

STATE OF NEVADA

JOE LOMBARDO
Governor



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Director

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Labor Commissioner

**DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE LABOR COMMISSIONER**

December 27, 2024

Via Email

Nelida Bernal
Clark County Purchasing and Contracts
500 S. Grand Central Pkwy.
Fourth Floor, Box 551217
Las Vegas, NV 89155-1217

Re: Request for Advisory Opinion—Applicability of Prevailing Wage for Programming Work

Dear Ms. Bernal,

Pursuant to Nevada Administrative Code (“NAC”) Section 607.650, an Advisory Opinion has been requested clarifying the applicability of prevailing wage requirements for programming work associated with the installation of access controls, Metasys systems, and camera/video systems. Specifically, you ask for the following advisory opinions based on enclosed descriptions of programming work:

1. Is programming work for access controls, Metasys systems, and camera/video systems subject to prevailing wage requirements?
2. If programming work is subject to prevailing wage requirements, does this include programming performed offsite?

FACTS PRESENTED

Clark County Purchasing and Contracts (“Clark County”) identified the classification for the installation of the equipment as Electrician Communication Technician. If the wage for a classification of work prevails from a collective bargaining agreement, the published prevailing wage in Nevada includes job descriptions pursuant to NAC 338.010(2). The prevailing wage for Electrician Communication Technician in Clark County, Nevada prevailed from a collective bargaining agreement between NECA and Local Union 357, IBEW. [Clark County Region 2024\(4\).pdf](#). Pursuant to the 2023 and 2024 prevailing wage for Electrician Communication Technician in Clark County, the job description includes the following types of work:

Installation, maintenance, service and testing of all apparatus, fire alarm systems and interconnection cables, including fiber optics and/or ethereal aid associated with systems utilizing the transmission including ultra-high frequencies, video, and digital for the commercial, education, security and entertainment purposes for the following: TV monitoring and surveillance, background music, intercom and telephone interconnect, inventory control systems, microwave transmission, Halon systems, CO2, FM200, intergen, also all other suppression systems, multi-media, multiplex, PCM (Pulse Code Modulation), SCADA (Supervisory Control and Data Acquisition), nurse call system, radio page, school intercom and sound, burglar alarms and low voltage master clock systems, and data systems that transmit or receive information and control and all other systems which are intrinsic to the above listed systems.

Installations of raceway systems are not covered under the terms of this Agreement (excluding Ladder Rack for the purpose of the above listed systems). Chases and/or nipples (not to exceed 10 ft.) may be installed on open wiring systems. Removal and discarding of all packaging and waste materials related to the above scope of work, excluding demolition waste.

Senior Technician

Pull cable, install and trim devices, terminate loops, circuits or other data gathering points. Terminate energized main control panels, racks or other head end equipment as well as test all circuits from the field to the main control panels and/or equipment. A senior technician will supervise and coordinate all work under this Agreement.

Installer Technician / Installer Technician

Pull cable, trim devices, terminate loops, circuits or other data gathering points. Terminate non-energized main control panels, racks, or other head end equipment, as well as test all circuits from the field device to the non-energized panels and / or equipment. The Installer Technicians and Installer Technician Apprentices shall not energize, or work on any energized circuits, loops or equipment, except under the direction of the onsite Senior Technician.

Clark County correctly noted the published job description for Electrician Communication Technician is silent as to the specific and limited task of “programming” the equipment installed by the Electrician Communication Technician.

The following descriptions of work were provided by Clark County as specific to the act of “programming” relevant to this Advisory Opinion Request:

Programming Access Controls

Programming access controls involves several steps to ensure efficient and secure management of entry points:

1. **Assess Security Needs:**
 - o Identify critical areas requiring access control (e.g. doors, sensitive zones).
 - o Determine appropriate credential types (e.g., key cards, biometrics, mobile devices).
2. **Select and Install Hardware:**
 - o Install card readers, door controllers, and wireless locks as needed.
 - o Ensure all devices are connected to a centralized control system.
3. **Configure Software:**

- o Use Johnson Controls' security management software to monitor and manage access.
 - o Integrate with other security systems (e.g., fire alarms, video surveillance).
4. **Program Permissions and Credentials:**
 - o Assign credentials to users with specified access levels and schedules.
 - o Automate visitor approvals and manage clearance workflows.
 5. **Testing and Updates:**
 - o Perform system tests to verify functionality.
 - o Regularly update software and hardware for optimal performance and security.

