



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY

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September 10, 1999

Francis X. Flaherty, Jr.
Assistant Attorney General
Office of the Attorney General
200 Portland Street
Boston, MA 02114

Dear Mr. Flaherty,

You have asked me to determine whether the prevailing wage law applies to a contract for the replacement of glass at the Suffolk County Jail entered by the Sheriff of Suffolk County.

Your letter notes that the contract is for the replacement, on an as-needed basis, of glass panes which have already been purchased and are stored on site at the Jail.

Under Mass. Gen. L. ch. 149, sec. 26 and 27, the prevailing wage law applies to the "construction of public works" by "a county". The Suffolk County Jail is clearly a "public work" as that term has been interpreted by the Division of Occupational Safety, and the contract at issue has clearly been entered by a county. The remaining question is whether the activities contracted for constitute "construction".

Section 27D of Mass. Gen. L. ch. 149 defines "construction" to include, among other things, "additions to and alterations of" public works. Your letter implies that the contract will not require the contractor to provide window glass, since the replacement glass needed is already stored at the Jail. Regardless of whether the contractor will supply materials or not (and it is a fair guess that it will supply some materials, given that the contract states, in line J., that the county will supply no materials, and, in line D., that the contractor will provide "any and all equipment and supplies necessary to provide above services"), it appears that the contract is subject to sections 26 and 27 of the prevailing wage law. At the very least, the contract at issue is a service contract for the repair of a public work. DOS, and its predecessor DLI, have

consistently interpreted the repair of public works to constitute "additions to and alterations of" public works.

Please feel free to call me if you have any further questions about this matter.

Very truly yours

A handwritten signature in cursive script that reads "Linda M. Hamel". The signature is written in black ink and is positioned above the typed name.

Linda M. Hamel
General Counsel
Division of Occupational Safety

cc: R. Prezioso
B. Piselli

E. David Susich
Asst. General Counsel
Suffolk County Sheriff's Department