

CITY OF CAMBRIDGE
PURCHASING DEPARTMENT
INTEROFFICE CORRESPONDENCE

TO: Robert Healy, City Manager

FROM: Gail Cohen *gc*
Purchasing Agent

RE: Council Order #032, dated 1/22/96 RE: ENSURING COMPLIANCE
BY CONTRACTORS AND SUB-CONTRACTORS OF STATE, FEDERAL AND
LOCAL LAWS WHILE ON CITY PROJECTS

DATE: February 7, 1996

Please find attached a response to the above-referenced City
Council order regarding compliance with the prevailing wage law.
Please call me if additional information is needed.

RECEIVED
96 FEB -7 PM 2:12
OFFICE OF THE CITY MANAGER

The City uses the following procedures to verify that contractors are complying with the prevailing wage law.

Before construction begins, the City has a preconstruction meeting with the general contractor and major subcontractors. The Purchasing Agent explains the Contractor's requirements regarding certified payroll submission. The Purchasing Agent also explains the City's enforcement procedures; i.e. withholding payments, notifying the Attorney General's office.

Prevailing wage rates schedules are posted on the job site. Certified payrolls are completed by the general contractor and its subcontractors. These documents (see attached form), indicate the name and address of employee, his/her work classification, the hours worked, the hourly wage rate and benefits. Certified payrolls are signed by company official under the pains and penalties of perjury, usually a financial officer or the president of the company. All payrolls are submitted through the General Contractor, within ten days of the end of the pay period, to the Clerk of the Works. If the project does not have a Clerk of the Works, the payrolls are submitted to the Architect or Engineer. If the project has no Architect or Engineer associated with it, the payrolls go directly to the Purchasing Agent.

The Clerk of the Works reviews the payrolls and compares them with his/her daily job reports to see if the workers and hours represented on the payrolls compares with the actual workforce on site during the payroll period. The Clerk of the Works rejects any payrolls that appear erroneous in wages, employee designation or hours worked. The Clerk of the Works sends the original payrolls to the Purchasing Agent and saves copies for his/her files. The Purchasing Agent compares the payrolls with the wage rate schedules in the contract. The Purchasing Agent calls the Clerk of the Works or calls or writes the Contractor if she/he sees discrepancies.

If payroll discrepancies are not corrected at time of submission of the final draft of application for payment, payment for that portion of work is withheld until the problem is fixed. The City is currently withholding over \$25,000 in payments to Seaver, the general contractor on the Senior Center, due to incomplete or incorrect certified payrolls issues. The City does not regularly check employees stubs.

Seaver was awarded the contract for construction of the Senior Center on March 4, 1994. On May 31, 1994 the City sent a letter (attached) to the Attorney General's office expressing concerns about payment of prevailing wage by Feddy General Construction Inc. The City has been in constant contact with the Attorney General's office over the last year. We have promptly responded and cooperated with all their requests for information.

The Purchasing Agent responded to the Attorney General's request for copies of all Clerk of the Works daily reports and all certified payrolls (over 1,800 pages) on April 4, 1995.

In May 1994, the Purchasing Agent, the DPW Supervisor of Public Construction, the Clerk of the Works and a member of the Law Department met several times to discuss payroll problems on the Senior Center project. Arthur Goldberg sent letter to several contractors, including Ouellet (attached), asking them to explain or correct their payrolls. Ouellett called Mr. Goldberg and claimed that the forms were confusing but that they were paying prevailing wage. Ouellett did not respond in writing, although they said they would.

The Supervisor of Public Construction and the Clerk of the Works met with the Attorney General's office on Thursday, June 22, 1995 to discuss payrolls. The following Wednesday, June 28, 1995, members of the Attorney General's office came to the job site to interview workers.

Certified payrolls are public records and the Purchasing Department responds to all requests for copies within the mandated ten (10) day period. Public record requests add another layer of scrutiny to the payrolls. The Senior Center has received five public record requests since construction began.

The issue of compliance with prevailing wage rate requirements was frequently addressed during the course of the Senior Center project. In fact, it appears as an official agenda item in more than thirty percent (30%) of the weekly progress meeting minutes. The City has made every effort to monitor compliance and has continually offered assistance and guidance to the General Contractor and his/her subcontractors on their obligations regarding this statute.

WEEKLY PAYROLL REPORT FORM

Company Name: _____

Project Name: _____

Awarding Auth.: _____

Work Week Ending: _____

☐ Prime Contractor

☐ Subcontractor

List Prime Contractor: _____

Employer Signature: _____

Print Name & Title: _____

☐ Final Report

Employee Name & Address	Work Classification	Hours Worked							(A) Tot. Hrs.	(B) Hourly Base Wage	Employer Contributions			(F) [B+C+D+E] Hourly Total Wage (prev wage)	(G) (A*F) Weekly Total Amount
		S	M	T	W	T	F	S			(C) Health & Welfare	(D) Pension	(E) Supp. Unemp.		

NOTE: Every contractor and subcontractor is required to submit a copy of their weekly payroll records to the awarding authority.



