



Union Contractors Try to Shut Others Out

By: Greg Beeman, President, Associated Builders & Contractors of Massachusetts

August 04, 2009

The plot is always the same. Unions that represent only 20 percent of the Massachusetts construction industry try to shut out the other 80 percent. This time, New Bedford is the stage for this all-too-familiar routine.

When a union general contractor failed in its bid to build the Lincoln School, the carpenters' union protested, alleging that the winning contractor, CTA Construction, violated the city's responsible employer ordinance (REO) because it didn't have a registered apprenticeship program. But the requirement is not applicable to CTA, since the firm is a construction manager and does not employ trade labor.

The REO hasn't been enforced in years. But when CTA learned that it would be on this project, the company immediately began working to ensure the compliance of all subcontractors.

Apprenticeship is ground zero for the union strategy of eliminating open-shop competition by requiring non-union firms to play by union rules. Union contractors need only sign on to an existing union program. But each open-shop firm that employs its own workers instead of using labor pools must develop its own apprenticeship program. For small firms, the cost is often prohibitive. Open shops normally use training methods better tailored to their needs, but are required to play by union apprenticeship rules if they want to do public work in municipalities with REOs like the one in New Bedford.

Apprenticeship isn't the only way unions seek to limit competition by shutting out the vast majority of the industry. Another favored approach is project labor agreements, which promise that unions will not cause labor unrest in return for using exclusively union workers. Boston's Big Dig is among the projects built under a PLA.

Two subcontractors are currently at work on the Lincoln School. One is a union company. As an open shop, CTA can and does hire both union and non-union subcontractors. Not so for firms that have signed on with the carpenters. They can only hire unionized firms to perform carpentry and related work.

The other is a company owned by a New Bedford native with deep community ties. Simmons Concrete employs two local residents as registered apprentices. Half of all jobs at the site will go to local residents.

Public construction in Massachusetts protects taxpayers by ensuring that projects are awarded to the lowest qualified bidder. All prospective bidders must be pre-approved by the commonwealth.

The carpenters' union's bid protest alleged that CTA submitted a fraudulent report to the commonwealth's Division of Capital Asset Management (DCAM). An investigation by the state attorney general found no evidence of fraud.

During the same time period, another investigation by the AG's office found that Fontaine Brothers — the union contractor the carpenters claim should have been awarded the Lincoln job — did submit a report to DCAM that contained "materially false" statements. (Source: July 13 decision.) The offense is grounds for debarment from public work, and the firm was subsequently barred from a project in Weston.

Another way unions try to eliminate open-shop competition is by targeting a small number of open-shop companies for smear campaigns. Clearly, CTA's number is up. One union official told The Standard-Times that the company is a "well-known low-end contractor."

The facts tell a different story. CTA's DCAM rating is a sterling 94 out of 100 and the company has reams of commendation letters from successful public projects. In one such letter, the owner wrote that "CTA knows how to get the work done" and that the firm "focused on results."

Perhaps most telling are the actions of the carpenters' union itself. If CTA is a "low-end contractor," why has the union been locked in a three-year battle to get the company to sign on with them? The carpenters' lack of success speaks to the real issue here.

Under CTA, subcontractors that provide New Bedford taxpayers with the best value and use area workers will build the Lincoln school. If the job were to go to Fontaine or another union general contractor, local open shops like Simmons and its employees would be unable to work on it.

The reason is simple: While unions try to shut out non-union contractors, the open shop seeks only a level playing field on which to compete.