

## DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR  
455 Golden Gate Avenue, Tenth Floor  
San Francisco, CA 94102  
(415) 703-5050



February 18, 2002

Daniel Markoski, C.O.O.  
Metal Engineering  
1031 Kirkwall Road  
Azusa, CA 91702

Re: Public Works Case No. 2001-048  
Installation of Air Conditioning System at PDC-South  
Facility  
Metal Engineering/County of Los Angeles

Dear Mr. Markoski:

This constitutes the determination of the Director of the Department of Industrial Relations regarding coverage of the above-referenced project under the California prevailing wage laws and is made pursuant to title 8, California Code of Regulations, section 16001(a). Based upon my review of the facts of this case and analysis of the applicable law, it is my determination that the air condition construction work ("Project") at the PDC-South Facility of the County of Los Angeles ("County") is a public work subject to the payment of prevailing wages.

The Sheriff's Department contracted with Metal Engineering via purchase order for the supply and installation of galvanized air condition supply and return duct in ten buildings of the County Sheriff's Department PDC-South Facility. The Project was funded by the Inmate Welfare Fund ("IWF"). The IWF was established under California Penal Code section 4025, subsection (b) of which requires that an inmate welfare fund be kept in the County treasury. The IWF is administered by the Sheriff and governed by an Inmate Welfare Fund Commission of six private citizens appointed by the Sheriff. Public monies are used to purchase supplies for sale at jail vending machines and commissaries. Money received from these sales is used to reimburse the County for direct, out of pocket costs, then all profits are transferred to the IWF on an annual basis. *1998-1999 Study of the Los Angeles County Sheriff Department's Inmate Welfare Fund, Los Angeles County Grand Jury-Appointed Criminal Justice Committee.* In this case, money in the IWF funded an air conditioning system at the above-referenced facility.

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Labor Code section 1720(a) defines public works as: "Construction, alteration, demolition, or repair work done under contract and paid for in whole or in part out of public funds..."

The Project constitutes construction and alteration and is done under contract. The issue raised by Metal Engineering is whether the funding for the Project constitutes public funds because it is derived mostly from vending machine and commissary profits placed in the IWF.<sup>1</sup>

The County is legally required to keep the IWF in its treasury. In addition, public monies are used to purchase supplies, the profits from the sales of which are deposited into the IWF. Consistent with past precedential coverage determinations and legal authority, money deposited into public coffers is deemed to be public funds. For these reasons, the IWF funds are public funds and therefore the funds spent on the Project are also public funds.

In summary, the Project constitutes a "public work" under Labor Code section 1720(a) subject to the prevailing wage requirements of the Labor Code.

I hope this determination satisfactorily answers your inquiry.

Sincerely,

  
Stephen J. Smith  
Director

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<sup>1</sup> Metal Engineering also seems to argue that the Project is not a public work because it was never advertised for bid, but contracted for via purchase order. Whether a project was put out for bid has no bearing on whether it is a public work, and this Department has no jurisdiction over enforcement of public bidding requirements. Similarly, the form of the contract, whether it is a construction agreement or a purchase order, is of no moment in determining whether a project is a public work.