



The FAIR CONTRACTOR

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Special Issue: Year in Review — Winter 2000



Foundation for Fair Contracting Expands Its View

In recent months, the Foundation for Fair Contracting has been reaching out to more workers than ever, in just about every way we can think of. We've set up a new web site that gives public construction workers in Massachusetts current information about their rights on the job. There's also an updated debarment list, information for cities and towns and relevant links for workers and contractors alike. Check it out at www.ffcm.org.

The FFCM has also taken to the airwaves this year, using television and radio to educate workers about their rights and the legal actions they can take to redress contractor wrongs. A TV ad ran on cable networks through-

out the state, reaching close to a million viewers.

A "Tax Time" radio spot also ran in Western Massachusetts and Eastern New York this spring, telling workers to watch out for that perennial favorite scam—misclassification of employees as independent contractors.

The FFCM has also introduced a new service to help public construction workers—log books. The log books are a new service intended to help workers keep track of where and when they're working, what kind of work they're doing and how much they're getting paid. It's an easy way for workers to keep good records—just in case they end up employed by a contractor who decides to skirt the law.

The Foundation has also been expanding its efforts to help cities, towns and awarding authorities understand state and federal wage laws.

And we're not confining our efforts to the Bay State. The Foundation for Fair Contracting has joined forces with a national network of fair contracting organizations including groups in Rhode Island, Connecticut and New York. Foundation staff convened in Washington D.C. earlier this year for a national pow wow on fair contracting.

Legal Year in Review



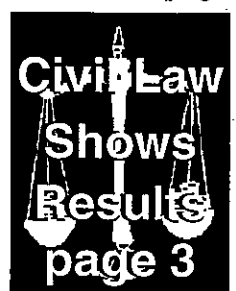
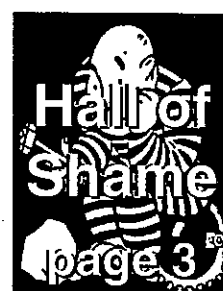
1999 was an important year for the Foundation for Fair Contracting's legal work. And while there's still a great deal to be done as far as enforcing and enhancing the legal framework that protects the rights of workers in Massachusetts, that framework got a little stronger last year.

For starters, this marks the one-year anniversary of a new state law that makes it easier for workers to go after employers who don't pay overtime or prevailing wages. Whereas the old law required the AG's office to treat wage cases as criminal cases, the new law lets the AG's office treat wage disputes as civil matters. Because of the more lenient standard of proof in civil cases, work-

ers who've filed complaints tend to see results more quickly. For a snapshot of who has been snared by the law this year, turn to page three.

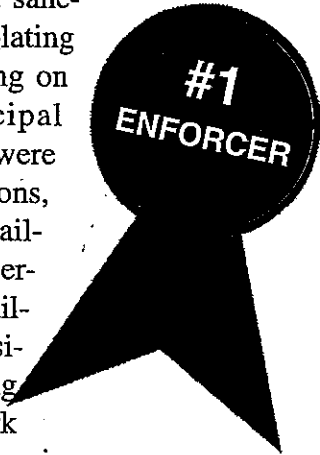
In addition to celebrating a legal anniversary this year, the FFCM is also marking the first time that workers have ever filed a claim against a Massachusetts city for money owed to them by a public works contractor.

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Worcester Purchasing Department Wins Enforcer of the Year Award

This year's 'enforcer of the year' award goes to the Purchasing Department for the City of Worcester for its commitment to enforcing Worcester's Responsible Employer Ordinance (REO). Earlier this year, the Department sanctioned 20 contractors for violating the city's REO while working on publically funded municipal projects. These contractors were guilty of a number of violations, including failure to pay prevailing wage, failure to submit certified payroll records, and failure to meet the ordinances residency requirement, by having less than 50% of their work force made up of Worcester residents.

