



The FAIR CONTRACTOR

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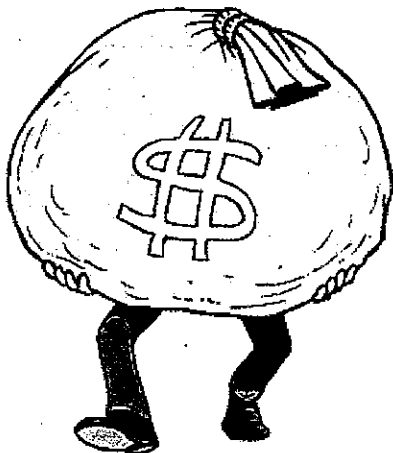
CONSTRUCTION WORKERS RECOUPED NEARLY \$700K LAST YEAR, THANKS TO FFCM

The Foundation for Fair Contracting of Massachusetts helped to recover nearly \$700,000 dollars for public construction workers last year, among the organization's best years to date. FFCM Executive Director Karen Courtney says "For contractors, the message is that if you break the law and either don't pay, underpay or misclassify your employees, it is increasingly likely that you're going to pay a price."

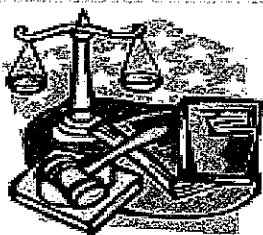
Courtney notes that last year the FFCM received complaints from construction workers regarding underpayment and nonpayment of wages, misclassification, unregistered apprenticeship programs and phony pension plans. Upon receiving such complaints, FFCM monitors typically review the certified weekly payrolls of the specified contractor, looking for any sign of illegality or irregularity. Cases that merit further investigation are then transmitted to the Attorney General's office, the Division of Appren-

tice Training, or other applicable state and federal agencies.

The FFCM was founded in 1992 to assist construction workers in collecting back pay and benefits in the event of wage violations. The organization also reviews bids submitted by contractors for public construction jobs. "If we encounter a bid so low that the contractor can't possibly complete the job without breaking the law," says Courtney, "it's a good indication to us that we need to investigate further."



In 2006 alone, the FFCM targeted 338 projects worth an estimated \$1.9 billion. In an effort to contact employees and their families regarding their employment on prevailing wage projects, the FFCM sent out nearly 3,000 packets of information including prevailing wage information, a checklist for workers and copies of certified payrolls on which the worker appeared.



SUPERIOR COURT: PUBLIC AGENCIES MUST FOLLOW BID LAWS

A Suffolk Superior Court Judge recently ruled that the Lower Pioneer Valley

Educational Collaborative broke the law when it created a so-called 'alter ego' corporation to try to avoid the state's public bidding laws. In 2004 the group set up a private nonprofit arm to handle the contract process for the renovation of a vocational high school in West Springfield. LPVEC

officials had argued that because the separate entity was private, it wasn't subject to state bidding laws.

After the Foundation for Fair Contracting contacted then Attorney General Thomas F. Reilly about the case, Reilly asked for a court injunction to stop the project. Although state and appellate judges declined to halt the work, the AG's office pressed for a ruling on the merits of the case.

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The following contractors have been cited, debarred or required to pay settlements by the Attorney General's office for breaking the state's wage and hour laws. The FFCM was involved in each case, helping public construction workers file claims and get back the money they were owed.

ARC Environmental Specialist Inc. and its president, Rith Chhim of Peabody, MA, have agreed to pay \$75,000 in restitution and fines to resolve prevailing wage and record keeping violations on 15 different public works projects. As a result of AG's investigation, the contractor has agreed to pay restitution of \$55,000 to 53 employees who worked on some of the projects, which include the Holten-Richmond School in Danvers, the Veterans Memorial High School in Peabody, the Memorial Elementary School in Upton and the Watertown High School in Watertown.

Barr Inc. and its treasurer, John M. McGeowan of Putnam, CT, must pay a total of \$4,671.40 in back wages and penalties after failing to pay prevailing wages to two employees for work performed from 5/9/03 to 5/6/06 on several Massachusetts public works projects.

Brighton Construction Inc. and Peter Macone of Newton, MA must pay \$29,599 in

restitution and \$5,000 in civil penalties for intentional failure to pay prevailing wages and failure to submit true and accurate certified payroll records for work performed on the Arlington/Maynard/Ft. Devens Sidewalk Construction public works project.

Cardan Construction, Inc. of Pittsfield, MA must pay \$23,812 in restitution and \$3,650 in civil penalties for failure to pay prevailing wages for work performed on the Massachusetts Museum of Contemporary Art – R & D Building public works project.

J.E. Murray, Inc. and its owners, Robert E. Murray and Jeffrey P. Murray, of Auburn, MA have been ordered to pay 15 operating engineers \$9,118 after violating the state's prevailing wage law and a \$500 civil penalty for failure to submit true and accurate certified payroll records. They were charged with failing to pay the workers the prevailing wage on three different public work projects: the Wrentham Crocker Pond, Dartmouth, and Wrentham Lake Pearl projects.

