



“Errors do not cease to be errors simply because they’re ratified into law.”

E.A. Bucchianeri

GREATER CLEVELAND

MANAGER’S COMMENTS

How many of you remember Ohio House Bill 153, which was signed into law on June 30, 2011? It was the state’s biennial budget. In it, was and still, is what is referred to as “construction reform.” Is it all coming back to you now?

HB 153 made sweeping changes to how public construction projects had been performed for the previous 134 years. The most significant change was that owners (public entities spending tax payers’ money) were given more choices of project delivery methods in addition to Multiple Prime, which still is an option. The new methods are General Contracting (GC), Construction Management at Risk (CMR) and Design Build (DB.)

In a piece written in 2012 by McGill Smith Punshon Visions, an architectural and engineering firm, they listed the advantages and disadvantages of each delivery method. Multiple Prime offered the lowest initial cost, which could also be the lowest total cost. None of the others could say that. However, in fairness, all had some stated advantages. Keep this in mind for now because I’m about to go into the fight to have this construction reform part of the budget removed from HB 153.

First of all, I’ll spare you the lead up to the final language that was actually in the bill, except to say that sausage making would gag you and it all began as a debate over single prime as a delivery method versus multiple prime as a delivery method.

Once the bill was introduced and after several meetings with our lobbyist and our construction coalition partners in Columbus to understand the totality of the proposed reforms, it was obvious that we, those of us representing subcontractors would be opposed. It was also obvious that this was such a complex issue it would be difficult to explain to the legislators who, to be fair, don’t have a background in construction. At the time there were maybe a handful who did but that was all.

Everyone associated with our coalition, minus the Associated General Contractors and organized labor worked hard to educate members of the General Assembly prior to the vote on why they should not support construction reform as it was being presented. The AGC and organized labor each had their own vested interests in supporting the bill. As it has turned out, neither of them got out of it what they had thought.

Just to back up a bit, one year prior to this the General Assembly passed what I mistakenly thought was a law to do three pilot projects over three years to do a cost comparison of single versus multiple prime delivery methods. So here we were getting ready to pass, again, which I thought was a law that conflicted with the pilot project law. Like, why wouldn’t we complete the pilot project first? Silly me, I asked a Senator that very question against the advice of our lobbyist, and was soon to find out it wasn’t a law.

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MANAGER'S COMMENTS CONT'D

In Ohio it's called the ORC I was told by the Senator. The "R" stands for "Revised." Didn't I feel like a fool? Of course I did but I learned or had it confirmed to me that the words of our General Assembly should be taken with a grain of salt.

Anyway, while everyone else on our side was arguing the merits of keeping things the way they had been working for 134 years I took a different tact. I argued in one on one meetings with the legislators and then once before the House Finance Committee and once before the Senate Finance Committee that drastically changing a 134 year old process of spending taxpayer's money was too complex and too important to be shoved into a thousand page budget bill. It needed to be brought up as a stand alone bill so that both sides could be heard clearly and not muffled by the noise that surrounds the budget process. That sounded good didn't it? Well, the General Assembly didn't seem to think so because they went on to pass HB 153 with construction reform exactly how it was proposed.

I maintain this was the worst political defeat I have ever been involved in. In my opinion, this has had a huge detrimental effect on the vast majority of subcontractors (union and non-union), the taxpayers and surprisingly, some of the AGC members who initially supported it.

I know that's a pretty bold statement but here's why I believe it to be true. Under all the delivery methods except multiple prime, there has been, as I and others predicted, a decrease in the overall number of contractors participating in the bidding process for public work that is over the threshold that triggers these delivery methods. To go into depth to explain would take another page or two but think about it. Those delivery methods put the bidding process in the dark and behind the Wizard's curtain. Decisions are made subjectively, giving enormous power to public officials to mete out contracts to preferred CM's.

The taxpayer has the right to see the prices for projects they are paying for. Remember the good old days, 134 years worth of them, when there were public bid openings and full disclosure. These bid openings were usually covered in the newspaper the next day for all to see who the low bidder was as well as the unsuccessful bidders. Now you get a sentence saying who the CM is and the total price for the project that in many instances are just conceptual at that point.

Some of the CMR's, the CM's and the DB's that are lucky enough to be asked to submit a proposal, most of whom are the AGC members who supported this

abomination, are now unhappy because they aren't being told (no full disclosure by the public entity) why they didn't get the job. Imagine how many are really unhappy that they didn't even get invited to the dance.

So, by now do you think I'm just writing to fill up space with old news? I know many of you, no, most of you, have moved on from thinking about construction reform and have adapted and are either not involved with public work anymore or are participating still but wish multiple prime was the delivery method of choice.

So why am I bringing this up now? You gotta know there's a reason. I, along with our lobbyist, Aaron Ockerman and three representatives from the Mechanical Contractors Association of Ohio were invited to a meeting by the lobbyist for the Associated Builders and Contractors who was there with two non-union contractors. They wanted to gauge how we felt the first six years of construction reform has gone. In a nutshell, we said pretty much just what you've read so far in this piece and they, the ABC guys agreed for the most part.

I would like to hear from all of you who have had experience with bidding public work under any of the delivery methods that have been added to multiple prime. It could be that we will mount an effort to amend the current methods to make them transparent and once again make disclosure the rule of the day.

