

CONSTRUCTION LABOUR RELATIONS ASSOCIATION OF ONTARIO

6299 Airport Road, Suite 703, Mississauga, Ontario L4V 1N3 Phone: (905) 671-0888 Fax: (905) 671-8212

INTERPRETATION BULLETIN

RE: LABOURERS PROVINCIAL AGREEMENT - AMENDMENTS TO SUB-
CONTRACTING PROVISIONS - ARTICLE 2.05

Following, as Attachment No. 1, are the sub-contracting provisions Articles 2.05(a) (b) and (c) of the recently ratified Memorandum of Agreement with the Labourers International Union of North America, covering the period June 11, 2004 to April 30, 2007.

ARTICLE 2.05(a) - INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL
CONSTRUCTION WORK COVERED BY THE AGREEMENT

Restrictions under this provision remain unchanged since May 1, 1978. It requires that any Industrial, Commercial and Institutional construction work covered by the Agreement be awarded only to sub-contractors or contractors also bound by the Provincial Labourers Agreement. As an exception to this, it has been agreed that any pre-cast erection, demolition work or cutting or coring associated with an I.C.I. building may be awarded to contractors working pursuant to the 3 separate Labourers Provincial Agreements covering those trades.

WORK FORMING PART OF AN INDUSTRIAL, COMMERCIAL AND
INSTITUTIONAL GENERAL CONTRACT NOT FALLING WITHIN THE I.C.I.
SECTOR

The major issue in dispute between the parties related to Labourers work between an I.C.I. building and the municipal lot line. Examples include sewer and watermains, curbs and paving and utilities. The issue was resolved by the development of two additional sub-contracting provisions, 2.05(b) and 2.05(c) as set out below:

ARTICLE 2.05(b)

For non-I.C.I. work between the building and the lot line not covered by 2.05(a), there is an obligation to sub-contract such work either to a contractor bound by an Agreement covering the work with the Labourers Local Union having jurisdiction over the work OR to a contractor or sub-contractor bound by a Ontario Provincial District Council Agreement (on behalf of all Local Unions in the province) covering the work in question.

ARTICLE 2.05 (c)

2.05(c) provides an exception to 2.05(b) where work between the building and the municipal lot line not covered by 2.05(a) is part of the I.C.I. General Contract and is sub-contracted to a contractor or sub-contractor who has a Specialty Agreement covering such work but with a Local Union NOT having jurisdiction over the project. For example, a general contractor based in London, Ontario is awarded a contract in Cambridge and carries a site-servicing contractor under Agreement with Labourers 1059 in London where such Agreement is limited to the London area and does not cover Cambridge. Another example would be a Toronto General Contractor awarded a contract in Burlington, Ontario

and carrying a Toronto Local 183 paving contractor to perform the parking lot and curbs and gutters on the project. Again, the Local 183 contractor is bound only in the Toronto area and NOT in Burlington, which is covered by the Hamilton Local 837.

Article 2.05(c) allows for such an award but limits the out-of-town sub-contractor to the transfer of 50% of his total crew to a maximum of 5 workers. The first worker shall be a key man and may be transferred from the out of town local, the second from the local having jurisdiction and alternating until a maximum of 5 out of town labourers are employed. The remainder of the workers are to be hired from the local Union having jurisdiction over the project in question. Transferred workers will receive the higher of their home locals' rates and working conditions or the local having jurisdiction over the work.

Since specialty contractors working outside their home local's area are technically working non-Union, it was agreed that the enforcement of this provision where there is a verified violation, would be between the local Union having jurisdiction and the general contractor who issued the sub-contract. Those provisions are set out in the second last paragraph of Article 2.05(c). For violations of the mobility clause (i.e. 50% of the crew not to exceed 5), the general contractors' potential liability would be for the hours worked by Labourers in excess of the 50%/50% or 5-man maximum. Where the other terms and conditions of the applicable local Union Specialty Agreement are violated, in respect of the workers referred by the local having jurisdiction over the project, then the general contractor

would be liable as if those workers had been in the direct employ of the general contractor.

CONCLUSION

Where general contractors sub-contract work between the building and the lot line to a sub-contractor under agreement with a local Union, other than the local Union having jurisdiction over the project, it will be important to notify such sub-contractors of their obligations and to include compatibility provisions in the general contractor's commercial contract awards to ensure that any damages payable by the general contractor are recoverable from the sub-contractor.

EXCEPTION TO THE ABOVE-NOTED OBLIGATIONS

Work performed in accordance with Article 2.07 "Construction Management" or work executed directly by the owner and outside the General Contractors' scope of work is not covered by the above-noted restrictions.

Yours very truly,

Joe Keyes
General Manager
Construction Labour Relations Association
of Ontario