

The Commonwealth of Massachusetts
Department of Labor and Workforce Development
Division of Occupational Safety

ANGELO BUONOPANE
Director

ROBERT J. PREZIOSO
Deputy Director

December 24, 1998

Christopher Gagliastro
City of Worcester
455 Main St., Room 404
Worcester, MA 01608

SUBJECT: REQUEST FOR TRADE CLASSIFICATION

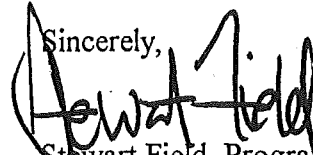
Dear Mr. Gagliastro:

I am in receipt of your correspondence dated December 17, 1998 requesting clarification of a certain occupational classification appearing on a prevailing wage schedule. In your letter, you ask me to determine whether certain employees of Jacor, Inc. are "laborers", as Jacor, Inc. claims. To assist me in my determination, you included the scope of work for Section 07100, *Dampproofing, Waterproofing & Caulking*, the subcontract held by Jacor, Inc. The subcontract calls for, among other things, installing waterproofing membranes on exterior metal facings, masonry, concrete foundations and interior/exterior caulking.

As you may know, the Division of Occupational Safety, when determining the occupational titles and rates of pay that appear on the prevailing wage schedules, is obligated to use "certain trades and occupations" appearing in "collective agreements." (See M.G.L. c. 149, s. 26) One such agreement currently in effect in the City of Worcester represents the International Union of Bricklayers and Allied Craftworkers, Local 1. The craft jurisdiction language, terminology in the collective agreement which defines the work of bricklayers, masons, waterproofers and plasters includes, in part, waterproofing and caulking of brick, cement, stone and artificial masonry and weatherproofing of all buildings (components). The work of a "laborer", as defined by the collective agreement representing the Laborers' District Council, includes work necessary to *tend* carpenters, *masons* and other building trade craftsmen. No mention is made of the work as defined in Section 07100, *Dampproofing, Waterproofing & Caulking*, the subcontract in question.

Therefore, all employees who are directly engaged in the application of either waterproofing or caulking material should be paid in accordance with the "bricklayer/mason/waterproofing/plasterer" classification. Other employees who perform semi-skilled labor, such as delivering materials to other craftsmen or debris cleanup, should be paid the "laborer" rate.

This determination is based on representations contained in your December 17, 1998 letter, and is confined to this particular situation. Should additional facts come to your attention, please inform me so that I may reassess this determination.

Sincerely,


Stewart Field, Program Manager
Mass. Division of Occupational Safety

cc: Robert Prezioso, Deputy Director
Mass. Division of Occupational Safety

Linda Hamel, General Counsel
Mass. Division of Occupational Safety