

Wisconsin Chapter NECA
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November 2006

NECA Convenes in Boston

NECA held the 2006 Convention in Boston, MA in October, in connection with the VDV Conference. The Wisconsin Chapter and Milwaukee Chapter sponsored a hospitality suite for members at the Marriott Copley Place Hotel. The Chapters both had very good attendance for the convention with the Wisconsin Chapter having 27 attendees. The city of Boston provided a beautiful and historic backdrop for a great convention, and many members took advantage of tours of the Boston area while they were there.



The combined convention and trade show boasted the largest attendance yet for a NECA convention, and an expanded trade show. The convention began on Saturday evening with a cocktail reception at the Science Museum, however, some contractors were learning even before the event with the IBS Conference and the Lighting Design Basics Workshop on Saturday.

The NECA General Session was held Sunday morning and featured a discussion on NECA's accomplishments over the course of the last year in the electrical industry. The keynote speaker was Scott Adams, writer of the "Dilbert" comic strip. The trade show and the many management and

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NECA's Board of Governors Also Meets

NECA Chapter Governors held their annual meeting just prior to the convention and voted on proposed bylaw changes and ordinary proposals placed before them. The first proposed bylaw change was related to the makeup of the Council on Industrial Relations (CIR), and was not adopted. The second proposed bylaw change was approved and changes the way a new district vice president will be appointed in the event a sitting vice president is unable to complete his/her term. A replacement had previously been appointed by the executive committee, but now will be elected by the governors from the affected district.

The Board also voted to make public the results of any ballot votes, and amended the strategy for the NECA Labor Relations Task Force, which is charged with negotiating changes to the Category One contract language with the IBEW. **Governor Ron Jahnke** will give a detailed report on the meeting in his next Governor's Report.

WEEBF Building Earns Two Globes

NECA recently released its “Officer and Overhead Personnel Compensation Study 2006.” The report provides statistics on compensation for 20 different management positions as well as information on fringe benefits paid to both management and direct labor personnel.

Figures are based on 2005 data submitted by NECA members. The cost of the publication is \$35 for member firms. To order, contact Jennifer at the Chapter Office (608 221-4650).

The Green Building Initiative certified the WEEBF office building with a rating of two of a possible four “Green Globes”. Such a rating “demonstrates excellent progress in achieving eco-efficiency results through current best practices in energy and environmental design.” WEEBF is just the second building in the Midwest to earn the prestigious recognition.



A review of the most recent 12 months of utility bills for the building showed the WEEBF building scored in the upper 88th percentile of Energy Star, which means it is using less energy than 88% of similar office buildings in our area. When compared with a more typical new office building, the WEEBF building uses \$3,300 less energy each year and reduces greenhouse gas emissions by 44,000 pounds per year. That’s the equivalent of taking four cars off the road.

Nearly half of public owners in the US implemented construction projects with energy efficiency designs in the past year, and more than two thirds of those projects were designed using LEED standards. A growing number of businesses are also using green designs for renovations of existing facilities. In addition to energy costs savings, green features tend to require less maintenance, and many times improve aesthetics of a project.

We congratulate the trustees of the Wisconsin Electrical Employees Benefit Funds for their commitment to build a green building.

Special Audits Will Detect Fraud

Small businesses are particularly vulnerable to employee fraud, and workplace fraud is rapidly increasing across the country. Small business owners will suspect that something is wrong, but will rely on their certified public accountants that prepare their financial reports or their audit firm to detect it. Many times, fraud remains undetected unless there is a specific concern to be reviewed.

But, having the right auditor can make all the difference. In general, financial report auditors will review your financials, determine “materiality”, and then perform sample testing based on that criterion. It therefore, becomes easy for a perpetrator to anticipate what the audit’s level of materiality is, and keep their fraudulent transactions below that level to avoid detection.

Just as attorneys specialize, some auditors specialize in fraud examination or forensic accounting, and neither of them uses materiality or a specific list of procedures for an audit. Rather, they often look at every piece of information available and work to understand the total financial picture.

