

The Prevailing Wage



Watch

Volume Six, Issue Two

A Newsletter for Construction workers

Fall 2005

The Foundation for Fair Contracting of Massachusetts calls this publication “The Wage Watch” for a good reason—we’re committed to helping public construction workers get the wages and benefits they’re entitled to under state and federal law. Our goal is to help you understand your legal rights and what you can do if those rights are being violated.

ASSESS THE JOB

State and federal laws say that if you are a construction worker employed on a project that’s funded by public money—think schools, roads, or buildings that serve the public—then you are entitled to receive the prevailing wage. If your employer is paying you less, he or she is breaking the law and you may be able to get that money back.

LOOK FOR THE RATE SHEET

How much should you be making? Each job site is required to post a rate sheet listing the various trades and their rate of pay. Note: if you can’t find a rate sheet on your job site, try the Clerk of the Works’ trailer, or call the FFCM at 1-800-224-FAIR.

AND LOOK AGAIN

Many trades receive what are called “step increases,” gradual increases in the rate of pay that go into effect every six months to a year. The rate sheet for your job will also indicate whether—and when—you are entitled to a step increase.

LOCATION, LOCATION

Some contractors tell their workers that they are not

covered by the prevailing wage because the employer—or the worker—is based in a different state. Not true. As long as the work is being done in Massachusetts, the laws of the Commonwealth apply. And that means that if it’s a public job, the prevailing wage applies.

HOW ARE YOU CLASSIFIED?

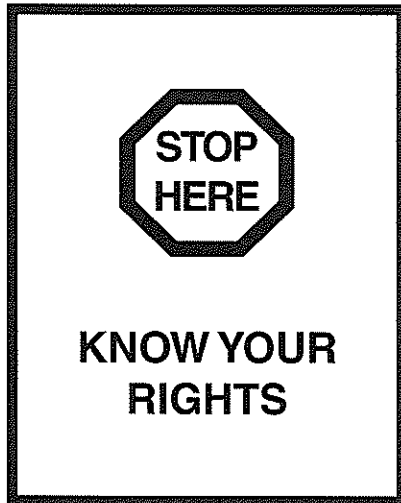
Next to underpayment of wages, the most common complaint the FFCM hears from construction employees is misclassification - recording workers as working in one trade when they are actually working in another. (Coincidentally this ‘mistake’ almost always means lower pay.) If this is happening to you, make sure to keep track of the kind of work you’re doing.

OVERTIME

The law couldn’t be any clearer on this one: if you work more than 40 hours per week, you’re entitled to overtime, or one and a half times your hourly rate. Note: overtime rules are not task specific. If you put in more than 40 hours a week for a specific employer, you should be getting time-and-a-half, no matter what kind of work you’re doing.

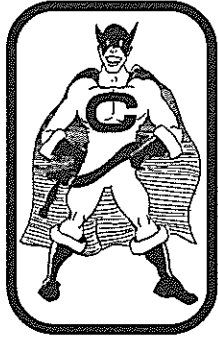
BETTER SAFE THAN SORRY

If you think that you’re being paid less than the prevailing wage on a public job, you haven’t been getting overtime, or suspect that there is something shady going on with your benefits—don’t wait till it’s too late to get what you’re owed. Document what kind of work you’ve been doing, for how long and at what rate, then contact the FFCM about filing a claim. All calls are confidential.



You suspect that you’re not getting what you should, but what to do next? The answer is simple: Keep good records. Too many complaints about underpayment of wages and about overtime and benefits are handicapped by a lack of information, so it becomes ‘your word against mine’. To break this logjam, you’ll need to document what kind of work you’ve been doing and the wages and benefits you’ve received.

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Compliance Man

In every Wage Watch issue, Compliance Man answers your questions about your rights as a public construction worker. And plenty of questions there are—I get letters, phone calls and e-mails from workers just like you almost every day.

While I love hearing from you (keep the questions coming!), many of the queries are very similar. So in this issue, I've revisited some of the topics that seem to come up repeatedly. Here's a look:

Q “What is the FFCM and why are you sending me a letter?”

A The FFCM monitors public construction projects all over the state, making sure that contractors who receive public money are paying their workers the prevailing wage.

The Foundation for Fair Contracting sends out thousands of letters a year to public construction workers, informing them of what they are entitled to.

Q “ So does that mean that my employer is cheating me?”

A Look carefully at the letter and you'll notice that we have included information about the rate recorded by your employer and other important

issues like job classifications and overtime. Check the information in the letter against your pay stub. If things don't match, there may be a problem.

Q “My boss is paying me less than the prevailing wage. Is there anything I can do?”

A Yes! The FFCM helps you get back money you might be owed and works with the Attorney General's office to make contractors like yours aware of their legal obligations to their employees. Our monitors will help you determine how much money you're owed and assist you in filing a claim with the AG's office. One guarantee: the key to a strong case lies in good record keeping. If you think that you are being cheated on the job, start keeping track of the work you're doing and how much you're being paid for it ASAP. We can send you a logbook to help you keep track.

Q “I'm worried that there is something fishy going on with my pension plan—but my employer discourages me from asking questions.”

A Under federal law, your employer is required to provide you with a copy of what's called the Summary Plan Description (SPD), including information on what your plan provides and how it operates. You are also entitled to receive annual financial reports, individual benefit statements and other pension-related documents. Failure to provide such information could result in a penalty for your employer. If you have pension problems, give us a call at 1-800-224-FAIR.

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Keep track of the hours you work, where you are working and the different trades you are performing. Hint: an FFCM logbook makes recordkeeping a snap. Order yours today.

Keep a copy of your checks, pay stubs or electronic payroll statements.

