

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 04 August 2023

ALJ NO.: 2022-SCA-00003

In the Matter of:

**ADMINISTRATOR, WAGE AND HOUR DIVISION,
UNITED STATES DEPARTMENT OF LABOR,**
Plaintiff,

v.

**SOMERSET COUNTY, as operator of
SOMERSET COUNTY JAIL,**
Respondent.

DECISION AND ORDER APPROVING CONSENT FINDINGS

This proceeding involves alleged violations of the Contract Work Hours and Safety Standards Act (“CWHSSA”), as amended, 40 U.S.C. § 3701 *et seq.* and the implementing regulations at 29 C.F.R. Part 5. On July 25, 2023, the parties submitted Consent Findings (“Consent Findings”) pursuant to 29 C.F.R. § 6.18, resolving all disputed issues.

In accordance with the provisions of 29 C.F.R. § 6.18(c), I find that the Consent Findings are fully satisfactory, in both form and substance, and should be fully accepted. Each fact set forth within the body of the Consent Findings document is hereby adopted. Based upon the Consent Findings, which I incorporate herein by this reference, IT IS ORDERED that:

1. The terms of the Consent Findings appear fair and reasonable and reflect a reasonable resolution and are approved;
2. In sum, Respondent will pay \$133,273.18 in all back wages to the employees identified in Exhibit A, attached to the Consent Findings. Payment shall be made in one (1) of the following manners: (a) online by ACH transfer, credit card, debit card, or digital wallet by going to <https://pay.gov/public/form/start/77689032> or by going to <http://www.pay.gov> and searching for WHDBWNE; or (b) by providing payment to the Administrator in the form of a certified check, bank check, or money order made payable to “Wage and Hour Division-Labor.” Any check or money

order shall have Case No. 1871293 written on the face of the check or money order. The WHD shall distribute the back wages to the employees listed. Any funds not distributed to employees within three years shall be deposited with the Treasurer of the United States;

3. The Administrator agrees to distribute the back wages to the employees or former employees listed in Exhibit A, attached to the Consent Findings, less the employees' share of social security and federal withholding taxes, which will be made by the U.S. Department of Labor, with no deduction for the employees' state withholding tax. Respondent shall remain responsible for all tax payments considered to be the "employer's share," including, but not limited to, FICA or state or federal unemployment compensation payments;
4. Should Respondent fail to pay any amount due within fifteen (15) calendar days of any payment's due date, Respondent consents to executing and shall execute the Authorization for Transfer and Disbursement of Contractor Funds, attached as Exhibit B, to the Consent Findings, for any amounts unpaid or remaining to be paid by Respondent;
5. The Administrator agrees not to pursue debarment of Respondent for Respondent's CWHSSA violations during the time period between March 3, 2017, to the date of the parties' full execution of the Consent Findings ("Relevant Period");
6. Respondent will not discharge, blacklist, intimidate, or in any other manner discriminate or retaliate against any employee, including but not limited to soliciting the repayment of compensation paid to an employee pursuant to this Order, because the employee engages, has engaged, or is believed to be engaged in any activities specifically enumerated in the Consent Findings;
7. Respondent certifies that it is currently in compliance with all provisions of CWHSSA and regulations issued thereunder, and that it will remain in compliance as specifically enumerated in the Consent Findings;
8. The parties agree that these Consent Findings are deemed to cover only the Relevant Period and, with respect to back wages owed, cover only those employees listed in Exhibit A, attached to the Consent Findings. The parties further agree that these Consent Findings shall not in any way affect, determine, or prejudice any and all rights of any employee or the Administrator outside the Relevant Period. Further, the parties agree that these Consent Findings do not affect the rights of any of Respondent's employees who may be receiving or are entitled to receive back wages outside the scope of CWHSSA and the regulations promulgated thereunder for any time period. Nor do these Consent Findings affect in any way the rights of any of Respondent's workers who are not named in Exhibit A, attached to the Consent Findings;

9. If and to the extent that the contracting agency, the U.S. Marshals Service, seeks liquidated damages pursuant to 29 C.F.R. § 5.8(b) from Respondent at any time in the future for issues decided or resolved by this case, the Administrator agrees that it will not overrule or disagree with any determination by the U.S. Marshals that CWHSSA liquidated damages should be reduced or waived. The Administrator further agrees to work with the U.S. Marshals and Respondent to resolve expeditiously any liquidated damages associated with this case;
10. The Administrator does not waive the right to conduct future investigations of Respondent and to take appropriate action with respect to any violations disclosed by such future investigation, including seeking debarment as a relief;
11. This Order disposing of the proceeding shall have the same force and effect as an order made after full hearing;
12. The entire record on which this final Order is based consists solely of the Complaint and the Consent Findings;
13. The parties waive any further procedural steps before the Administrative Law Judge and Administrative Review Board regarding this matter;
14. The parties waive any right to challenge or contest the validity of these Consent Findings and Order;
15. Each party shall bear its own costs, attorney fees and other expenses incurred by such party in connection with any stage of this proceeding; and
16. This Order shall constitute the Final Order in this proceeding.

SO ORDERED.

JONATHAN C. CALIANOS
Administrative Law Judge

Boston, Massachusetts