



The FAIR CONTRACTOR

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AG Weighs in on Charter Schools—Again

**Says law is clear:
construction must be bid**

Do they or don't they? **THEY DO**, said the Attorney General's office recently, regarding the question of whether charter schools have to bid construction contracts even though they are funded by private sources. The charter school management companies have maintained that they are exempt from state laws that require bidding on public jobs. But now the matter appears to have been settled. According to the decision of the Fair Labor and Business Practices Division of the Attorney General's office earlier this spring, the public bidding laws apply to construction contracts by public agencies—no matter who funds them.

This isn't the first time questions have been raised about charter schools and the law. In recent years, one education company that operates multiple charter schools in the state, SABIS Educational Systems, has violated the Commonwealth's public construction bidding laws on three different occasions. No more, said the AG in the most recent decision. The AG also sent a warning to SABIS and other charter school ventures: violate the public bidding laws and we will take all action available to us under Massachusetts law.

FFCM monitor Art Butler explains that it is important for charter schools and other public agencies to understand that the law applies to them—especially in times when public money is scarce. "Charter schools have a tendency to think that because they affiliate with private entities, they are free to decide what laws apply to them. This is not the case. Charter schools must abide by the same rules as any other group that uses taxpayer money."

Wanted: Responsible Employers

With budgets tight and getting tighter, costly construction delays and building projects-turned-nightmares are the last thing Massachusetts cities and towns can afford right now. So what if there were a way to help ensure a quality job? There's no crystal ball when it comes to predicting the outcome of a public construction project, says FFCM director Karen Courtney, but looking at how a contractor treats his or her employees can be an important indicator of the contractor's overall commitment to the industry.

"An employer who cares about the welfare of his or her workers also cares about the final product," says Courtney. "Someone who is willing to invest in their workforce is sending a powerful signal that they care about the quality of construction."



Got a public construction job in the works? Don't get stuck in the mud! Choosing a contractor who treats his or her employees well may be a way to help ensure a quality construction product.

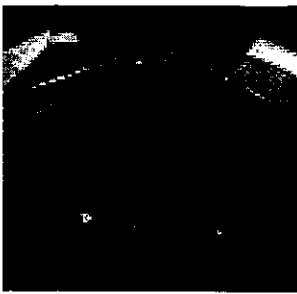
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AG Cites Painting Contractor 4



Contractor Hall of Shame

Don't let your name appear on this list! The following contractors have been cited by the Massachusetts Attorney General's Office for violating the state's Wage and Hour laws. If you have questions about the law, contact the FFCM at 1-800-224-FAIR. All calls are free and confidential.

A. B. High Voltage and its owner **Allen R. Bernier** must pay \$4,761 for failing to pay the prevailing wage to three electricians who worked on the Massasoit Community College project in Brockton in 2001. AG inspector Cecile Byrne determined that three workers had been underpaid on the job. High Voltage was also cited for failure to furnish true and accurate payrolls between May and December of 2001. The FFCM noticed the payroll discrepancies during a routine inspection.

Atlantic Construction and Restoration of Tewksbury, MA and its owner **George Secchiaroilli** have been ordered to pay a total of \$4,070.10 after failing to pay an employee the prevailing wage on a public works project. The Attorney General's Office determined that Atlantic had underpaid an employee who worked last year on the Billerica House of Corrections Roof Replacement and Repair project. In addition to the penalty and restitution, Atlantic has also been fined for failing to submit weekly-certified payroll records to the awarding authority while working on the Billerica job. Inspector Greg Reutlinger investigated the case.

Dalton Insulation Company of Wiscasset, ME and its owner **Gerald L. Dalton** must pay a total of \$3,565.34 to four employees after failing to pay prevailing wages on the Waltham South Street Elementary School public works project last year. In addition, the company was also fined for failing to submit certified payroll records to the state for work it performed on the school project between 5/22/02 and 10/08/02. Inspector Greg Reutlinger investigated the case.

