



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES

Prevailing Wage  
PO Box 44540 • Olympia, Washington 98504-4540  
360/902-5335 Fax 360/902-5300

November 30, 2011

Mr. Mark Massmann  
Massana Construction, Inc.  
135 Celtic  
Tyrone, GA 30290

Re: WSDOT Contract 7809  
Bridge 99/560 Pedestrian Barrier

Dear Mr. Massmann:

The September 27, 2011 letter you addressed to Labor & Industries' Industrial Relations Agent Reasa Pearson was referred to me for review and response.

Please refer to the attached September 8, 2011 letter I sent to Mr. Randy Dubigk of the Washington State Department of Transportation regarding this issue. I also sent a copy of the same letter to you on September 8.

Although I appreciate your noting that the worker photos Ms. Pearson provided you were not Massana employees, the purpose of the photo was to confirm the nature of the barrier being attached to the bridge. Please note also that the fact you may characterize the barrier as "not structural in any manner" does not change our position that the barrier installation substantially augments the bridge structure and is the work of Ironworkers (WAC 296-127-01339).

Fence Erectors (WAC 296-127-01328) engage in activities such as the following: "lays out fence line...marks for postholes...digs postholes with mechanical posthole digger or power-driven auger...attaches fence-rail support to post, using hammer and pliers...assembles gate and fastens in position, using hand tools...nails top and bottom rails to fence posts, or inserts them in slots on posts..." All of the types of activities listed in the Fence Erectors scope of work anticipate establishing a fence as part of a surrounding for a school, playground, residence, farm, or along a highway, and none of the activities described are as substantial as the structural enhancement under consideration here. This installation is a substantial addition to a bridge, augmenting the structure so as to create a barrier preventing pedestrians from jumping from it.

In further consideration of how to apply our scope of work descriptions to this situation, I reviewed the project details you provided, information available on the Washington State

Mark Massmann  
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Department of Transportation web site, and discussions with ironworkers and laborers/fence erectors regarding this project.

Please correct your Affidavit 344836 to indicate the correct worker classifications for the referenced work consistent with this determination and make sure you adjust payments to your workers accordingly.

Washington State prevailing wage information, including the WACs, is available on the Department of Labor & Industries web site:

<http://www.lni.wa.gov/TradesLicensing/PrevWage/default.asp>.

If you need additional information or have questions, please call or e-mail me at 360 902-5330 or [sela235@lni.wa.gov](mailto:sela235@lni.wa.gov).

Sincerely,



L. Ann Selover  
Industrial Statistician  
Program Manager

MASSANA CONSTRUCTION INC.  
135 CELTIC  
TYRONE, GEORGIA 30290  
PHONE 770 632 2081

September 27, 2011

Reasa L. Pearson  
Industrial Relations Agent  
Department of Labor & Industries

RECEIVED  
LABOR & INDUSTRIES

SEP 27 2011

Re Affidavit 344836

REGION 4 TUMWATER WA

Please accept the following as justification on Massana's decision to pay laborer and carpenter wages during the construction of the SR 99 pedestrian fence for WSDOT.

WSDOT awarded Massana a contract to construct a pedestrian fence. Specifically, the contract is "SR 99 Bridge 99/560 Pedestrian Fence 09A019 King County".

The function of the feature to be constructed under this contract is a fence to prevent suicidal people from jumping off the bridge. The function and feature is not structural in any manner.

As you correctly stated in your email, WAC 296 presents Ironworker scope of work to be "perform all work in connection with erecting and removal...of structural reinforcing iron and steel... aluminum and other materials when used in place thereof."

The flickr photos that you reference in your email were not of Massana employees constructing the pedestrian fence on this project.

During the course of the pedestrian fence construction WSDOT identified structural steel beams under the bridge that had deteriorated. WSDOT awarded Massana a change order to the contract to make repairs to the structural beams. Massana paid its employees ironworker wages to perform the repairs to the structural beams.

Respectfully,



Mark Massmann



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES  
*Prevailing Wage*  
PO Box 44540 • Olympia, Washington 98504-4540  
360/902-5335 Fax 360/902-5300

September 8, 2011

Randy Dubigk  
Contract Administration  
Washington State Department of Transportation  
310 Maple Park Avenue SE  
Olympia, WA 98504-7300

Re: WSDOT Contract 7809  
Bridge 99/560 Pedestrian Fence  
Potential Prevailing Wage Violation

Dear Mr. Dubigk:

Thank you for your August 22, 2011 letter in which you discussed a potential prevailing wage violation regarding the referenced project.

Unfortunately, I could not access the link you provided for the contract specifications and plans. However, I was able to locate many details on the project from the following web site location: <http://www.flickr.com/photos/wsdot/collections/72157623786319757>. Based on the information you provided, that I obtained from the referenced web site, and details from Mr. Don DeMulling, it appears to me that Ironworkers is the correct scope of work to apply to this project for erecting/installing a metal barrier/railing as part of the bridge structure. "Ironworkers perform all work in connection with. . . erection, installation, removal. . . of structural. . . reinforcing iron and steel. . . aluminum. . . or other materials when used in place thereof. The work performed by ironworkers includes, but is not limited to. . . bridges. . . gates, metal forms, railings (including pipe). . ." etc. See WAC 296-127-01339.

As you know, in addition to the actual work processes Ironworkers perform, Ironworkers' work also includes the "unloading, loading, distributing, stockpiling, hoisting, rigging, and handling of materials used by ironworkers and all cleanup work" [WAC 296-127-01399]. Laborers and Fence Erectors are not correct worker classifications for this work.

Massana Construction has filed an Affidavit indicating only 144 Ironworker hours, yet over 840 and 1900 hours for Fence Erectors and Laborers, respectively. We are in the process of returning their form for correction of the worker classifications.

Randy Dubigk  
September 8, 2011  
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Thank you for the project details you brought to our attention and for your follow-up and assistance in ensuring that appropriate wages are paid to workers on this project.

Regards,



L. Ann Selover  
Acting Industrial Statistician/Program Manager  
(360) 902-5330  
[Sela235@Lni.wa.gov](mailto:Sela235@Lni.wa.gov)

cc: Don DeMulling  
Mark Massmann