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 TEL 349-4310

PURCHASING DEPARTMENT

DIANE WYNshaw-BORIS

PURCHASING AGENT

May 31, 1994

Paula Niziak, Assistant Attorney General
Office of the Attorney General
100 Cambridge Street
Boston, MA 02202

RE: Contractor-Seaver Construction
Project-Cambridge Senior Center

Dear Ms. Niziak,

As I indicated to you on May 27, 1994, there has been some concern with regard to payment of the prevailing wage on the above-captioned project. When this issue first arose, we obtained, through the project architect, copies of notarized statements from the workers suspected of not having received the minimum prevailing wage. The statements, which are enclosed herein, aver that they in fact have been paid the minimum prevailing wage. Several days ago, it was alleged that one of the laborers signed the statement under duress and is still being paid less than the minimum wage. In the interest of everyone concerned, we are submitting this information to your office for further investigation, if you deem it necessary.

Thank you.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Diane Wynshaw-Boris", written over a horizontal line.

Diane Wynshaw-Boris

DWB/iam

cc: Robert W. Healy, City Manager
Richard C. Rossi, Deputy City Manager

*Contract
file*

16 May 1994

Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Attn: Ms. Diane Wynshaw-Boris
Purchasing Agent

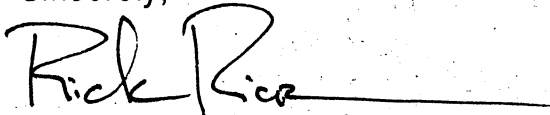
Re: Cambridge Senior Center
Wage Rates

Dear Diane:

We are aware that the City is concerned about allegations that workers at the Senior Center project are not being paid the prevailing wage. Please find attached for your information and records, notarized statements from the workers in question, stating the prevailing wage has in fact been paid to them. These documents supplement the certified payroll reports which have been submitted by Seaver Construction and are, to date, in order.

Should you have any comments or questions regarding the above, please do not hesitate to contact me.

Sincerely,



Richard N. Rice
DiNISCO KRETSCH

RNR/apc

cc: Richard Rossi
Gerald Boyle
William Gambill
Clerk of Works

ACKNOWLEDGMENT AND WAIVER

I, Elgin L. Clay, hereby acknowledge and agree as follows:

1. I have been employed by FEDDY GENERAL CON. INC. (Subcontractor) on the CAMBRIDGE SENIOR CENTER Project.
2. The Subcontractor has paid me at the prevailing wage rate of \$24.45 per hour for all hours I have worked on the project through and including 5/6/94.
3. The General Contractor on the Project, SEAVER CONSTRUCTION, INC., is relying upon the representations I am making in this acknowledgement and waiver in making payments to the Subcontractor.
4. I hereby waive and relinquish any and all claims which I may have against any party for prevailing wages for all work I have performed on the project through and including 5/6/94.

Signed under seal and under pains and penalties of perjury this 9th day of MAY 1994.

Elgin L. Clay

COMMONWEALTH OF MASSACHUSETTS

438 84-5583, SS.

Then personally appeared Elgin L. CLAY, being duly sworn by me,

acknowledged that he/she is the said _____, and that the foregoing is his/her free act and deed before me.

[Signature]
Notary Public

My Commission Expires: JAN. 18, 1994

ACKNOWLEDGMENT AND WAIVER

I, Anthony J. Emerson, hereby acknowledge and agree as follows:

1. I have been employed by FEDDY GENERAL INC (Subcontractor) on the CAMBRIDGE SENIOR CENTER Project.
2. The Subcontractor has paid me at the prevailing wage rate of \$34.45 per hour for all hours I have worked on the project through and including 5/6/94.
3. The General Contractor on the Project, SEAVER CONSTRUCTION, INC., is relying upon the representations I am making in this acknowledgement and waiver in making payments to the Subcontractor.
4. I hereby waive and relinquish any and all claims which I may have against any party for prevailing wages for all work I have performed on the project through and including 5/6/94.

Signed under seal and under pains and penalties of perjury this 9th day of MAY 1994.

Anthony J. Emerson

COMMONWEALTH OF MASSACHUSETTS

013-56-074K, SS.

Then personally appeared ANTHONY J. EMERSON being duly sworn by me,

acknowledged that he/she is the said _____, and that the foregoing is his/her free act and deed, before me.

[Signature]
Notary Public
My Commission Expires: JAN, 18, 1994

ACKNOWLEDGMENT AND WAIVER

1. Deodoro Cruzado, hereby acknowledge and agree as follows:

1. I have been employed by Feddy General Con (Subcontractor) on the Cambridge Senior Cent Project.
2. The Subcontractor has paid me at the prevailing wage rate of \$24.45 per hour for all hours I have worked on the project through and including 5/6/94.
3. The General Contractor on the Project, SEAYER CONSTRUCTION, INC., is relying upon the representations I am making in this acknowledgement and waiver in making payments to the Subcontractor.
4. I hereby waive and relinquish any and all claims which I may have against any party for prevailing wages for all work I have performed on the project through and including 5/6/94.

Signed under seal and under pains and penalties of perjury this 13 day of May 1994.

Deodoro Cruzado

COMMONWEALTH OF MASSACHUSETTS

015-56-2990, SS.

