



**New York State Department of Labor**  
**David A. Paterson, Governor**  
**Colleen C. Gardner, Commissioner**

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December 9, 2010

[REDACTED]

Re: Request for Opinion  
Wicks Law  
St. Bonaventure  
RO-10-0185

Dear [REDACTED]:

This letter is written in response to your December 1, 2010, inquiry regarding the applicability of Section 101 of the General Municipal Law (also known as the Wicks Law) to the St. Bonaventure Access Improvement Project being undertaken by the Town of Allegany. The project at issue consists of improvements to parking lots, foot trails, access roads, signage, and a gate, as well as construction of a 640 square foot safety building in or around the St. Bonaventure University Campus. The project, which is funded in part through federal transportation aid, has been put out for bid, with a bid due date of December 15, 2010, by the Town of Allegany as a single contract with an estimated cost of \$1,400,000. It was learned by the Department's Bureau of Public Work that the plumbing, heating, and electrical work on the building was not separately bid because it was believed that the cost of the building portion of the contract would be less than \$500,000. Since the project was put out to bid without separate specifications for any plumbing, heating, and electrical work, your letter asks if it was properly bid in accordance with the requirements of Section 101 of the General Municipal Law.


Section 101 of the General Municipal Law required that public contracts for the erection, construction, or alteration of buildings in excess of a threshold amount (\$500,000 in Cattaraugus County) have separate specifications for various types of work. The types of work which Section 101 requires to be separately bid are (1) plumbing and gas fitting; (2) steam heating, hot water heating, ventilating and air conditioning apparatus; and (3) electric wiring

and standard illuminating fixtures. Those specifications are required to be separately drawn to permit separate and independent bidding for each of these categories of work.

As you can see, Section 101 refers to public contracts and makes no provision for separating out and disregarding costs associated with any of the work contained in the contract for purposes of determining whether the monetary threshold in Section 101 has been satisfied. So, for example, in this particular instance, the Town of Allegany may not bid all work on this project, including site work, roads, and signage, along with the construction of a building, in a single contract yet fail to comply with the Wicks separate bidding requirements simply because the building included in the contract might not, on its own, meet the Wicks threshold. Although the building work portion of this public contract in the present project might costs less than the \$500,000 threshold for the applicability of Section 101, the fact that the cost of the actual public work contract itself will certainly exceed \$500,000 brings the entire contract within its coverage. While the existence and extent of the three types of work that are required to be separately bid are not described in the documents before the Department, please be advised that since the contract is within the coverage of Section 101 of the General Municipal Law, any work associated with one or more of the categories of work identified therein must be separately bid in accordance with that Section.

This opinion is based exclusively on the facts and circumstances described in your correspondence dated December 1, 2010, and is given based on your representation, express or implied, that you have provided a full and fair description of all the facts and circumstances that would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your letter might require a conclusion different from the one expressed herein. This opinion cannot be used in connection with any pending private litigation concerning the issue addressed herein. If you have any further questions, please do not hesitate to contact me.

Very truly yours,  
Maria L. Colavito, Counsel

By:   
Michael Paglialonga  
Assistant Attorney I

MP

cc:

  
Colleen Gardner  
Mario Musolino  
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