Public officials are, by definition, not private owners. The money they are spending is not theirs, They are the stewards of our money and we should have every opportunity, without discrimination or discouragement to participate in the bidding process for work purchased with our money.

Speaking of public officials, during the whole ordeal, it was Gordon Gee, the former president of the great Ohio State University, who was the prime mover in shaping the language of construction reform and twisted the arms that needed to be twisted to keep it in the budget bill and have the Governor sign it. He is credited with saying he (a public official) wanted to be able to operate like a private owner. To him I say, "You should never have been a steward of the people's money." Get your wallet out and spend your money like a private owner or spend someone else's money but not the taxpayers money."

I'm still holding out hope that, at the very least, we can convince the next General Assembly and Governor to "REVISE" the Ohio Revised Code once again.

INSIDE CONTRACT FACT/EXPLANATION—APPRENTICE RATIO

This is Category One language that is in every NECA/IBEW Inside Collective Bargaining Agreement. Don't let anybody tell you any differently.

Article V, Section 5.12.

Each job site shall be allowed a ratio of two (2) apprentices for every three (3) Journeyman Wiremen (man) or fraction thereof.

Number of Journeyman	Maximum Number of Apprentices
1 to 3	2
4 to 6	4
etc.	etc.

The first person assigned to any job site shall be a Journeyman Wireman. A job site is considered to be the physical location where employees report for their work assignments. The employer's shop (service center) is considered to be a separate, single job site. All other physical locations where workers report for work are each considered to be a single, separate job site.

It's the "etc." part that seems to confound some people. Obviously it's a math problem, so here's one way to make it simple to determine the maximum number of apprentices for any number of journeymen over 6.

Take the total number of journeymen, divide by 3 (round up for any remainder) then multiply by 2.

Example #1: You have 30 JW so you divide by 3, that equals 10, then multiply by 2 and that gives you a max of 20 apprentices.

Example #2: You have 19 JW so you divide by 3, that equals 6 1/3 so you round up to 7, then multiply by 2 and that gives you a max of 14 apprentices.

Many contractors have been laboring under the assumption the ratio is something less than what's in the contract. It might be time to arm yourself with the facts and do the math. You may not need or want to use the maximum number of apprentices that you are allowed but you should have accurate info so YOU can make that decision.

FUTURE LEADERS OF THE CHAPTER

"Fringe Benefit Funds—What's NECA Got to do With Them?" was the topic at the future leaders of the chapter meeting on May 12th. After going over the difference between defined benefit and defined contribution pension plans, the challenges facing health and welfare plans and the often overlooked fact that the JATC actu-

ally has an Employee Retirement Income Security Act (ERISA) component, the future leaders learned of the responsibilities and volunteer time commitment that is required by NECA contractors to jointly manage these funds with the IBEW.

2017 NECA CONVENTION & TRADE SHOW

The 2017 NECA Convention & Trade Show will be held in the Emerald City of Seattle, Washington - October 7-10th

Registration is now open. *The early bird rate ends August 1st.*

Why should you attend? Meet and Network with other contractors. Discover new products and service solutions. Educational classes available to grow your business and boost productivity. Plus much, much more.

Go to: www.NECAConvention.org to learn more and register.

MEMBERSHIP NEWS

The Greater Cleveland Chapter, NECA welcomes our newest member, ***Irizar Electric*** to the Cleveland Division. Mr. Jaime Irizarry is the accredited representative.

We would also like to welcome two new Associate Members: ***Simplex Grinnell*** who is represented by Mr. Emilio Posa and ***Admar Supply Company*** represented by Mr. Steve Shannon.

Welcome to all!

We also have a member who is retiring, ***Mr. Anthony Misseri of A.J. Misseri Electric***. A.J. Misseri Electric has been a member of the Northeast Ohio Division for over 20 years. Our best wishes for a great retirement.

MANHOURS

Cleveland Division thru April:	838,981
Lake Erie Division thru April:	130,254
Northeast Ohio Division thru April:	<u>134,187</u>
Chapter Total:	1,103,422

UPCOMING EVENTS

- 1.) **NECA Annual Golf Outing** –June 26, 2017 at the Chagrin Valley Country Club.
- 2.) **Lake Erie Division Meeting-** July 11, 2017 at 6:00 PM—Chez Francois.
- 3.) **Northeast Ohio Division Meeting** –July 12, 2017 –Noon at the Redhawk Grille.
- 4.) **Cleveland Division Meeting** –July 13, 2017 at 6:00 P.M.—Alley Cat Oyster Bar.
- 5.) **NTI**– July 29—August 4, 2017 –Ann Arbor, Michigan.
- 6.) **NECA Convention & Trade Show**-October 7-10, 2017 in Seattle, Washington.
- 7.) **NECA Holiday Party** - December 2, 2017 at the Ritz Carlton Hotel, Downtown Cleveland.



GO CAVS!!!!



GO TRIBE!!!!



LOOK FOR THE NEXT REVIEW IN JULY 2017!!!

**IT'S GOOD BUSINESS TO DO BUSINESS WITH THOSE FIRMS
WHO SUPPORT OUR ASSCIATION**

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