Then personally appeared Deodoro Cruzado, being duly sworn by me, acknowledged that he/she is the said employee, and that the foregoing is his/her free act and deed, before me.

Santo D. D.
Notary Public
My Commission Expires: 12-4-95

ACKNOWLEDGMENT AND WAIVER

1. Thomas Lopez, hereby acknowledge and agree as follows:

1. I have been employed by Teddy General Con (Subcontractor) on the Cambridge Senior Center Project.
2. The Subcontractor has paid me at the prevailing wage rate of \$24.45 per hour for all hours I have worked on the project through and including 5-6-94.
3. The General Contractor on the Project, SEAYER CONSTRUCTION, INC., is relying upon the representations I am making in this acknowledgement and waiver in making payments to the Subcontractor.
4. I hereby waive and relinquish any and all claims which I may have against any party for prevailing wages for all work I have performed on the project through and including 5-6-94.

Signed under seal and under pains and penalties of perjury this 9th day of May 1994.

Thomas Lopez

COMMONWEALTH OF MASSACHUSETTS

030-743069 SS.

Then personally appeared Thomas Lopez, being duly sworn by me, acknowledged that he/she is the said Lopez, and that the foregoing is his/her free act and deed, before me.

[Signature]
Notary Public

My Commission Expires: 2/8/96

ACKNOWLEDGMENT AND WAIVER

I, Diomeid Acevedo, hereby acknowledge and agree as follows:

1. I have been employed by Freddy General ^{contractor} (Subcontractor) on the Cambridge Sewerage Project.
2. The Subcontractor has paid me at the prevailing wage rate of \$25.45 per hour for all hours I have worked on the project through and including 5/6/94.
3. The General Contractor on the Project, SEAYER CONSTRUCTION, INC., is relying upon the representations I am making in this acknowledgement and waiver in making payments to the Subcontractor.
4. I hereby waive and relinquish any and all claims which I may have against any party for prevailing wages for all work I have performed on the project through and including 5/6/94.

Signed under seal and under pains and penalties of perjury this 9th day of May 1994.

Diomeid Acevedo

COMMONWEALTH OF MASSACHUSETTS

58P-3537-26, ss.

Then personally appeared Diomeid Acevedo, being duly sworn by me, acknowledged that he/she is the said employee, and that the foregoing is his/her free act and deed, before me.

[Signature]
Notary Public
My Commission Expires: 1-24-97



Seaver

CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139
Tel. (617) 349-4121
Fax. (617) 349-4134

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Michael C. Costello
Assistant City Solicitor

Legal Counsel

Birge Albright
Gail S. Gabriel
Arthur J. Goldberg
Linda A. Stamper
Deborah R. Cautela
Nancy E. Glowa

May 12, 1995

Marcel Ouellet
Ouellet Drywall Inc.
P.O. Box 7123
Nashua, NH 03060-7123

Re: Cambridge Senior Center

Dear Mr. Ouellet:

This letter is to bring to your attention several apparent discrepancies in the certified payrolls you have been filing for the above-referenced project.

It appears from the payrolls filed that some workers are being paid as though they are subcontractors, even though on site observations indicate that these workers are in fact acting as your employees. They are reporting to you for assignments instead of performing specific work pursuant to a subcontract. Your claim that these workers are subcontractors relieves you of the responsibility of paying for their workers' compensation coverage, social security, and other benefits. However, if they are in fact working for you as employees, then your failure to pay the benefits could be a violation of G.L.c. 152, s. 14(3), G.L.c. 151A, s. 47, and G.L.c. 149, s. 148B.

Enclosed are a few representative payrolls you have filed on which questions have arisen. Please reply to this letter within ten days of receipt and indicate how the discrepancies will be corrected. If a satisfactory response is not received promptly,

the City will be required to report any violation to the Attorney General's office. Such violations are also a breach of contract that could result in the City withholding payments to you.

You may call me with any questions concerning this matter.

Very truly yours,



Arthur J. Goldberg

cc. w/o enclosure: Richard Rossi, Dep. City Mgr.
Gail Cohen, Purchasing Agt.
Gerald Boyle, DPW
Rick Rice, DeNisco Design Partnership
Dante Cornelio, Seaver Construction

AG/nb



8.

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

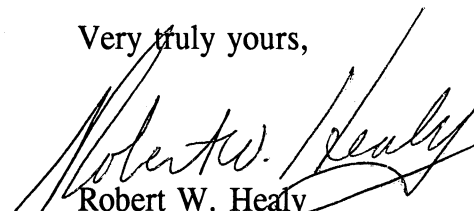
RICHARD C. ROSSI
Deputy City Manager

February 12, 1996

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 13, regarding ensuring compliance by contractors and sub-contractors of state, federal and local laws while on City projects, received from Purchasing Agent Gail Cohen.

Very truly yours,



Robert W. Healy
City Manager

RWH/mec
attachment

Consent Agenda #8

S-50

Relative to Awaiting Report
Item No. 13, regarding ensuring
compliance by contractors and
sub-contractors of state, federal
and local laws while on City Projects

In City Council February 12, 1996

Placed on file.