



CONSTRUCTION INDUSTRY  
LABOR-MANAGEMENT  
ORGANIZATION

# The FAIR CONTRACTOR

A Publication of the Foundation for Fair Contracting of Massachusetts

Spring/Summer 2002

Volume 8, Issue 3-4

## Three Cites and You're Out: Contractors Debarred after Multiple Citations

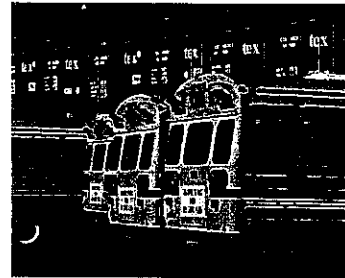
Two Massachusetts construction companies have been debarred from public works projects after receiving 3 civil citations for violating the state's prevailing wage law. Attorney General Tom Reilly announced recently that the two firms, **DNK Construction** of Lakeville, and **Worcester County Refrigeration** were being debarred. Under a law that went into effect in 1998, companies that receive three intentional civil violations for failing to pay the prevailing wage, overtime, or failure to furnish true and accurate payrolls can be debarred from bidding on taxpayer funded projects.

**Two contractors learn the hard way: the state's prevailing wage law now means "three cites" and you're out.**

Worcester County Refrigeration, a plumbing, heating, ventilation and air conditioning company, was cited two years ago for deliberately falsifying payroll records. The company claimed to be paying employees the prevailing wage, but an investigation by the AG's office determined that some workers were receiving little more than one third of what they were legally entitled to. Some employees were receiving \$19 less per hour than the law mandates. Worcester County Refrigeration has agreed to pay the citations and will be debarred from bidding on any public works construction projects until the end of January 2004.

*Continued on back*

## AG Rules Charter Schools Must Follow Bidding Law;



### Ruling comes after FFCM protest

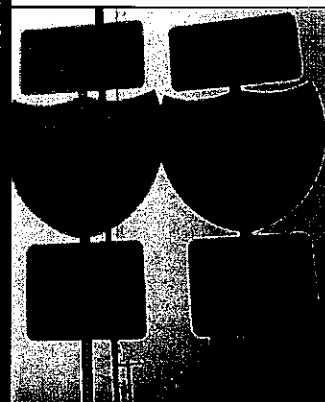
In what legal experts are calling a major bidding decision, Attorney General Tom Reilly ruled recently that charter schools are bound by the same public bidding law that applies to public school construction.

Enlace de Familia, a Holyoke non-profit organization, and Edison, Inc., the country's largest for-profit educational company, had argued that the Holyoke Community Charter School was private property, meaning that public construction bid laws would not apply. The Foundation for Fair Contracting disagreed, arguing that charter schools are public entities and their construction—in this case, worth an estimated \$8 million—involves taxpayer money that bidding is intended to protect.

*Continued on back page*

### DON'T MAKE A WRONG TURN!

When it comes to Massachusetts construction law, keeping track of the 'right' way can be complicated. Let the FFCM help. We'll keep you updated on the latest decisions regarding payroll reporting, bid law, and prevailing wages.



## Taunton Resolves Wage Dispute;

### Cities and towns can be liable when contractors break the law

Two workers who filed a claim against the City of Taunton, charging that they were not paid the prevailing wage on a school project, have reached a settlement with the city.

The conflict began over two years ago when the workers were employed on a project at the West Taunton Schools. The contractor who employed the two would pay them the prevailing wage only when they were physically inside one of the buildings. With the assistance of the Foundation for Fair Contracting, the two workers filed a civil suit against the city. On January 30, the case was settled, and the city of Taunton paid the two workers approximately \$18,000.

FFCM executive director Karen Courtney praised Taunton officials for bringing the matter to a close, and urged other localities to learn from Taunton's experiences. "Cities and towns need to know that under the state's wage law, they are responsible for the payment of prevailing wages," explained Courtney. "If an employee realizes that he is not being paid the correct wage, he can sue the city or town in which that work is being performed."

The key to avoiding such lawsuits, said Courtney, is to make sure that contractors employed on town projects are following the law --and to take steps to remedy the situation if the law is being broken. Stay on top of the public construction in your town. Check the payrolls. Have the Clerk of the Works talk to employees and find out if they're receiving the correct wage.

If a contractor is breaking the law and paying employees less than the legally-mandated rate, the city can withhold payment from the contractor until the situation is resolved.

