STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
Prevailing Wage
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July 6, 2010

Amy Joseph Pederson
Stoel Rives, LLP
900 S.W. Fifth Avenue, Suite 2600
Portland, OR 97204

Re: Contract No. 14013-US 101: Columbia River (Astoria-Megler) Bridge

Dear Ms. Pederson:

Thank you to you, Guy Randles and your client, Gail Svoboda of Abhe & Svoboda, Inc., for taking time to meet with us to discuss a clarification we provided regarding work Abhe & Svoboda is performing upon the above referenced project, specifically with respect to the correct scope of work to apply to Abhe & Svoboda's installation of a Safespan system on the project.

In a clarification dated September 25, 2009, we indicated to J. Michael Murphy, Contract Administration Coordinator of the Oregon Department of Transportation, that erecting and installing a Safespan system on this project was the work of Ironworkers, as that scope of work is set forth in WAC 296-127-01339, and must be paid at Ironworker prevailing wage rates. Mr. Svoboda wrote to us on May 7 objecting to that decision. We responded to Mr. Svoboda's letter on May 12, confirming that Ironworkers was the appropriate worker classification to apply to the tasks associated with installation of the Safespan system, after which you requested that we meet to review the issues.

We understand that you and your client disagree with our decision, and take the position that erecting and installing the Safespan system (which you describe as scaffolding/containment) for this project is the work of Painters under WAC 296-127-01356.

This communication is a follow-up to our meeting on June 8 to review Mr. Svoboda's objection and concerns.

We carefully considered the information you provided us at our June 8 meeting, together with Mr. Svoboda's prior correspondence, information from J. Michael Murphy, and other information we gathered about the Safespan system and its installation on this specific project.

We believe we have a sound concept of the structure and purposes of the Safespan system based upon information you provided, descriptions found on Safespan's web site, http://safespanplatforms.com/index.htm, and a discussion of the system found on Purdue University's Division of Construction Engineering and Management web site, http://rebar.ecn.purdue.edu/ECT/links/technologies/civil/safespan.aspx. We understand that the system involves a cable-suspended platform that is supported on cables fastened in equal intervals to the bridge's structural members, that the system employs reusable components, custom designed to meet individual project requirements, and that it includes steel decking specially configured for a project's scope and weight requirements.

Means Illustrated Construction Dictionary (Third Edition) defines "scaffolding" as "A temporary structure for the support of deck forms, cartways, and/or workers, such as an elevated platform for supporting workers, tools, and materials. . ." Clearly, there are some aspects of the Safespan containment system that meet these criteria. However, the Safespan system is far more extensive in its purpose than "supporting workers, tools, and materials." In addition to providing a platform for supporting workers, tools, and materials, the Safespan system is a containment system, protecting workers and equipment from demolition debris, and containing dust and debris to meet environmental standards.

The only reference in the Painters scope to erecting any structure is with respect to "scaffolding. . . to perform the work [painting] above ground level." The Painters scope includes no references to a containment system such as the Safespan system which has as its purpose containment of dust and debris to meet environmental regulations, and protection of crew and equipment from demolition debris, inclement weather, and other hazards as well as providing a support platform for workers on the project. Nor is there a reference in the Painters scope of work that would permit them to erect a structure to provide a working environment to support and protect workers engaged in other trades.

We note from the details contained in the project contract between the Oregon Department of Transportation and Abhe & Svoboda that in addition to painting, Abhe & Svoboda also engaged in substantial riveting on the project. We also learned that besides the riveting work, Abhe & Svoboda performed other "non-painting" work that included welding to correct discovered structural deficiencies on the bridge.

WAC 296-127-01339 clearly sets forth that Ironworkers "perform all work in connection with field fabrication and/or erection, installation, removal. . .and dismantling of structural, architectural and reinforcing iron and steel. . ." And, listed in WAC 296-127-01339 under "work process" "erecting" are: "connecting, fitting, hooking on, bolting up. .

Installation and removal of a Safespan system, as described, comes within these parameters. Ironworkers is the correct scope/classification of work to apply to Abhe & Svoboda's installation of the Safespan system on this project.

If you have any further details regarding the system and/or Abhe & Svoboda's work on the project that we have overlooked and that you feel would have a significant bearing upon our decision, please let us know and we will consider such additional information.

Washington State prevailing wage information, including the WACs, are available on the Department's web site: http://www.lni.wa.gov/TradesLicensing/PrevWage/default.asp.

If you wish to appeal this determination, you may direct that request to Steve McLain, Assistant Director for Specialty Compliance Services, Department of Labor and Industries, P O Box 44400, Olympia, WA 98504-4400, mcln235@Lni.wa.gov.

If you need additional information or have questions, please call or email me at (360) 902-5330 or somd235@Lni.wa.gov.

Sincerely,

David J. Soma
Industrial Statistician
Prevailing Wage Program Manager
(360) 902-5330

cc: Guy A. Randles, Attorney, Stoel Rives, LLP
Debbie Sluyter, Oregon Bureau of Labor and Industries
J. Michael Murphy, Oregon Department of Transportation