If you suspect that the “numbers just don’t add up” the best bet is to hire a specialist to perform an audit for fraud. But hopefully you’ll never need to use this information.

“Small business owners will suspect that something is wrong, but will rely on their certified public accountant...”

The 2007 optional standard mileage rate will be **48.5 cents per mile** for business miles driven, according to a November 1st IRS news release. That is up from 44.5 cents per mile for 2006.

Other standard mileage rates for 2007 will be 20 cents per mile driven for medical or moving purposes; and 14 cents per mile driven in service to a charitable organization.

The IRS said the higher rates for 2007 can be attributed to higher prices for vehicles and fuel during 2006.



From the Desk of Attorney Kay

Contractors often ask me what remedies are available to them when they are the low bidder but do not receive the contract. Such rejections of the low bidder occur when the owner concludes that the low bidder is not the lowest “responsible” bidder.

Invariably, the owner reserves in the bid documents the right to determine who is the lowest “responsible” bidder. Recently, the Court of Appeals has decided what power the owner has in determining who is the lowest “responsible” bidder.

In DMK, Inc. v. Town of Pittsfield, DMK was the low bidder on four projects but the town of Pittsfield refused to award road construction contracts to DMK because of the town’s concern that DMK would not perform adequately. The town had previously awarded contracts for road construction to DMK and had been dissatisfied with DMK’s work.

Prior to deciding what to do with DMK’s bids, the town of Pittsfield met and reviewed the bids. The town’s attorney expressed concerns about DMK’s problems on earlier projects. A town supervisor expressed the belief that the town did not have confidence in DMK and would be spending more money by taking it as the lowest bidder. The town chairman expressed the belief that although the town lacked confidence in DMK, she thought that DMK may be capable of performing one or two contracts. DMK warned the town that if the town did not award DMK all the contracts where DMK was low bidder, it would sue the town. Given that ultimatum, the town passed a motion to award two contracts to DMK conditioned upon DMK signing a waiver. DMK’s lawyer responded that it would accept three contracts with the condition, but not two contracts. The town then rescinded its motion to award the two contracts to DMK with a waiver and awarded all four contracts to other bidders.

DMK then brought a lawsuit against the town. The town as a governmental unit was provided with certain immunities by the legislature for its exercise of legislative quasi-legislative judicial or quasi-judicial function. The Court of Appeals in its decision held that the terms “legislative, quasi-legislative, judicial or quasi-judicial are synonymous with the term discretionary. The Court held that a court will only interfere with the bidding authority’s discretionary act if it is arbitrary or unreasonable. It stated that an arbitrary act is one that is either so unreasonable as to be without rational basis or as the result of an unconsidered, wilful or irrational choice of conduct. The Court of Appeals, agreeing with the circuit court, held that the town’s expressed concern regarding DMK, based upon DMK’s prior work, evidenced a valid exercise of discretion when the town decided to award the work to other contractors.

The court once again reviewed the appropriate remedies that should be sought by an aggrieved contractor who is the low bidder but who is not awarded the work. The court observed that the Wisconsin Supreme Court has already held that an aggrieved low bidder who is not awarded a contract is entitled to maintain a suit for damages, provided that it immediately seeks an injunction before work begins. This admonition is often forgotten

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November 2006

November 1

Madison Membership
Janesville-Beloit Membership

November 2

La Crosse Membership

November 8

Fox Valley Membership

November 9

Indianhead Membership

November 13

Kenosha-Racine Membership

November 29

Northeastern Membership

November 30

Wisconsin Valley Membership

Upcoming Meetings

January 26 - 27, 2007

Winter Meeting
Madison, WI

March 18 - 21, 2007

Spring Conference
Tucson, AZ

July 26 - 28, 2007

Summer Meeting
Sheboygan, WI

October 5 - 8, 2007

NECA Convention
San Francisco, CA

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Experts are warning that although the job growth rate has picked up and is reasonably strong, productivity has not grown along with the job rate. The lack of growth in productivity typically means that the economy has already put the most productive employees to work and is now digging into the ranks of the less productive. It signals that the situation of jobs growth is not sustainable, and may well lead to rising inflation and an end to economic expansion.

