

LETTER

Originator	VANLANDINGHAM
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June 20, 1960

Mr. Allen H. Rhodes
Registrar of Contractors
State of Arizona
1818 W. Adams St.
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Mr. Rhodes:

In your letter of April 28th you pose the following question:

"Is a state contractor's license required by a person or firm who enters into an agreement to perform construction work on a so-called 'piece work' basis? This could be either a price of so much per block, tile, foot, etc."

In determining what constitutes a "contractor" under the definition of A.R.S. §32-1101, we think the whole of the chapter should be read and considered to get the meaning of the overall intent of the act before this intent is applied to specific sections. In doing so, it appears that the purpose of the statute was to require one who undertook to do construction work for another to have certain knowledge and ability which he contracted to use in the performance of a construction project.

Therefore, anyone holding himself out to have certain knowledge and ability in a field of construction and offering his services for a particular project at a particular price would be a contractor, for the reason that he has certain responsibilities connected with this contract. On the other hand, where a person agreed simply to work or perform a job under the direction of another as an employee for wages, he would not be a contractor. The question of whether or not he was doing it for a fixed price might arise where some set incentive fee arrangement was made, but this in itself does not necessarily constitute contracting. The true determination should be based on the question whether or not the elements of employer-employee relationship exist or whether the elements of contracting as outlined above exist.

Therefore, in answering the question of whether or not

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compensation based on piece work basis constitutes contracting,
our answer would be not necessarily, the other elements must be
considered.

Respectfully submitted,

WADE CHURCH
Attorney General

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Assistant Attorney General

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