Chelsea Contractor Must Pay Nearly \$100K for Underpaying Workers

A Chelsea environmental company will repay 43 laborers more than \$88,000 and pay \$6,000 in fines to settle charges that it violated the state's prevailing wage law. Charter Environmental and its owner, Robert Delhorne of Belmont, were charged with underpaying the workers over a period of two years while Charter was employed on the Sumner/Callahan Tunnel Ventilation System Rehabilitation Projects in Boston and East Boston. The 43 workers were paid \$6 less per hour than the state requires. They'll receive from \$64 to \$8,000 apiece. The FFCM has sent numerous mailings to workers on Charter Environmental projects in the past. "We let the workers know how much they should be making on a public job," explains FFCM monitor Joe Meagher. "Sometimes it takes a while for the workers to come forward. In this case they had the courage to speak up and they got the money they were owed."

The Attorney General's office reports that **Arau Brothers**, a plumbing contractor based in New Bedford, has agreed to pay \$1,680.82 in response to a complaint brought by the FFCM that the contractor was underpaying insulators on a public works job in Halifax.

According to the AG's office, **Incor Group, Inc.** has agreed to pay \$4,123.25 in restitution in response to a complaint brought by the FFCM. While inspecting certified payrolls, the FFCM noticed a number of problems including under-reporting of hours on the Norwell Middle and High School projects.

Broadway Steel, LLC of Belmont, NH and its owner **Joseph F. Pepe** have been ordered to pay nine employees a total of \$1,274.29 after failing to pay the workers the legally required wage on a public transportation project. The AG's office found that Broadway underpaid workers for more than six months while employed on the MBTA Rail Station Ashland and Northboro public works project. AG inspector John Gatti, Jr. investigated the case.

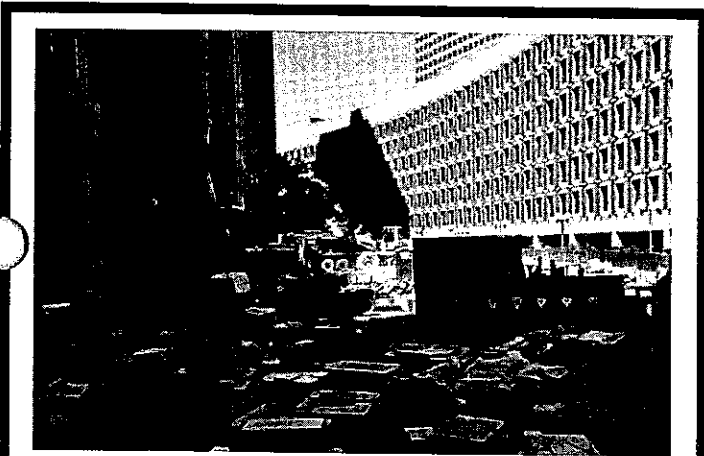


The Fair Contractor is a publication of the non-profit Foundation for Fair Contracting of Massachusetts. The FFCM mailing address is Box 256, State House Station, Boston, MA 02133. The Fair Contractor accepts letters to the editor. For information, call 1-800-224-FAIR or write www.ffcm.org.

Awarding Authorities: Make Sure You Get Your Payrolls

Massachusetts state law requires that contractors submit certified payroll records to their awarding authorities every week that they're employed on a public works project. Make sure you get yours. Monitoring records regularly can help ensure that work is

proceeding in a timely and legal fashion, saving you money and headaches. For more information on how to monitor records, contact the Foundation for Fair Contracting at 1-800-224-FAIR.



Do you need help sorting out Massachusetts construction law? Let the Foundation For Fair Contracting help. We've been assisting public construction workers, contractors and cities and towns make sense of the law for more than a decade. If you've got a question for the FFCM, call 1-800-224-FAIR.

Contractors Cited for Failing to Submit Payroll Records

Three cites could mean debarment

What happens to contractors who fail to turn over payrolls to their awarding authorities? They get a fine and a citation. What's more, contractors who are cited multiple times must worry about the state's 'three strikes' law which which bars companies guilty of a triple violation from bidding on public works projects.