## Superior Court Addresses Payroll Law

### Reaffirms that payrolls are public information

Massachusetts Judge Thomas Connelly denied a contractor's attempt to stop an awarding authority from providing the FFCM from receiving names and addresses on certified payrolls. The case began with a routine public records request from the FFCM to the MWRA requesting to review payrolls on several public projects.

At the request of the contractor J.D. Amico, the MWRA blacked out the names and addresses of the employees that were on the certified payrolls, claiming that the release of names and addresses was an

**The verdict is in: names and addresses on certified payrolls are public information.**

unwarranted invasion of their privacy. The FFCM appealed the MWRA decision to the Secretary of State, which then ordered the MWRA to release the names and addresses to the FFCM. J.D. Amico through its attorney sought to stop the MWRA from turning over the records through a request for an injunction from the court. Judge Connelly denied the injunction stating that there was very little likelihood, if any, of the plaintiff prevailing in this matter.

The Office of the Attorney General submitted a brief to the court in favor of releasing the names and addresses.

The Superior Court decision, announced on April 29, is just the latest confirmation that payroll records including the names and addresses of employees on taxpayer-funded projects are public information, says FFCM monitor Chris Burger. This decision reinforces that the public records law is not open to interpretation by awarding authorities. It's not their responsibility to interpret the law, but to enforce it.



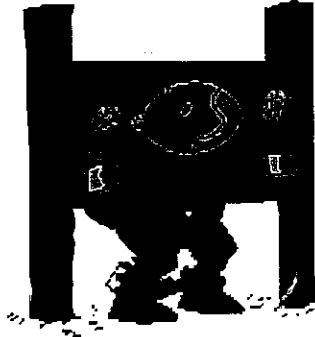
## Contractor Hall of Shame

The following contractors were recently cited by the Massachusetts Attorney General's Office for violating the state's wage and hour laws. The Foundation for Fair Contracting was involved in each citation, from assisting in filing complaints, to providing information, and or meeting with workers.

**Antonio Alves** and his company, **Cornerstone Masonry, Inc** of North Dartmouth, MA, must pay an employee restitution in the amount of \$2,499.45 after failing to pay the prevailing wage on the West Taunton School public works project. The employee originally contacted the FFCM in 2001 after seeing a Foundation commercial. After complaining to the employer about receiving the wrong wage, the employee was told that he wasn't receiving the prevailing wage because Cornerstone was a "new" company. Cornerstone was also fined \$100 for failing to furnish true and accurate certified payroll records in 1999 on the same school project in Taunton. Inspector Mario Paiva investigated the case for the Attorney General's office.

**Maureen Mckenna** and her company, **Sharpe Painting Inc.** of Brighton, MA must pay a \$5000 penalty after submitting inaccurate certified payroll records in 2001 and 2002 on a school construction project in Hull, MA. When Inspector Brian Macera of the AG's office looked into the matter, it was determined that Sharpe had systematically failed to provide accurate payroll records in accordance with Massachusetts law. This is the company's second run in with the AG's office over violating the state's prevailing wage laws. A third violation and Sharpe could face debarment from public works projects in the state.

**Louis A. Berrelli** and his company, **Southwick Electric Co., Inc** of Southwick, MA, must pay a total of **\$11,768.42** after the company failed to pay an employee the prevailing wage on a public works project. An investigation by AG inspector Steven Spencer found that Southwick



paid the construction worker less than the prevailing wage for more than 10 months of work on the Belchertown Police Department and Senior Center public works projects. The worker complained to the FFCM in 2000 that the company had classified him as an apprentice, and was paying him \$7 less per hour than he was entitled to.

**Patrick McDermott** and his company, **Quality Electrical Control**, of Wayland, MA, owe 2 workers a total of **\$7,884.34**. The company failed to pay prevailing wages to two employees who worked on the Freetown-Lakeville Apponequet Regional High School public works project from July 2000 through February 2001. The FFCM began investigating the case after discovering that despite listing two apprentices on the job, Quality had no registered apprenticeship program. Inspector Mario Paiva investigated the case for the AG's office.

**David Comalli** and his company, the **Comalli Group**, of Pittsfield, MA, must pay 7 employees a total of **\$6,358.08** after failing to pay them the prevailing wage on the Reid Middle School public works project. The FFCM notified the AG's office about potential problems at the company after hearing complaints from workers that that Comalli continued to hire apprentices despite having no registered apprenticeship program. Inspector Steve Spencer investigated the case for the AG's office.