Programming video surveillance systems includes:

1. **Setup and Installation:**
 - o Mount cameras and connect them to power and network infrastructure.
 - o Install and configure NVR/DVR devices to store video feeds.
2. **Software Configuration:**
 - o Use platforms like ExacqVision or Victor to manage cameras and recordings.
 - o Assign unique names and set recording parameters (e.g., motion-based recording).
3. **Advanced Settings:**
 - o Enable video analytics, such as motion or object detection.
 - o Configure alerts and notifications for security events.
4. **System Integration and Testing:**
 - o Connect the system to other security solutions, such as access controls.
 - o Test camera functionality and train personnel on system use.
5. **Ongoing Management:**
 - o Apply firmware updates and review system performance periodically.

Programming the Metasys Building Automation System

The Metasys system integrates and automates building operations, including HVAC, lighting, and security. Key programming steps include:

1. **System Preparation:**
 - o Ensure compatible hardware (e.g., servers, controllers) and software are installed.
 - o Configure network settings for communication between devices.
2. **Define System Objects:**
 - o Map HVAC, lighting, and other building systems as objects within Metasys.
3. **Program Control Logic:**
 - o Set automation rules (e.g., temperature control schedules, lighting activation).
 - o Customize dashboards for monitoring system performance.
4. **Testing and Training:**
 - o Conduct tests to confirm system responsiveness.
 - o Train building managers on monitoring and troubleshooting the system.

AUTHORITY

Pursuant to NRS 338.015, the Labor Commissioner is tasked with enforcing the provisions of NRS 338.010 to NRS 338.130, inclusive. NRS 338.020 requires the payment of prevailing wage to skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor on public works projects in Nevada. In determining prevailing wage rates, the Nevada Labor Commissioner surveys worker classifications and publishes the prevailing wage survey for all regions in Nevada, which includes publishing job descriptions when the prevailing wage for a classification prevails from a collective bargaining agreement. *See* NRS 338.030, NAC 338.010, NAC 338.020. NAC 338.0095(1)(a) requires a worker employed on a public work be paid the applicable prevailing rate of wage “for the type of work that the worker actually performs on the public work and in accordance with the recognized class of the worker.”

Workers deemed employed on a public work are those who are employed at the site of a public work and necessary in the execution of the contract for the public work. NRS 338.040(1). NAC 338.009 expands on this test and states:

- a. “Employed at the site of a public work” to mean “the performance of work in the execution of a contract for a public work at the physical place or places at which the work is performed or at which a significant portion of the public work is constructed, altered or repaired if such place is established specifically for the execution of the contract for the public work or dedicated exclusively, or nearly so, to the execution of the contract for the public work.
- b. “Necessary in the execution of the contract for the public work” to mean the performance of duties required to construct, alter or repair the public work and without which the public work would not be completed.
- c. The terms interpreted in paragraphs (a) or (b) do not include an instance in which a person provides services to the prime contractor or a subcontractor at the site of a public work for a limited period of time if the services provided:
 1. Do not include work typically performed by a recognized class of workers; and
 2. Are incidental or ancillary to the construction, repair or reconstruction of the public work.

...

“site of a public work” includes job headquarters, a tool yard, batch plant, borrow pit or any other location that is established for the purpose of executing the contract for the public work or that is dedicated exclusively, or nearly so, to executing the contract for the public work. The term does not include a permanent home office, branch plant establishment, fabrication plant, tool yard or any other operation of a contractor, subcontractor or supplier if the location or the continued existence of the operation is determined without regard to a particular public work. NAC 338.009(2).

ANALYSIS

1. Is programming work for access controls, Metasys systems, and camera/video systems subject to prevailing wage requirements? **Yes, as described.**

Here, Clark County first requests an advisory opinion as to whether programming work for systems like the ones in its hypothetical is covered by prevailing wage. When looking at the job description from the published prevailing wage for Electrician Communication Technician in Clark County in 2023 and 2024, the classification of Electrician Communication Technician includes:

Installation, maintenance, service and testing of all apparatus, fire alarm systems and interconnection cables, including fiber optics and/or ethereal aid associated with systems utilizing the transmission including ultra-high frequencies, video, and digital for the commercial, education, security and entertainment purposes for... TV monitoring and surveillance, background music, intercom and telephone interconnect, inventory control systems, microwave transmission, Halon systems, C02, FM200, intergen, also all other suppression systems, multi-media multiplex, PCM (Pulse Code Modulation), SCADA (Supervisory Control and Data Acquisition), DAS (Distributed Antenna Systems), nurse call system, radio page, school intercom and sound, burglar alarms and low voltage master clock systems, and data systems that transmit or receive information and control and all other systems which are intrinsic to the above listed systems. [Clark County Region 2024\(4\).pdf](#) & [Clark County Region 2024 - 2025.pdf](#) at 18-19. (*Emphasis Added*).

