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April 26, 2000

BY FAX & REGULAR MAIL

Attorney Mickey Long
11 Beacon Street, Suite 520
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Re: Craft jurisdiction for ironwork and associated work activities on prevailing wage work sites

Dear Attorney Long:

Thank you for your letters to me requesting trade classification determinations for purposes of compliance with the prevailing wage law. You have set forth several work activities in your correspondence and inquired whether, for prevailing wage projects, such activities fall within the Ironworker jurisdiction.

The Department of Labor and Workforce Development ("DLWD"), through authority delegated to its Division of Occupational Safety ("DOS"), administers the prevailing wage law for construction of public works (M.G.L. ch. 149, §§26-27D). Sections 26 and 27 of the statute authorize DLWD to classify public works jobs and set the rate of pay for such classifications in accordance with established collective bargaining agreements in the construction industry. As such, DLWD looks to the language of existing collective bargaining agreements in making trade jurisdiction determinations.

The Supreme Judicial Court, in Construction Industries of Massachusetts v. Commissioner of Labor and Industries (406 Mass. 162 (1989)), required the agency, in rendering these determinations, to focus on the central inquiry "what do (the workers) do at the site?" To that end, DLWD analyzes the specific nature of the activity performed juxtaposed against the trade jurisdiction descriptions of the relevant collective bargaining agreements.

It is important to note, then, that your focus on the filed sub-bid language contained in M.G.L. ch. 149, §44F (as articulated in the three questions contained in your February 21, 2000 letter) is somewhat misplaced. The fact that "miscellaneous and ornamental iron" work is awarded under a filed sub-bid on a public works project does not necessarily result in a requirement that all work activities contained in that sub-bid be paid at an Ironworker rate.

DLWD makes the following trade classification determinations for the work activities you have outlined in your correspondence.

04/20/00

Craft jurisdiction for ironwork and associated work activities on prevailing wage work sites

Page 2 of 2

Erection and Construction of Iron and Other Metals

The craft jurisdiction language in the collective bargaining agreements for each of five Ironworker locals with territorial jurisdiction in Massachusetts (Locals 7, 12, 37, 57, and 357) claims "... the erection and construction of all iron, steel, ornamental lead, bronze, brass, copper, aluminum, all ferrous and non-ferrous metal..." as Ironworkers' work. Therefore, it is clear that the following activities, delineated in your letters, fall under the craft jurisdiction of the Ironworker: marking, aligning, placing, tying, or otherwise installing iron components, reinforcing steel rods, structural precast beams, or miscellaneous metal components.

Loading and Unloading of Iron and Other Metals at Work Site

The loading and unloading of iron and other metal components at the work site fairly falls within the Ironworkers jurisdiction. While the language of the Ironworker agreements does not specifically address "handling," the relevant language in the Laborers' statewide Building and Site Construction Agreement pertaining to this activity claims only "unloading, handling and distributing of all materials... from point of delivery to stockpiles and from stockpiles to approximate point of installation" as Laborers' work. Therefore, loading and unloading of such materials at the point of installation (ie. the work site) appears to properly constitute Ironworkers' work.

Grinding, Burning, Welding and Bolting of Iron and Other Metals

The relevant language in Ironworker agreements further specifies "... (the) making and installation of all ... material altered in the field such as: framing, cutting, bending, drilling, burning, and welding..." as within the Ironworkers trade autonomy. Therefore, it is apparent that Ironworkers may successfully claim jurisdiction over the following additional activities as described in your correspondence: grinding, burning, welding, weld-slag chipping, and bolting of iron or miscellaneous metal components.

I hope this information is useful in clarifying the appropriate trade jurisdictions for various activities associated with ironwork on prevailing wage work sites. As per the discussions, I have had with Paul McNally and Joe Quilty, the Department will always review any amendments to collective bargaining agreements submitted by the interested parties and modify its prevailing wage classifications and jurisdiction determinations consistent with those amended terms as the statute requires. If you have any questions or concerns about this matter, please do not hesitate to contact me.

Sincerely,



Angelo R. Buonopane
Director

Cc: Paul T. O'Neill, DLWD General Counsel
Robert J. Prezioso, DOS Deputy Director
Linda Hamel, DOS General Counsel
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