**John P. Ferreira** and his company, **Ferreira Construction Co.**, of Rehoboth, MA, will pay 4 employees a total of \$5,935.21 after the company failed to pay prevailing wages from April to July of 2001 on the Dartmouth High School public works project. A worker on the project complained to the FFCM that he was not being paid overtime when he worked more than 40 hours in a week. Inspector Mario Paiva investigated the case for the AG's office.

## Connecticut Asbestos Company Cited for Wage Violations

A Connecticut asbestos removal company and its owners have been cited and ordered to pay nearly \$5,000 in wages and a \$2,890 penalty, the Attorney General's office announced recently.

**Envirotemps, LLC**, of Tolland, Conn., and the company's officers, Robert Patrick, and his wife, Eroida Patrick, both of Vernon, Conn., were issued a civil citation for failing to pay prevailing wages to six immigrant employees. The employees worked as asbestos removal laborers on the Old Rochester High School in Mattapoisett for two weeks in July 2001. Employees are owed between \$684 and \$916, depending on the number of hours they worked on the project.

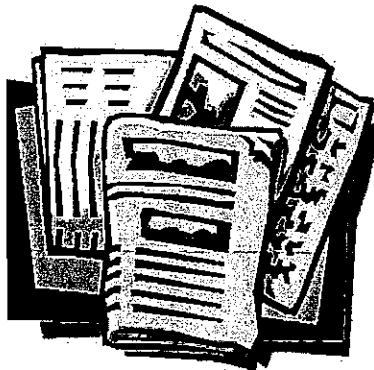
Massachusetts law requires that employees working on most taxpayer-funded construction projects be paid a special minimum hourly wage which is set by the state. Contractors must agree to pay this rate.

In the last two years, the Attorney General's office has reached out to immigrant workers throughout the state, educating them about their rights as workers. Called the Immigrant Worker Outreach Project, the initiative targets workers in industries, including construction, that employ large numbers of immigrants. The project involves outreach and education to immigrant communities, translating informational pamphlets into foreign languages, and prioritizing cases in which employers commit civil and criminal wrongs against immigrants.

Assistant Attorney General Anita Maietta and Inspector Mario Paiva of AG Reilly's Southeastern Massachusetts Office handled the case.

## Brockton Drywall Contractor Charged with Wage Fraud

In a case transmitted by FFCM monitors almost three years ago, **Dormon Construction Co.**, and its president, James Dormon, have been charged in 62 indictments stemming from insurance, unemployment and prevailing wage fraud.



### In the News

The company, which operated as a subcontractor on a number of public works projects across the state, has been accused of failing to pay a total of \$82,000 in prevailing wages. Dormon Construction installed drywall at Hamilton-Wenham High School, Marlboro Middle School, and Topsfield Public Library.

Dormon failed to pay prevailing wages to eleven employees who framed, hung and taped drywall. In some cases, the employees were paid as much as \$20 below the mandated hourly rate. The company also stands accused of committing workers' compensation fraud to the tune of \$270,000.

The FFCM received complaints from numerous Dormon employees, including one who was paid just \$10 an hour. If convicted of all charges, Dormon could face more than 65 years in prison and fines of more than \$400,000.

## Need Help? Call FFCM

If you need help understanding the state's construction laws, call the Foundation for Fair Contracting of Massachusetts. From bid laws to payroll reporting regulations, the FFCM knows the rules.



1-800-224-FAIR

# Attorney General's Debarment List

Creative Construction and Improvements, Inc., CCI, Inc., Vicki Malone Wright, President, 267 Wilbraham Road, Springfield, MA 01109 - debarred for a period of seven years beginning March 25, 1998 through **March 24, 2005**.



**NEED NOT APPLY: The following contractors may not bid or work on public construction projects in Massachusetts**

William Ranney, Jr., as President of Big Top USA, Inc., and 22 Altamount Avenue, Saugus, MA 01906 - debarred for a period of three years beginning August 24, 1999 through **August 24, 2002**.

Michael A. Tremble d/b/a Mike's Painting, 94 Goss Hill Road, Huntington, MA 01050 - debarred for a period of three years beginning August 24, 1999 through **August 24, 2002**.

