

MAINE STATE LEGISLATURE

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February 9, 1973

Madge E. Ames, Acting Director

Bureau of Labor & Industry

Leon V. Walker, Jr., Assistant

Attorney General

Confidential Information

This is in reply to your memorandum of January 29, 1973.

26 M.R.S.A. §§ 1306 and 1307 provide for the assembling by your Bureau of the data as to wages paid by contractors employing 5 or more construction workers in the State during the 2nd and 3rd weeks of September of each year, from which data the fair minimum wage for the following year shall be determined. Section 1303 provides that the hourly wage rate paid to laborers employed in the construction of public works shall be not less than the fair minimum rate.

Nothing in §§ 1301-1314, which cover this law, makes the information gathered by the Bureau confidential, but 26 M.R.S.A. § 3 provides:

"All information and reports recorded by the director or his authorized agents under this Title shall be confidential, and no names of individuals, firms or corporations shall be used in any reports of the director nor made available for public inspection."

The Wage and Hour and Public Contracts Division of the U.S. Department has asked you to make available to it the information obtained as above stated. The Division will agree to observe the same confidentiality of this information as is required of your Bureau under § 3. Under the public contracts provisions of the Federal law, the U. S. Department of Labor must assemble the same information gathered by your Bureau, and 26 M.R.S.A. § 1314 provides:

"Whenever a public works construction is built in whole or in part by federal funds and is under the jurisdiction of the Davis-Bacon or other Federal Act which requires the Secretary of Labor to establish the minimum wage and such minimum wages are established by him, sections 1304 to 1313 shall not apply."

NOT A FORMAL OPINION

Although the U. S. Department of Labor has access, by its own investigation, to the same information as is obtained by your Bureau, and establishes the minimum wages applicable to contracts for construction in this State which come under the exception in § 1314, and will observe the provisions of § 3, you are nevertheless prohibited under § 3, from providing the U. S. Department with the names of individuals, firms or corporations recorded by your Bureau. However, it would not violate § 3 to give to the Department information as to wages provided no names were given to identify the employer or employee.

LVW/mf

Leon V. Walker, Jr.