵ Caltrain should contact DLSR and provide information on the scope of work to be performed by the signalmen to determine which existing classification applies to the work performed by the signalmen.