Francisco Morgado & Sons Inc., Adrian Morgado, President, and Marina Morgado, 347 North Street, New Bedford, MA 02740 and 93 Braley Road, E. Freetown, MA 02717 - debarred for a period of three years beginning November 16, 1999 through **November 16, 2002**.

Diamond Construction and Associates and Zachary Pinnick, President, South Main St., Randolph, MA 02368 - debarred for a period of three years beginning

October 24, 2000 through **October 24, 2003**.

T.J. Battye Trucking 51 Old Ferry Road, Methuen, MA 01844 & Thomas J. Battye Sr., President - debarred for a period of three years beginning June 20, 2000 through **June 20, 2003**.

Electrical Energy Services, 1455 Concord St., Framingham, MA 01701 and Bruce G. Phillips, Owner, - debarred for a period of five years beginning April 26, 2001 through **April 26, 2006**.

Diamond Construction and Associates, South Main St., Randolph, MA 02368 and Zachary Pinnick, President - debarred for a period of three years beginning October 24, 2000 through **October 24, 2003**.

A.B.C. Sprinkler Company, and Scott Dyer, Owner of 360 North Beacon St., Brighton, MA 02135 - debarred for a period of ten months beginning October 13, 2001 through **August 15, 2002**.

Asbestos Removal Contractors, 61 Plain St. Lowell, MA 01851 and Im Khom - debarred for a period of 279 days beginning November 2, 2001 through **August 8, 2002**.

Environmental Enterprise & Associates, Inc. and John E. Brodie, President, 104 Longwater Dr. #1, Norwell, MA 02061 - debarred for a period of 12 months beginning August 14, 2001 through **August 13, 2002**.

Southwick Electrical Co. Inc. and Louis Berrilli, President, P.O. Box 1006 Southwick, MA 01077 - debarred for a period of 12 months beginning October 2, 2001 through **October 1, 2002**.

DNK Construction and Ronald Caramanica, Owner, 21 Central Avenue, Lakeville, MA 02347 debarred for a period of 5 years beginning April 11, 2002 through **April 11, 2007**.

Martin's Paving, and Jerry Martin, Owner, 683 South Westfield St. Feeding Hills, MA 01030 - debarred for a period of 1 year beginning April 20, 2002 through **April 20, 2003**.

Worcester County Refrigeration, Inc. and James R. Generelli, Owner and President, 50 Kingsbury St. Worcester, MA 01610 - debarred for a period of 1 year, 9 months and 18 days beginning April 12, 2002 through **January 31, 2004**. However, Worcester Refrigeration may execute contracts for which, prior to April 12, 2002, they had submitted bids and are the low file sub-bidders. All work allowed under this exception must be completed prior to February 1, 2003.

## Three 'Cites' And You're Out Law Catches Contractors

*Continued from cover*

In 2000, **DNK Construction** of Lakeville, MA was issued a fine of \$5,000 for failing to furnish payroll records to the AG's office. The next year, DNK was ordered to pay almost \$10,000 in back wages to two employees and a \$1,500 penalty to the Commonwealth. The violations carry a hefty pricetag: the company may not bid or work on any public works construction projects until 2007.

"This is exactly how the law is supposed to work," said Chris Burger, a monitor for the FFCM. "Since it went into effect three years ago, contractors who consistently break the law are beginning to realize the consequences."

## Charter Schools Must Follow Bid Laws

*From page one*

"Charter schools are public and need to operate in compliance with the open bidding law," said Karen Courtney, executive director of the FFCM. "In this respect, the Attorney General's ruling was consistent with past rulings."

After an investigation of the charter school's situation along with a legal review, the AG's office concluded that "the project, though undertaken by a private entity, will be funded entirely with public monies." And where there are taxpayer dollars, noted the AG, competitive bidding is necessary to provide open competition and achieve the lowest responsible price for the public.

Intended to encourage innovation in education, charter schools have also inspired some contractors to skirt the law, says Courtney, leaving cities and towns confused about the legal status of the schools. "The law is clear: if there's public money then you have to have public bidding. The system is intended to save the taxpayers' money. It's as simple as that."

PRE-SORTED  
STANDARD  
U.S. POSTAGE PAID  
BOSTON, MA  
Permit No. 52213

The Fair Contractor  
The Foundation for  
Fair Contracting  
P.O. Box 256  
State House Station  
Boston, MA 02133