

Wisconsin Chapter NECA
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June 2009

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2009 Summer Meeting

The 2009 Summer Meeting of the Wisconsin Chapter NECA will be held at Lake Lawn Resort in Delavan, July 30 through August 1. Delavan is near the ever-popular Lake Geneva, and as the name implies, Lake Lawn Resort is located on a lake, complete with hiking trails.

The weekend event will begin with a cocktail reception on Thursday, July 30 from 6:00 to 7:30 p.m. It's a great opportunity to network with NECA members from other areas of the state.



The general session speakers for Friday morning will be Mike Johnston, NECA's Executive Director for Standards and Safety, who will give a safety presentation and a demonstration of NECA's Safety Expert software. Next, Professor Awad Hanna will give us a preview of his newest seminar, "Managing Field Productivity". The Chapter will be hosting the full version of the seminar on November 9, 2009.

Friday afternoon, the annual golf outing will be held, complete with a "Hole-In-One" contest again this year. The grand prize for a hole-in-one on the specified hole is \$20,000. Since we have not yet awarded a prize for a hole-in-one, this certainly is the year!


As is the custom, our Saturday session will be led by Joe Hertel, Chief Electrical Inspector for the State of Wisconsin, who will give us a code update. Joe's session is worth 4 CEUs for all attendees.

Our weekend event will conclude with cocktails and dinner on Saturday evening, followed by our award presentations, ECPAC Raffle drawing and the entertainment of a comedian. All in all, it is sure to be an enjoyable weekend for all!

The registration deadline is June 22, 2009, if you have not already done so, please get your registration form in to the Chapter Office. If you have any questions, please call Rachel or Tavia at the Chapter Office (608) 221-4650, and they will be happy to assist you.

According to the Bureau of Labor Statistics, construction employment fell by 110,000 jobs in April. The losses were spread throughout the construction sector, which comprised more than one of five job losses in the private sector. The April unemployment rate in the construction totaled 18.7%, more than double the 8.6% in the private economy overall. Average hourly earnings in construction, however, rose 4.4% compared with the private economy which rose 3.2% for the same period.

The 2009 NECA National Convention will be held in Seattle, Washington this year. The dates are nearly a month earlier than usual to take advantage of Seattle's best weather. Beginning Saturday, September 12 with an opening reception titled, "Going Green in the Emerald City", and continuing through Tuesday, September 15 with the closing celebration featuring Cirque Dreams, the NECA Convention offers something for everyone. The NECA Show will open

 Sunday morning, September 13, at 11:30 a.m. and this year will be the 54th anniversary of the annual exposition. See new products and attend technical workshops to earn CEU credits, and learn! A brochure with the registration form was mailed by NECA National to all member firms. The Chapter is staying at the Sheraton Seattle hotel. We urge you to send your registration form to the Chapter Office to register, to ensure that your reservation is included in our block of rooms. Detailed information on the convention is also available online www.necaconvention.org but don't delay. The early registration deadline is July 24, 2009. Registrations received after that date will pay a higher registration fee.

ARRA Offers Tax Breaks

The American Recovery and Reinvestment Act (ARRA) offers some unique tax breaks to businesses, but many of them are only available this year, so businesses must act quickly to take advantage. Among the key provisions are:

Faster Write-offs for Certain Capital Expenditures: Many small businesses who invest in new property and equipment can write off most or all of these purchases on their 2009 returns as the "bonus depreciation" provisions have been extended. Additionally, the section 179 deduction allows businesses to deduct up to \$250,000 of the cost of certain equipment placed into service in 2009.

Extended Net Operating Loss Carryback: A business who had expenses exceeding their income in 2008 can choose to carry back that loss for up to five years, rather than the usual two years, which could result in a special tax refund.

Exclusion of Gain on Sale of Certain Small Business Stock: Individuals who invest in small businesses can exclude 75 percent of the gain upon sale of the stock, if the stock is acquired after February 17, 2009 and before January 1, 2011, and is held for more than five years.

Estimated Tax Requirement Modified: Small business taxpayers can defer some tax obligations to the end of the year, by making quarterly estimated tax payments equal to 90 percent of their 2009 tax or 90 percent of their 2008 tax, whichever is less.