While the word “programming” is not included in the job description of Electrician Communication Technician, in all three of the sample descriptions of work from Clark County, “programming” is used in two ways. The Clark County job descriptions use “programming” to mean a step in the installation of an electric/fiber optic system that occurs usually between physical installation and testing. But most notably, the Clark County job descriptions use “**Programming**” as a bold headline for the all-encompassing, numbered list of job responsibilities for the worker. This includes, in variations: identifying and ensuring proper hardware (wiring) and placement, installation, testing, servicing, and maintaining, and around step 4—programming the system.

Given the breadth of work these examples include under “programming,” it is the Opinion of the Nevada Labor Commissioner that these statements of work, as written, are covered by prevailing wage requirements when performed on a public work. While these job descriptions are headlined as “Programming” jobs, they include the type of work an Electrician Communication Technician *actually performs* in the execution of a public work project. In fact, all three descriptions include installation, connection, testing, and configuration of the proposed systems. As such, payment of prevailing wage and adherence to NRS 338.020 would be required for Clark County’s description of “programming work” on a public work.

2. If programming work is subject to prevailing wage requirements, does this include programming performed offsite? **It depends, but likely no.**

First, Clark County’s descriptions of “**Programming**” largely could not be performed offsite. For example, Clark County’s first task under “**Programming Video Surveillance System**” is setup and installation. This includes mounting cameras and connecting them to power sources [onsite]. As previously discussed, the Office of the Labor Commissioner views this description of work as that “actually performed” by an Electrician Communication Technician, and it is subject to prevailing wage requirements. The same is true of all other onsite work falling under these programming descriptions that more closely match the job description of an Electrician Communication Technician.

However, it would be possible to isolate the ancillary task of “programming” as a service provider pursuant to NAC 338.095(c). In all three hypothetical job descriptions, programming is a task on a list of the overall job description. For example, “**Programming Access Controls**” includes a fourth step of “Program Permissions and Controls,” which includes assigning credentials to users with specified access levels and schedules, automating visitor approvals, and managing clearance workflows. This describes programming software for user access and settings, and it can be performed offsite of a public work. Similarly, the job description for “**Programming the Building Metastasis Automation System**” includes the third step task of “Program Control Logic,” which includes setting automation rules and customizing the systems dashboard. These tasks describe true programming work, which when performed in isolation and/or offsite, would not satisfy the requirements of NRS 338.040 and therefore would not fall under NRS 338.020.

Programming software of this nature would better fall under NAC 338.009(c) as work not usually performed by a surveyed classification of workers and ancillary to the construction, repair, or reconstruction. This type of work is more akin to a service provider. Furthermore, if this work was performed offsite, as posited in Clark County’s second Advisory Opinion request, it further supports falling outside the scope of NRS 338.020.

While no other supportive details are provided to the offsite hypothetical, as previously stated, it would be impossible to perform some of the listed tasks of “programming” offsite. However, programming as described by the tasks on the lists, is more commonly performed offsite by data engineers, programmers, coders, information technology professionals, etc. These offsite locations do not exist in consideration of a public work project, nor are they solely or mostly dedicated to any public work. In situations where a contractor or subcontractor hires a programmer offsite to perform the isolated task of making program software work/function, the work of the programmer would not be covered by prevailing wage.

Please be advised that this Advisory Opinion is limited to the specific facts and circumstances described herein. The Office of the Labor Commissioner may revisit this issue through the Administrative Rulemaking Process. Please be further advised that subsequent statutory or administrative rule changes or judicial interpretation of the statutes or rules upon which any opinion is based may require that this Advisory Opinion be modified or abandoned. Should you need additional clarification, please do not hesitate to contact our office at (702) 486-2650.

Sincerely,

Brett K. Harris, Esq.
Labor Commissioner