

Increasing Market Presence

Does the industrial, commercial and institutional segment of the unionized construction industry want to increase their market presence?



Talking to many industry leaders' management and labour the answer is certainly yes. That said, why doesn't it happen? Discussing the issue with labour, one restricting factor is general and trade contractor's reluctance to bid projects.

In conversation with contractors they have well founded concerns. The first issue mentioned is their overall labour cost and why waste time and money bidding projects they believe they don't have a shot at securing.

Another issue mentioned was being paid for work completed. Why work for a client with a sketchy history of timely payment without litigation. The third issue mentioned was not knowing the capabilities and productivity level of your workforce.

The risk to achieving any profit on a construction project other than for an incorrect estimate is on the labour portion of the estimate. Some contractors suggested that they are uncomfortable in expanding their company, increasing their workload where they would have to hire additional employees from the trade hiring hall even with having the majority of their own personnel on site. A more telling story was contractors unwilling to bid out of their area as their contractual requirement to hire trades people from the local hiring hall restricts the number of their regular employees on a project.

Addressing the contractor's first issue. For many years the attention of the parties in construction collective bargaining has centred on the base wage and fringe benefits such as medical insurance, pension provisions, apprentice training funds, and industry advancement funds. Not only the bargaining parties, but the public as well, have focused attention on these costs, generally neglecting many less obvious costs that result from other provisions of the labour agreements.

These restrictive provisions in union construction agreements that are costly to the union contractor when compared to open shop are wide spread across the provincial craft agreements. The costs associated with these provisions seriously detract from the union contractor's ability to meet his open shop competition.

Of the labour agreement provisions for which potential industry-wide cost savings could be reasonably estimated, the following were found to be most significant.

Overtime Premiums

One of the characteristics of open shop construction is the payment of all overtime at one-and-one-half times, usually after their forty hour work week not after an eight hour day. Union agreements in other industries seldom provide premiums greater than one-and-one-half, except for work on Sundays and holidays. While some premium for overtime work is considered equitable and required by law, double-time pay for daily and Saturday overtime may be considered excessive. The cost differential between open-shop and union is significant and made more so when some of the union contractor agreement contain a thirty-six hour work week.

Subsistence & Travel

Inequities within the workforce often result from travel and subsistence pay provisions. Qualification for pay is based on the distance of the jobsite from City Hall or the union hall, not the distance from the workers home. He could live next to the project, and often does on large, long duration projects and still receives travel or subsistence pay. Another consideration is the company provides key job personal with a company vehicle. This individual regularly transports other employees to the work site all receiving a travel allowance with no associated travel costs.

Hours of Work

Consideration of work day provisions are badly needed in union construction. Consistency of multi trade work hours on a construction site is only common sense for site management and gap in coordination between the trades. Open shop contractors have considerable flexibility in choosing their work day hours culminating in a forty or even as per the Ontario Employment Standards Act a forty-four hour work week. The inefficiencies are exacerbated when different crafts at the same location adopt different hours of work and often result in overtime to achieve a smooth and sound work progression.

The daily hours of work is addressed in all construction agreements. At one time the eight hour day and a forty hour work week generally prevailed throughout the industry. However, various local unions have negotiated other daily work hours and total work week days and hours. This was done without regard for the overall financial impact on a project, apparently not recognizing the daily fixed overhead costs or the additional cost from the gap in coordination among trades that need to work with each other on certain tasks. It can be said that there is little consistency across the Province with hours of work by trade at the provincial and regional levels.

In addition to provisions with a direct cost there are other contract language provisions that restricts a contractor's ability to achieve the comfort levels required to bid work outside of his home region. Labour agreement provisions which impact the union contractor's comfort level allowing the firm to bid work in other regions of the Province are primarily the following.

Hiring Hall

The hiring hall can be objectively defined as a work referral system for construction manpower, usually including both supervisors and construction manpower, in which administrative control is delegated to union officials. While the hiring hall performs a number of personnel functions for the contractor, it is controlled by the union. It is a source of leverage for use by the union in pressuring the contractor, by allowing the union to control both the quality and quantity of manpower available to the contractor. A large number of contractors while not having an issue with securing their workforce from the union hiring hall they do have a concern with the personnel who may be dispatched. This issue goes back to the contractor's comfort level with worker's work ethic as well their competency and productivity level and the contractor's willingness to expand their workforce increasing market presence.

CALENDAR OF EVENTS

Sept 17	Council Meeting
Oct 6	OCS Annual Meeting
Nov 5	Negotiation Education Sem.
Nov TBD	Negotiation Coordination Meeting
Dec 9	Executive Committee Meeting
Dec 16	Council meeting

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Labour Mobility

Most construction labour agreements in the Province contain clauses that restrict a contractor from moving the labour force he knows to projects outside his business' union geographic area. Granted most agreements allow for the movement of some key personnel but they do not allow for a significant number to allow the contractor to determine his anticipated level prior to bidding. The same issues arises as with the hiring hall dispatch system. Is there another industry where business owners who may want to expand their businesses are forced to gamble on a workforce that they have little impact on choosing? If management and labour sincerely want to expand their marked presence these issues must be at the forefront of any discussions.

Court Rules Employer Cannot Refuse to Hire Candidate with Cannabis Prescription



July 16, 2020

[The Newfoundland & Labrador Court of Appeal](#) recently overturned an arbitration decision which found that an employer's inability to measure current impairment from cannabis constituted undue hardship and determined that an employer's inability to measure present impairment from cannabis will not always justify a decision not to hire an employee with a prescription for cannabis into a safety-sensitive position.

This decision not only tackles a very challenging issue faced by employers but is an example of the growing trend toward employee-favourable decisions in relation to the use of impairing substances (legal or otherwise) in safety-sensitive workplaces.

This article reviews the decision and the potential impact on employers.

OLRB Statistics

