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58 CLR 472

Project Labor Agreements

DOL Rescinds Bid Solicitation, PLA Mandate For Planned Manchester Job Corps Center

By Jewel Edwards

The Department of Labor has withdrawn its bid solicitation for the planned Job Corps Center in Manchester, N.H., a DOL spokesman told BNA June 5.

"In order to avoid any litigation-related delays, the Department of Labor has decided to withdraw the solicitation for the Manchester, N.H., Job Corps project and will reissue the solicitation in the very near future," the DOL spokesman said. "The sooner we can break ground for this Job Corps center, the sooner workers in the area can obtain access to good jobs and young people in New Hampshire and the surrounding areas can get a start on developing the skills necessary for a fulfilling career."

The agency's withdrawal of its most recent bid solicitation issued in January (57 CLR 1393, 1/5/12) comes just before the Government Accountability Office indicated that it would rule in favor of Associated Builders and Contractors member North Branch Construction of Concord, N.H. The company filed a bid protest March 19 challenging the use of a project labor agreement on the work, according to ABC.

DOL, which began issuing plans for developing the Job Corps Center in 2009, had intended for the \$20 million project to be built under a PLA and by certified small business contractors in New Hampshire (55 CLR 1165, 11/12/09). However, the initial bid solicitation for the project also was rescinded because of numerous complaints and bid protests filed by local contractors, ABC, and the Associated General Contractors on the use of a PLA for the center.

Need for PLA Questioned

In a statement on DOL's decision to renew the solicitation for the planned Job Corps Center, ABC said the agency failed to justify to GAO its intentions to use a PLA on the project.

"It is no coincidence that the Department of Labor cancelled its unlawful PLA mandate the day before the agency was required to file a response to our bid protest," Maurice Baskin of Venable LLP, the contractor's attorney, said in a statement. "We were able to show the DOL's PLA mandate needlessly restricted competition, increased cost to taxpayers and actually hurt local construction workers, all without any factual justification for the PLA." Baskin also serves as ABC's general counsel.

In an ABC statement, North Branch Construction President Ken Holmes said DOL should abandon all intentions of using a PLA on the project.

ABC Director of Federal Procurement Ben Brubeck said removing the PLA requirement will "ensure increased competition and construction job creation for all skilled construction workers and their qualified employers."

Council: PLAs Help Nonunion Workers, Too

However, New Hampshire State Building and Construction Trades Council President Joseph Casey disagreed with Brubeck's claim. Casey told BNA that the union council, which represents about 5,000 construction workers in the state, is "very disappointed" about the Labor Department's decision to remove the PLA requirement from the Job Corps project.

"We feel that we more than proved to the Department of Labor that a project labor agreement would be in the best interest of the workforce and the taxpayer in the state of New Hampshire. We don't

really understand why they made this decision," Casey told BNA. "We feel that this is going to have an absolute adverse affect on not just the union worker, but all workers as a whole that work in the state of New Hampshire."

Sen. Kelly Ayotte (R-N.H) in a June 4 statement took a different stance, stating that the agency's decision will give New Hampshire's contractors, both union and nonunion, equal opportunity to bid on the project. "I hope the Labor Department will move quickly to reissue the solicitation without a PLA," Ayotte said.

To avoid further delays on the project, Casey said the council does not plan to protest a new bid solicitation from DOL. "We certainly feel that the number one priority is to get this center built for the youth in the state of New Hampshire," Casey said. "Hopefully we can get some people on the project."

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