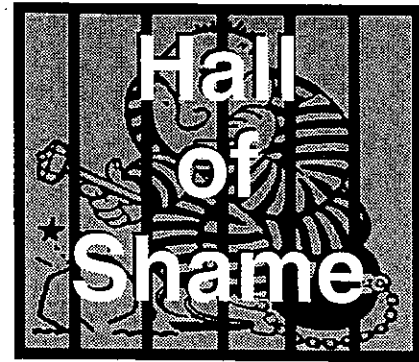


What is significant about this case is not just that these companies were forced to pay damages for these violations, but that it sends a clear message to contractors around the state. Many contractors believe that Responsible Employer Ordinances are merely paper laws, without any enforcement teeth. By steadfastly assuring that the law will be complied with in their city, the Worcester Purchasing Office has established a model for other cities to follow.

Responsible employer ordinances are important for fair contractors and employees alike. They ensure that workers receive the wages, benefits and conditions they deserve, and help to weed out law-breaking contractors before the bidding process instead of waiting until they are on the job.

Christopher Gagliastro, Contract Compliance Inspector for the City of Worcester, accepted the award on behalf of the Purchasing Department. "This sends a serious message to contractors that they need to take these requirements seriously" Gagliastro said. "The City of Worcester considers the enforcement of our ordinance to be very important and we're pleased to be recognized for doing a good job."

Congratulations!

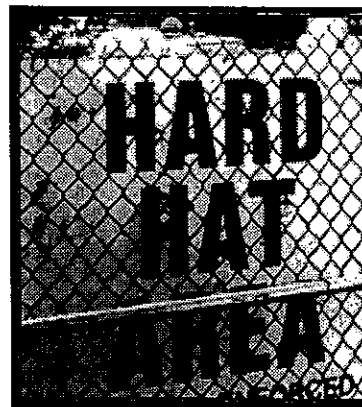


The president of a New Bedford paving company recently pled guilty to numerous wage violations including failure to pay overtime, the prevailing wage, nonpayment of wages, and failure to provide pay stubs. Adrian Morgado, President of Francisco Morgado and Sons, was ordered to pay \$15,000 to four employees, \$25,000 in fines and has been debarred from working on public works projects in the state for three years.

Zachary Pinnick, former owner of Z.P. Construction Corporation of Stoughton was indicted earlier this year on 31 counts of failing to pay employees a total of \$46,362.22. If convicted, Pinnick faces up to one year in jail and up to \$1,500 in fines for each worker's comp offense; up to one year in jail and up to \$3,000 in fines for each overtime offense; and up to \$2,000 in fines for each false payroll records change.

Debarred for three years or more:

- W.G. Burns and Sons, Haverhill (Through 8/26/00)
- Roosevelt Building Products, Bristol, CT (9/22/00)
- Creative Construction & Improvements, Inc, Springfield (3/24/05)
- Olympic Painting, Peabody (10/19/01)
- EMP Sweeping and Asphalt Paving Corp., Walpole (11/20/01)
- Amaral Excavating, Inc, Somerville (2/3/02)
- Tremble Painting, Huntington (8/24/02)



Keep Your Hats On... But Don't Be Hardheaded About the Law!

New Civil Law Levels Playing Field

This month marks the one-year anniversary of Massachusetts' new Civil Wage Law. According to the Attorney General's Office the law is already paying off. Here's a quick look at some contractors who've had recent run-ins with the wage enforcement law:

Ronald Lambert, Lambert Roofing Co.

Intentionally failed to pay prevailing wages on the Merrimac Fire, Police, DPW building project.

Total ordered to pay: \$4,136; Inspector: Greg Reutlinger

James A. Fiset, Fiset Excavation

Intentionally failed to submit certified payroll records on the Naquag (Rutland) Elementary School project.

Fined \$1,000; Inspector: Steven Troiano

Michael Lahart, Avondale Painting

Failed to keep accurate payroll records on the Francis Parkman School project.

Fined \$250; Inspector: Jeremy Banks

Nicholas H. Des Champs, Des Champs Laboratories, Inc.

Intentionally failed to submit certified payroll records on the Atkinson Pool/HVAC Ventilation System project.

Fined \$250; Inspector: David Bieksha

William Bankus, Family Floors

Failed to submit certified payroll records on the Francis Parkman School project.

