



New York State Department of Labor
David A. Paterson, Governor
M. Patricia Smith, Commissioner

May 13, 2009



Re: Prevailing Wage Law / Sewer Maintenance Services
Our File No. RO-09-0037

Dear [REDACTED]:

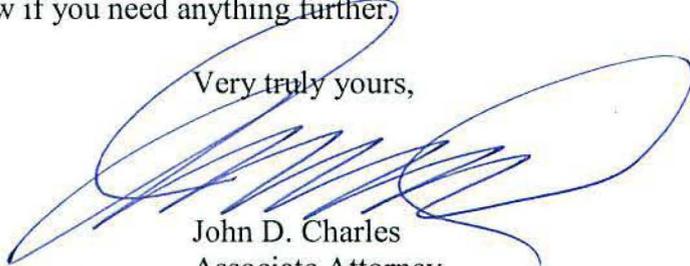
You ask our opinion as to whether the cleaning of sewer lines, preventative maintenance of the same and video surveillance of such lines for inspection purposes would constitute work that would require the payment of prevailing wages to those employees who actually perform the work. As to cleaning and preventative maintenance, such work is clearly subject to the Prevailing Wage Law. The Appellate Division, First Department, has ruled that sewer cleaning involves repair and that the repair of a public work is a public work (*Sewer Environmental Contractors, Inc. v. Goldin*, 98 A.D.2d 606, 469 N.Y.S.2d 339 (1983)). The Court noted that the test to be applied in determining what is a public work is function rather than magnitude.

As to the use of video equipment to inspect lines, the use of such equipment as a means of performing an inspection related to maintenance would require the payment of prevailing wages. However, if the contract is for inspection services only and the company's only job is to supply a municipality with a video tape record on the pipes' internal condition and no maintenance or construction services are involved, that kind of investigatory or documentary work would not be covered. All such work will be classified by the Bureau of Public Work consistent with collective bargaining agreements, jurisdictional agreements and historic practices for the location involved.

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As a result, any request for proposal on this subject should include a provision noting that, except as noted above, all such work must be performed under the provisions of Article 8 of the Labor Law. Please let us know if you need anything further.

Very truly yours,



John D. Charles
Associate Attorney

cc: Pico Ben-Amotz
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