State Labor Agreement Under Scrutiny

By JACOB GERSHMAN

New York state Comptroller Thomas DiNapoli is holding up approval of a major highway construction contract amid allegations that the Cuomo administration improperly steered work to union crews at a cost of millions of additional tax dollars.

The comptroller’s office says transportation officials have failed to justify their decision to broker the unusual pact with labor leaders. The state disqualified a nonunion contractor that submitted the lowest bid but wouldn’t accept the union-friendly terms of the state’s agreement.

The focus of the dispute is a $70 million overhaul of a winding, traffic-choked Route 17 exit ramp on the western edge of the Hudson Valley. The site has emerged as the latest flash point in a national debate over the government-mandated construction pacts, called project labor agreements. The deals require the winning bidder on a project to abide by terms already negotiated with trade unions.

The state adopted the highway labor agreement—the first of its kind upstate—with guidance from the Obama administration, which two years ago revoked a Bush-era ban on such deals in federally funded construction. Since then, a handful of conservative-leaning states have blocked mandated agreements on public projects. And some GOP lawmakers in Washington are seeking to roll back the Obama policy.

Before deciding whether to sign a labor agreement on the Route 17 project, the state consulted with a subcontractor to weigh its worth. The consulting firm initially found that it couldn’t “clearly recommend” an agreement for the highway project, citing a lack of evidence of "labor disharmony" on similar projects without the deals.

The consulting firm revised its report and recommended a labor pact after union leaders escalated their threats of disruptions around the project, according to the firm.

A final go-ahead for a labor-backed contract on Route 17 in Wallkill has the potential to help union contractors establish a beachhead against their dwindling market share of construction jobs at a moment of scarcity for the wider industry. The state Department of Transportation manages more than $3 billion a year in bridge and highway contracts. The labor deals are more common in New York City and surrounding suburbs, where unions are stronger.

"The unions were really digging their heels on this," said Ed Arace, the managing partner of Arace & Co. Consulting. "They hadn’t had a heavy highway PLA in the Hudson Valley for as long as people could remember....They were going to take this as a serious threat to their livelihood."
L. Todd Diorio, a union lobbyist who heads a 10,000-member trade
council in the Hudson Valley, said the concerns weren’t unfounded. “I
could go out tomorrow and cause all kinds of labor unrest,” said Mr.
Diorio, who helped negotiate the pact.

The contract went out for bid in February, as the state quietly
hammered out arrangements with union officials and lobbyists for
union contractors. In exchange for labor peace and a reduction in
benefits, the state assured that at least 85% of the workers on the job
would come from union hiring halls.

The Cuomo administration then changed the contract terms,
mandating compliance with the agreement as a condition of the
award. Upstate contractor Lancaster Development, which submitted
the lowest bid by $4.5 million, was rejected. The state chose the
second-lowest bidder, a union firm.

Lancaster and a national trade association filed a formal complaint
with the comptroller, alleging the state mishandled the negotiations
and buckled to “legalized extortion.”

After reviewing the contract, the comptroller’s office asked the state Transportation Department last week for a more
detailed response to the protest.

A comptroller spokesman Wednesday said the allegations are "serious, which requires a time-consuming and diligent
review."

"We understand that Lancaster is disappointed that it didn’t get the job," said Jennifer Post, a Transportation
Department spokeswoman. "We take all allegations very seriously, and we are reviewing their complaint."

Transportation officials say they drove a hard bargain with labor leaders and wrung valuable concessions. Most
important, they say, their agreement defuses the threat of labor disruptions overshadowing the long-awaited project.

Trade union officials say they are skeptical of the cost-saving promises made by the disqualified firm, which they claim
was muscling into more union-active territory downstate and snatching jobs away from local crews.

Lancaster says its complaint isn’t about paying union-level wages—the state already sets a "prevailing wage" for public
works—but is about union work rules and its ability to choose its own workers. The company says stricter job
classifications would force it to hire more people than necessary to fill the job. And it says an influx of union workers
under its employ could trigger a vote to organize.

Lancaster also argues that the agreement punishes its nonunion workers attached to the job by forcing them to pay
union dues on long-term benefits that they won’t ever get if they resume their nonunion jobs. Those dues come on top
of any employee benefits provided by the firm.

"Since 1947, this has been a nonunion firm, and we'll be a nonunion firm until this business closes its doors," said
Lancaster President Mark Galasso, who’s also the mayor of the village of Cobleskill. "We choose to work that way, and
that’s our right. I refuse to have a union control my destiny."

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