Kenneth Nelson and his company, K. Nelson & Son Masonry, have been ordered to pay \$3,198 to six employees who were underpaid while working on the Swampscott High School public works project last summer. In addition to paying restitution, the company was also assessed a civil penalty of \$510.

Krishna Construction of Rolling Meadows, IL and its president Fenil P. Kusumgar of Quincy, MA, have been ordered to pay \$33,697.85 in back wages and \$6,790 in civil penalties (total \$40,487.85) after failing to pay prevailing wages for work performed on the City of Pittsfield's McKay St. and Columbus Ave. Parking Garage and City of



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Worcester's Federal Plaza Parking Garage public works projects. The AG reports this contractor and its president have been debarred for a period of 1 year beginning April 24, 2006 through April 23, 2007.

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Matrix Drywall Construction, Inc. and Joshua Moore of Tyngsboro, MA were found to have misclassified their employees in August of 2005. This drywall contractor, who claimed that his employees were independent contractors, has been ordered to pay a penalty of \$4,500.

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New England Infrastructure and Todd Pietrasiak and Hugh Joseph Deery of Southborough, MA have been ordered to pay a total of \$7,470.43 in back wages and civil penalties after failing to pay prevailing wages to nine employees for work performed on the New Belmont Fire Station public works project.

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Saia Electric Company and Matthew F. Saia of Holyoke, MA have been ordered to pay a total of \$3,380.41 in back wages and civil penalties after failing to pay prevailing wages to two employees for work performed on the City of Holyoke's Electrical Repair Works project.

The following contractors were cited or debarred by the AG's office for various payroll records violations while employed on public works projects:

Abenaki Corporation and Susan C. Jordon & Ryan M. Jordon have been ordered to pay a civil citation in the amount of \$400 for failure to submit certified payroll records to the awarding authority for work performed on numerous Mass Highway Department public works project and for failure to furnish certified payroll records for inspection to a representative of the AG's office.

All State Boiler & Construction Inc. and Richard Pare of Farmington, CT must pay a civil citation in the amount of \$200 for failure to submit true and accurate certified payroll records for work performed on the UMASS Utility Corridor (Phase 2) public works project.

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Blue Diamond Equipment and Frank Mahoney of Walpole, MA have been ordered to pay a civil penalty in the amount of \$500 for failure to submit true and accurate certified payroll records for work performed on the Leominster Sewer/Drainage public works project.

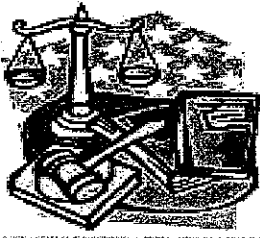
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B. L. Johnson Construction and Bruce L. Johnson have been ordered to pay a civil citation in the amount of \$200 for failure to submit true and accurate certified payroll records on the Northern Essex Community College Project in Haverhill, MA.

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Elephant Construction Company and Im Khom of Lowell, MA have been ordered to pay a fine totaling \$3,500 for intentional failure to submit true and accurate payroll records for work performed on the Lawrence School project in Brookline, MA. The AG reports this contractor and its owner have been debarred for a period of 1 year beginning October 16, 2006 through October 15, 2007

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Outer Cape Finishers, Inc. and Normand F. Plante of Eastham, MA have been ordered to pay a civil citation in the amount of \$200 for failure to submit true and accurate certified payroll records for work performed on the Dennis Library Building.



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The Superior Court decision will have no effect on the project, which has been completed, and the educational collaborative will not be punished.

The ruling does, however, send a strong signal to tax-payer financed entities in the Commonwealth that they may not attempt to skirt the law by setting up private corporations. Concludes Attorney General Martha Coakley, "When public entities engage in construction projects, there must be open, fair and transparent competition, consistent with the procedures and purposes of the bid law."

REMINDER: IT'S THE LAW!

For every week in which an apprentice is employed by a contractor, subcontractor or public body subject to this section, a photocopy of the apprentice's apprentice ID card, issued pursuant to section 11W of chapter 23 shall be attached to the records submitted under this section.

(MGL Ch.149, Sec. 27B)

LAW-BREAKING PAINTING CONTRACTOR DEBARRED UNTIL 2010



Maynard painting contractor Edward J. Brooks, has been debarred by the state until 2010 thanks to multiple convictions in Concord District Court. The ruling means that the company and its owner, Edward J. Brooks, Jr., may not bid or otherwise work on public construction projects anywhere in the Commonwealth. The case made its way into the courts after several of Brooks' employees, primarily Brazilian immigrants, complained that he wasn't paying them. They took their complaint first to the Brazilian Immigrant Center, then to the Attorney General's office, where attorney Karla Zarbo and inspector Joe Hyacinth investigated and prosecuted the case. Mr. Brooks ultimately pled guilty to 8 felony counts. As part of the settlement Mr. Brooks also agreed to pay penalties and restitution to the workers he had defrauded.

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