Meanwhile, if you thought it was tough to be an electrical contractor, remember it could be worse; you could be an economist.



Have you got a code question for Tom? Let us know and we'll ask him to answer it in a future newsletter.

NECA Convenes in Boston

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technical workshops then opened. The trade show was open Sunday, Monday and Tuesday and was very well attended. The closing general session was held Tuesday morning, and featured keynote speaker David McCullough, author of "1776".

The 2006 NECA Convention closed Tuesday evening with a private concert of the Boston Pops at historic Symphony Hall. All in all, it was another exceptional convention and trade show, and attendees found plenty of reasons to look forward to attending the convention again next year in San Francisco. The dates are October 5 – 8, 2007. Mark your calendar now.

For those of you who were unable to attend the convention this year, the NECA Office is once again selling a CD recording of each individual session for \$11 each or a full set of all the CDs is available for \$150. Call Jennifer at the Chapter Office (608 221-4650) to order.



In accordance with all labor agreements in the Wisconsin Chapter, and State Statutes, **Thanksgiving Day, Christmas Day and New Year's Day** are holidays. All work performed on those days is to be paid at double the straight time rate of pay. In addition to the above listed holidays, **Christmas Eve Day** is recognized as a holiday in Local #158 and the **day after Thanksgiving Day** is recognized as a holiday in Local #127.

The Wisconsin Chapter Office will be closed on Thursday, November 23, and Friday, November 24, 2006 in observance of Thanksgiving.

Tom's Code Corner

Question: I have a question regarding a project's electrical requirements. A new owner of a former factory building wants to do automotive body work and painting. The new equipment will include self-contained paint and mixing booths. The new occupancy type will be an S-1 classification. The remaining floor space is an office and restroom area that is separated from the auto work area by a wall. How do I classify this building?

Answer: Not easily. Article 511 and 516.

Use NEC 516 to assign classifications to areas near the spray booths.

Use NEC 511.3(B) to assign classifications to areas in the general body repair area.

511.3(B)(4) and (5) permit you to employ techniques such as positive-pressure to treat adjacent areas such as the office or bathrooms. Talk to the local electrical inspector or fire inspector about the specific techniques you intend to employ.

Note that if you are using the HVAC system to treat an area as "nonhazardous", the air supply must be 24/7.

MANPOWER STATISTICS

For the Month of -- **September 2006**

Local Union #	14	127	158	159	388	430	577	890	TOTAL
Local Contractors: NECA	10	5	3	17	5	5	4	6	55
Non-NECA	34	14	16	20	16	15	11	19	145
Total Local Contractors:	44	19	19	37	21	20	15	25	200
Traveling Contractors: NECA	9	5	6	5	7	5	7	5	49
Non-NECA	3	9	3	3	3	5	3	1	30
Total Traveling Contractors:	12	14	9	8	10	10	10	6	79
TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:	56	33	28	45	31	30	25	31	279
Contractors More Than Two Months Delinquent in N.E.B.F.	2	1	1	0	2	2	0	0	8
Total Number of Contributing Contractors in Area:	58	34	29	45	33	32	25	31	287
Employees: NECA	295	58	121	667	282	61	113	205	1802
Non-NECA	236	162	201	99	55	77	67	73	970
TOTAL EMPLOYED:	531	220	322	766	337	138	180	278	2772

<u>Union #</u>	<u>NECA Division Name</u>
127	Kenosha Division
158	Northeastern Division
159	Madison Division
388	Wisconsin Valley Division
430	Racine Division
577	Fox Valley Division
890	Janesville-Beloit Division
14	Indianhead/La Crosse Division

NOTE: These figures only reflect employees of contractors not more than 2 months delinquent in their N.E.B.F. payments.

