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Project Labor Agreements

MCAA President Urges Army Corps to Use PLAs on Military Projects; ABC Opposes Push

The U.S. Army Corps of Engineers should employ project labor agreements on military construction projects whenever possible to ensure hiring of a trained workforce, efficient product delivery, and fewer safety incidents, the president of Mechanical Contractors Association of America, wrote in a letter obtained March 7 by BNA.

MCAA President Robert Armistead Feb. 16 submitted a letter in response to a USACE labor market survey on construction projects in West Point and Orange County, N.Y., on behalf of himself and his company Armistead Mechanical, which operates out of New York and New Jersey. In his survey response letter, Armistead argued that PLAs should be used on projects in Orange County because of their track record for efficiently and safely completing projects with a sufficiently trained workforce.

"To be sure, in some areas and political climates, PLAs have been lightning rods for political and legal challenges virtually and always futilely. And through all that they have always held up as sound tools advancing the project owner's best proprietary judgment to get the highest quality workforce and project results," Amistead wrote.

The survey was sent out Feb. 4 soliciting comments from the construction industry by Feb. 18 on projects in Orange County. According to Scott Harris, a spokesman for USACE, project delivery teams from the agency are required to distribute labor market surveys on whether construction stakeholders would support the use of a PLA on specific area projects. Depending on the responses, the agency may decide to forego using a PLA on the projects in question.

USACE, after reading and considering all of the responses to a previous labor market survey, Aug. 31, 2010, removed the PLA requirement from a bid solicitation for construction of an Army Reserve Center in Los Alamitos, Calif.

ABC Encourages Members to Respond

Because of the possibility to eliminate PLA use from these projects, the Associated Builders and Contractors has been encouraging all of its members nationwide to submit letters in response to the surveys.

"Tell the USACE that government-mandated PLAs injure competition, increase costs, and will not advance economy and efficiency in government contracting. It is important to express your opposition to government-mandated PLAs today before they are mandated or encouraged on future USACE and other federal projects in the West Point and Orange County, N.Y., area and other markets in the region," ABC Director of Federal Procurement and Labor Affairs Director Ben Brubeck said in a statement concerning the survey.

Most recently, ABC March 7 submitted a response to the USACE Fort Worth, Texas District regarding construction projects on Lackland Air Force Base near San Antonio, Texas.

"ABC National urges the USACE Ft. Worth District to exercise discretion and refrain from imposing PLA mandates on any of the Lackland AFB construction projects. The USACE should allow contractors—the only parties with experience in labor-management relations in the construction industry, and the only ones that would be subject to the terms and conditions of a PLA—to decide whether a PLA is appropriate for a particular project," Brubeck wrote in the response.

ABC's response addressed how some PLAs may contain conditions that require contractors to hire only from union hiring halls and ask nonunion contractors to pay union dues, fees, or benefits. Brubeck

wrote that if USACE required a PLA on Lackland AFB projects, construction costs would increase substantially and nonunion contractors would be shut out from the bid process.

Could PLAs Give Military Stronger Workforce?

In his response, Armistead discussed how PLAs provide to contractors what he calls "workforce availability insurance," giving employers access to the Building and Construction Trades Department, AFL-CIO employee referral system in the event of a surge in workforce demand. Armistead said the referral system can help facilitate workforce screening and E-Verification of employees, which may be essential for USACE projects with critical security requirements.

"On the overall advisability of PLAs we would only emphasize that they have proven a defensible proprietary choice by public and private owners nationwide for many years," Armistead wrote.

The MCAA president also touted the safety benefits to contractors and employees when working on a project with a PLA, saying that employment of a "highly skilled workforce" provided by Building Trades unions improves the quality of work and the work environment.

"It seems that when PLAs have been employed on projects in our area we read about project success stories and less reporting of illegal labor abuse, safety incidents, or poor contractor performance," Armistead wrote. "A PLA will help prevent illegal construction activity and abusive labor practices and will bring great value to the success of a projects."

While PLA supporters push safety as one of the main reasons for its use, opponents have said increased safety can be achieved without such contracts. An official from Nova Group, Inc. told BNA that Nova Group and Underground Construction Co., members of ABC, Feb. 11 celebrated 500 days without a safety incident doing construction on a fuel storage facility in San Diego, Calif. for the Naval Facilities Engineering Command. The project does not have a PLA, Carole Bionda, Nova Group, Inc. vice president, said.

"We are ahead of schedule, on budget, and delivering an outstanding project which will become NAVFAC's first LEED silver infrastructure project. While the \$160 million project was awarded on the basis of best value, it was openly competed without a government-mandated PLA. All subcontracts are awarded upon the basis of merit and we have both non-signatory and signatory subs working with our non-signatory crews without incident," Bionda said.

The USACE New York District did not returns call for a comment on the responses to the Orange County survey.

By Jewel Edwards

The MCAA letter is available at <http://op.bna.com/clr.nsf/r?Open=knaf-8esqzm>.

The ABC letter is available at <http://op.bna.com/clr.nsf/r?Open=knaf-8esqzt>.

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