Fined \$100; Inspector: Jeremy Banks

Theodora Kalfopoulos, Colorworks Unlimited, Inc.

Intentionally failed to furnish true and accurate payroll records on the Pepperell Town Hall

Fined \$250; Inspector: Greg Reutlinger.

Stephen Stella, Markings, Inc.

Intentionally failed to submit certified payroll records on the Avenue DeLafayette public works project.

Fined \$500; Inspector: Jeremy Banks



Bidding Farewell to Unscrupulous Contractors

1999 saw a stepped up effort on the part of the Foundation for Fair Contracting to catch unscrupulous contractors early on--during the bidding process. The FFCM has been keeping a close eye on bids that appear abnormally low. Here are a couple of bids that we said a fond farewell to in 1999.

When **GVW, Inc.** filed an extremely low restricted bid for the Summer Street School Project in Lawrence, it caught the attention of the Foundation for Fair Contracting. For starters, **GVW's** bid was as much as 66% less than the next lowest bidder. And by submitting an excessively low restricted bid, **GVW** was breaking the law.

According to a 1995 decision by the Attorney General's office, an unrealistically low sub-bid restricted to the exclusive use of one general contractor gives that contractor an unfair advantage. The FFCM pointed this out to the awarding authority, noting as well that **GVW's** bid was too low to cover the cost of supplies and wages. As a result, Lawrence later denied **GVW** the project.

The FFCM's Worcester field monitor was concerned at what seemed to be an improbably low bid submitted by **Jackson Glass Co., Inc** for the Holliston Flagg-Adams Middle School Project. The bid was 26% lower than the next lowest bidder, raising concerns that **Jackson Glass** might not be able to meet the terms of the contract, which includes specifications for supplies and materials as a provision to pay the prevailing wage.

An FFCM field monitor contacted the town of Holliston and relayed his concerns. Shortly thereafter, **Jackson Glass Co.** acknowledged that a 'substantial arithmetic error' in totalling labor hours in their original bid. **Jackson** asked to withdraw the bid and has since been replaced by the second lowest bidder.

In Massachusetts, contractors on public construction projects are required to pay the prevailing wage. Make sure to figure this in when compiling your bid!



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Legal Year in Review

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Opening New Fronts in Prevailing Wage Enforcement

This summer, two workers filed claims against the City of Taunton, charging that they did not receive the legally required prevailing wage for the majority of time they were employed on a project at the West Taunton Schools. Instead, their employer, **CJ Mabardy and Michelle Construction**, paid them the prevailing wage only when they were physically inside one of the school buildings.

Explains Janine Yodanis, Field Monitor for the Foundation for Fair Contracting, which assisted the workers with their claim: "This was a really important case because the contractor had decided to reinterpret the prevailing wage law in a way that could have eroded rights of all public construction workers."

The City of Taunton responded immediately to the claim, moving to withhold money from Eastern Contractors, the general contractor on the Taunton Schools Project. Wrangling ensued with the Division of Occupational Safety (DOS)—the agency responsible for setting the prevailing wage for public construction jobs in the

state—about whose fault it was that the contractor paid the wrong rate. Efforts continue to get the two workers the money they are owed.

Class Action Suit Pays Off for Workers

1999 also saw the partial conclusion of a class-action suit led by 5 construction workers against one of the largest paving contractors in the state. According to the workers, the Roads Corporation had bilked its employees out of nearly \$1,000,000 in overtime pay.

As a result of the threatened lawsuit, **Roads Corporation** decided to take another look at how their employees were being paid. The review paid off in a big way for employees of Roads, who have since received an estimated \$500,000.

This fall, a judge finally issued a decision, finding in the company's favor. As far as Roads' employees are concerned, some of whom received in excess of \$10,000, taking the company to court was the only way to shine a light on Roads' questionable payment practices.

"Because these employees took a stand," concludes FFCM Field Monitor Yodanis, "Roads ended up paying back its workers nearly half a million dollars."

Efforts to resolve or appeal the case continue.

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