The **Winter Meeting** of the Wisconsin Chapter NECA will be held at the Marriott Madison West Hotel in Middleton on the last weekend in January. The weekend begins with a welcoming cocktail reception on Friday, January 26, and the general meeting will be held Saturday, January 27 from 8:00 a.m. to 4:00 p.m. The closing banquet will be held Saturday evening with our "Hollywood's Red Carpet" theme, guaranteed to make you feel like a true movie star! All events will be held at the Marriott, which is conveniently located near ample shopping and dining opportunities on the west side of Madison.

The registration fee is just \$50 per person, which includes the cocktail reception, meeting registration, lunch on Saturday and the closing "Red Carpet" banquet. Registration materials will be mailed later this month.

From the Desk of Attorney Kay

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by lawyers who represent contractors. The appropriate action for a disappointed low bidder is to immediately commence a lawsuit seeking injunctive relief against the owner, preventing the owner from awarding the contract to anyone else, or seeking an injunction preventing the contractor who is awarded the work from commencing performance. If and when successful, the disappointed low bidder can force the owner to award it the contract, or alternatively, re-let it. When the disappointed low bidder is granted such injunctive relief, the court may also award damages representing the contractor's cost of preparing the first bid and obtaining the required bond. However, the contractor will not be entitled to recover lost profits, because if it is entitled to receive the contract and perform the work as low bidder, it will realize its profits when it performs the work.



The DMK case involved a public agency, but the law is approximately the same involving private owners. Contractors whose low bids are not accepted by public or private owners must immediately commence an action to obtain injunctive relief, preventing the owner from awarding the contract to anyone else and preventing anyone else from commencing the work which is the subject of the dispute. However, private owners are not required by law to let bids to the lowest responsible bidder and often reserve the right to reject any and all bids.

Holiday Decorating Safety Tips

Every year, Americans spend hundreds on decorating their homes for the holiday season on lights, trees, wreaths and more. Here are some simple reminders about holiday decorating.

- Hang your outdoor decorations during the day, rather than at night when you may not see obstacles such as tree roots which can trip you.
- Use no more than three standard-size sets of lights per single extension cord.
- Fasten outdoor lights securely to trees, house walls, or other firm supports to protect the lights from wind damage. Use only insulated staples to hold strings in place, not nails or tacks. Or, run strings of lights through hooks (available at hardware stores).
- Turn off all lights when you go to bed or leave the house to save energy and prevent lights from shorting.
- When purchasing a live tree, check for freshness. A fresh tree is green, needles are hard to pull from branches and when bent between your fingers, needles do not break. The trunk butt of a fresh tree is sticky with resin, and when tapped on the ground, the tree should not lose many needles.
- Water your tree daily or even twice a day when it is first cut. You should maintain an inch or more of water to ensure the cut end of the tree is always moist.



Trustee Programs

If you are a Trustee of the local Health & Welfare or Pension Trust, you are encouraged to attend the International Foundation of Employee Benefit Plans Trustees Institutes or the IBEW-NECA Employee Benefits Conference. In many cases, the Trust will pay your registration and expenses for you to attend. The IBEW-NECA Employee Benefits Conference will be held January 11 – 12 in Phoenix, Arizona and the registration deadline is December 1, 2006. The New Trustees Institute and the Advanced Trustees will be held February 26 – 28 in Lake Buena Vista (Orlando), Florida. For registration information, contact Jennifer at the Chapter Office.



Note - some of the Apprenticeship Trusts have also approved attendance at the International Foundation's Trustees Institutes. Contact the Apprenticeship Coordinator Office (608-221-3321) to see if your committee has approved this program.

The Pension Protection Act of 2006 is the most significant pension legislation enacted since the Employee Retirement Income Security Act of 1974 (ERISA). Our pension trustees and legal counsel are carefully reviewing the new legislation to determine what changes will need to be made in the operation of our pension plans prior to the effective date of 2008. In the next few months, you will likely hear more about changes necessary to comply with the new legislation.