The Commonwealth of Massachusetts

DEPARTMENT OF LABOR AND INDUSTRIES

LEVERETT SALTONSTALL BUILDING

100 CAMBRIDGE STREET, ROOM 1107

BOSTON, MASSACHUSETTS 02202-0003

NOTICE

TO: All Massachusetts Cities and Towns

FROM: Department of Labor and Industries

RE: Prevailing Wage

DATE: September 29, 1995

It has come to the attention of the Department of Labor and Industries ("DLI") that municipalities within the Commonwealth have been entering into arrangements with utility companies or private contractors to equip publicly-owned facilities with energy-saving devices. The following are just a few examples of the types of projects of which DLI has been made aware: energy-efficient light retrofitting, heat-efficient window installation, air-conditioning alteration, installation of thermal insulation, and heating system alterations.

In certain circumstances, cities and towns have been operating under the erroneous assumption that if a significant portion of the funds used to finance these projects are provided by the utility company or other private funding source, then the Commonwealth's prevailing wage requirements are necessarily inapplicable. Depending on the particular facts of the contract at issue, the prevailing wage requirements may indeed apply. Moreover, the fact that the work at issue is to be performed by a contractor hired by the utility company, as opposed to the public authority, does not necessarily exempt the project from the Commonwealth's prevailing wage requirements.

If a city or town believes that a contract to install energy-savings devices in any of its facilities may be exempt from the Commonwealth's prevailing wage laws, the municipality must request that DLI review the relevant facts and render a determination on the applicability of the prevailing wage requirements to the proposed project. Such requests should be forwarded to DLI, attn: Robert J. Prezioso ((617) 727-8519), prior to the time that any agreement is reached with the utility company.

Thank you for your anticipated cooperation.