Begin keeping records as soon as you suspect a problem. The older a complaint is, the less likely it is to be resolved in your favor. What's more, Massachusetts has a relatively short statute of limitations for employee complaints: two years for overtime complaints, three years for prevailing wage cases.

To order an FFCM logbook, call 1-800-224-FAIR, or write to us at info@ffcm.org



The Wage Watch 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 Wage Watch accepts letters to the editor. For information, call 1-800-224-FAIR or write www.ffcm.org

The Rap Sheet

The following contractors have been cited 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.

Lampasona Concrete Corp. and its president, Anthony Lampasona, Jr. of Franklin, MA, has agreed to pay more than \$73,000 in back wages and a \$1000 penalty after failing to pay overtime to 65 current and former employees on multiple public construction projects from 2002 through 2004.

D & D Enterprises, Inc and its owners, Raymond J. Delmonico and Matthew Delmonico of West Bridgewater, MA, have been ordered to pay \$26,967 in back pay and penalties after failing to pay an employee the prevailing wage on multiple public works projects between April and September of last year.

American Contractors and its owner, Lawrence Derosier, have been ordered to pay a total of \$11,348 in back wages and civil penalties after misclassifying workers that were employed on the Greenfield High School re-roofing project. Five employees were misclassified as laborers when they were really roofers.

J.D. Contracting Inc. and its president, John J. Kane, of Monson, MA and Wilbraham, MA, have been debarred and forced to pay \$11,800 in back wages after failing to pay the prevailing wage on a public works project at the University of Massachusetts, Amherst. The AG's office debarred the contractor after citing him for wage-related violations on multiple occasions.

Lighting Retrofit Services, Inc., and owners Richard Cohee and Thomas Nutile of Wilmington, MA must pay a total of \$6,698 in back wages and penalties after failing to pay an employee the prevailing wages for work performed on the UMass Amherst Energy Conservation and Electrical Retrofit project. The violations occurred between October 2004 and January 2005.

Lonsdale Concrete Construction Inc. and its president, Jose C. Almeida of Cumberland, RI, have been ordered to repay a total of \$3,796 after failing to pay the prevailing wage to 23 workers on the Kingston New Town Hall project. Payroll records

showed that the company was paying laborers less than the rate required by state law.

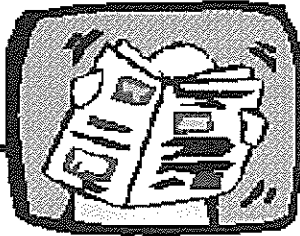
Owens Insulation and its owner, Steven J. Owens, of Danvers, MA, have been cited three different times by the AG's office for failing to pay employees the prevailing wage as well as failing to submit true and accurate payrolls as state law requires. Owens must pay a total of \$2,875 for violations that occurred on the Winthrop Center Elementary School, the Salem Witchcraft School and the Peabody Carroll Elementary School public works projects.

Proline Industries and its president, David Cheffro, of Hyde Park, MA must pay a total of \$2,502 after the AG's office found the contractor had failed to pay the prevailing wage on the Brookline Lawrence Elementary School project, and had failed to submit true and accurate payroll records as required by state law.

Sommer Electric, Inc. and its owner, Donald R. Sommer, Jr., of Adams, MA, have been ordered to pay back a total of \$1,515 after failing to pay two employees the prevailing wage while employed on the Town of Montague's Fire Department Headquarter Construction public works project.

Ramco Survey Stake Co. and its president, Marcia McCloud, of West Bridgewater, MA, have been cited five times by the AG's office for underpaying workers on multiple public works projects, including the Walpole Elementary School & Milton High School public works project projects. Contractor had to pay almost \$3,000 in restitution to the employees and \$2,000 in penalties.

Taplin Landscaping, LLC and its manager James M. Taplin, Jr., of Pepperell, MA, have been ordered to pay back \$330 to six employees and \$200 civil citation for unintentional failure to pay employees the prevailing wage while working on the Stoughton MWRA Connection Transmission project.



10 WARNING SIGNS THAT COULD AFFECT YOUR FUTURE

A 401(k) can help you save for retirement, but beware of fraud. The following warning signs could indicate trouble ahead.

- ✓ Your 401(k) or individual account statement is consistently late or comes at irregular intervals.
- ✓ Your account balance does not appear to be accurate.
- ✓ Your employer failed to transmit your contribution to the plan on a timely basis.
- ✓ A significant drop in account balance that cannot be explained by normal market ups and downs.
- ✓ Your 401(k) or individual account statement shows that your contribution from your paycheck wasn't made.
- ✓ Investments listed on your statement are not what you authorized.
- ✓ Former employees are having trouble getting their benefits paid on time or in the correct amounts.
- ✓ Unusual transactions, such as a loan to the employer, a corporate officer or one of the plan trustees.
- ✓ Frequent and unexplained changes in investment managers or consultants.
- ✓ Your employer has recently experienced severe financial difficulties.

Where to Find Help

FFCM Hotline - 1-800-224-FAIR

The Massachusetts Attorney General's Fair Labor and Business Practices Division:

**One Ashburton Place
Boston, MA 02108
617-727-3465**

**1350 Main St. 4th Floor
Springfield, MA 01103
413-784-1240**

**One Exchange Place
Worcester, MA 01608
508-792-7600**

**184 North St.
Pittsfield, MA 01201
413-447-7324 x218**

**105 William St.
New Bedford, MA 02740
508-990-9700**



**Division of Apprentice Training
1-617-626-5409**

**IRS - For tax-related questions
1-800-829-3676**


**National Labor Relations Board
1-617-565-6700**

**Occupational Health & Safety Administration
1-617-565-8110**

**Massachusetts Department of Labor
1-617-727-3492**

**US Department of Labor (federal projects)
1-617-624-6700**

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