The following contractors have been cited by the AG's office for failing to provide true and accurate certified payroll records:

LB Form Company of Oak Bluffs, MA and owner **Laurie Turney**, Chillmark Free Public Library public works project.

John T. Callahan and Sons, Inc., of Bridgewater, MA and its owner **John T. Callahan, III**, Forest Grove Middle School public works project in Worcester.

Alpha Painting and its owner **Anthony Boutalis** of Roslindale, MA, Beverly Housing Authority public works project.

Ajax Construction Co., Inc. and its owners **Benjamin T. Watkins** of Harrisville, RI, Blackstone-Millville New Regional Middle School public works project between 9/28/02 and 11/2/02.

Poulin Enterprises Co. and its owner **Ernest J. Poulin** of Hudson, NH, Mill Pond Intermediate School project in Westborough.

Contractor Hall of Shame, from previous page

Durable Athletic Systems and its owner **James F. Bailey** of Pembroke, MA owe two workers a total of \$1,082 after failing to pay them the prevailing wage for work they did on the Alden Elementary School project in Duxbury. The Attorney General's office also fined the company an additional \$500 for failing to submit accurate certified payroll records while working on the Duxbury project. Inspector Robert Lamarre investigated the case for the AG's office.

Paul Bilafer, owner of **Bilafer Landscaping** in Framingham has been sentenced to 10 days in jail by the AG's office. Earlier this year, Bilafer pled guilty to seven counts of failure to pay wages, one count each of failure to pay overtime to five employees, failure to pay unemployment contributions and failure to provide payroll records to the AG's office. No word on whether he used his landscaping skills to spruce up the house of corrections.

Two Painting Contractors to Pay Thousands for Wage Violations

Painting contractors based in Malden and Dracut have been ordered to pay a total of \$55,000 after underpaying workers on a public works project at the University of Massachusetts Dartmouth. Avalon Painting Co., and its owner, Andre R. Silva, were cited by the AG's office for failing to pay more than \$14,000 to four Brazilian immigrants who worked on the project. Avalon was also cited for failing to pay four employees overtime pay totaling \$15,000. The AG cited Avalon a third time for intentionally failing to pay two employees their last week's wages.

Arruda's Painting, a subcontractor of Avalon on the UMass Dartmouth project, was cited for similar offenses. Its owners, Elizabeth Goncalves and Jose Carlos Arruda, received citations for violating the state's prevailing wage, overtime and record keeping laws. Arruda must pay two Brazilian immigrant employees more than \$14,000 in back wages.

"It seems that the AG is serious about combating prevailing wage violations, even in a time of tight resources," says FFCM monitor Chris Burger. "The AG is sending a message: defrauding public construction workers, immigrant or otherwise, is unacceptable." The FFCM heard from workers who were painting dormitories on the Dartmouth campus that Arruda was paying them \$8-\$15 an hour.

Wanted: Responsible Employers


Continued from front

To this end, a growing number of municipalities have adopted ordinances that allow them to assess the manner in which contractors treat their employees before signing them on for big public projects. The local laws, known as Responsible Employer Ordinances, provide cities and towns with a checklist of requirements that general bidders and filed sub-bidders must meet in order to do business in a given community.

In communities from Amherst to Boston, contractors bidding on public projects must demonstrate that they are in compliance with the state's prevailing wage laws, that they classify their workers as employees, not independent contractors, and that they provide medical benefits to workers engaged in one of the state's most dangerous industries.

Most of the REO's currently on the books in 17 Massachusetts cities and towns also require that contractors who do public construction have an apprenticeship program that is registered with the state. That's important, notes Courtney, as the state has established safety and training criteria for apprenticeship programs. "A contractor's level of commitment to apprenticeship training is a good overall indicator of his regard for the industry and for the community that hires him. Is the employer investing in the future of a skilled workforce, or does he view apprentices as a source of cheap labor? The answer to that question will speak volumes about what kind of work your community can expect."

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