COBRA Credit: Employers who provide the 65 percent COBRA premium subsidy to eligible former employees can claim credit for this subsidy on their quarterly or annual employment tax return.

Visit the IRS site: <http://www.irs.gov/newsroom/article/0,,id=208316,00.html>, for more details, or talk with your accountant.



ECPAC Now Accepts Corporate Dollars

As we've reported previously, NECA's ECPAC fund has grown substantially since its inception, with more than \$1.5 million in personal donations during the 2007-2008 election cycle. The size of the fund has provided NECA with more clout with the members of Congress. At the 2009 Government Affairs Conference, NECA hosted a reception with Congressional members and candidates are beginning to recognize the importance of ECPAC.



As you know, in the past all donations that went to the candidates were required to be personal dollars, not corporate donations, and therefore, NECA was unable to handle donations from NECA member firms. This has now been changed so that your company may donate monies to the ECPAC Administrative Fund that will be used to cover the administrative costs, such as credit card processing, fulfilling premium requests, and hosting Congressional receptions.

Enclosed with this newsletter is a new form that may be used to send a corporate donation to ECPAC, which will be tax deductible as a business expense. Of course, NECA hopes that members will also continue to contribute personal dollars to be used solely for campaign donations to legislators who support NECA interests and legislation.

From the Desk of Attorney Kay



CONSTRUCTION LAWS APPLICABLE TO MUNICIPALITIES

It may be helpful to electrical contractors to have a review of the public bidding laws of the various governmental units in Wisconsin. In the last bulletin, I reviewed the public bidding laws relating to the State of Wisconsin. In this edition, I will review the public bidding laws regarding towns, villages, cities, school districts and municipalities generally.

TOWNS

Under § 60.47 of the Wisconsin Statutes, all public contracts with an estimated cost greater than \$25,000.00 must be let to the lowest responsible bidder. Where the contract has a value of more than \$25,000.00 the town must advertise for proposals to perform the terms of the contract by publishing a class 2 notice which requires two insertions in a newspaper. Otherwise, a class 1 notice is required. The town may also provide for additional means of advertising for bids.

Where the town wishes to enter into a public contract for a sum less than \$5,000.00, no public bidding requirements apply. In addition, the requirements do not apply to public contracts entered into by a town with another municipality. Finally, the town may perform its work directly if it chooses.

A town is subject to the provisions of § 66.0901 that relates to municipalities generally, as I will explain later in this article.

VILLAGES

Under § 61.55 of the Wisconsin Statutes, all contracts for public construction in a village exceeding \$25,000.00 must be let by the village board to the lowest responsible bidder. If the estimated cost exceeds \$5,000.00 but is not greater than \$25,000.00 the village board must give a class 1 notice.

The village statutes also permit the village board to adopt an ordinance to act as a city in letting contracts in which case the statutes that apply to public works by cities is applicable to the village contracts.



CITIES

Under § 62.15 of the Wisconsin Statutes, cities must let all public construction having an estimated cost exceeding \$25,000.00 to the lowest responsible bidder. All other public construction may be let as the city counsel directs. If the estimated cost of any city construction contract exceeds \$5,000.00 but is not greater than \$25,000.00 the city board of public works must give a class 1 notice before the contract for construction is executed.

The statutes relating to public works by cities contains an express permission to include an escalator clause in the contract contemplating possible additional charges for labor and materials as a result of general inflation of the rates and prices of the same to the contractor, during the performance of the contract. The escalator provision may not exceed 15% of the amount of the bid. Each bid on a city contract contemplating an escalation must be accompanied by a schedule enumerating the estimated rates and prices of items of labor and material used in arriving at the bid. Only those items that are enumerated may be subject to the escalation privilege.

The city statutes also provide that contracts may include clauses providing for increasing the quantity of construction required in the original contract by an amount not to exceed 15% of the original contract price.

The statutes provide for the preparation of plans and specifications for consideration by bidders, and the statutes require that advertisements for bids be published as a class 2 notice. The statutes require that all bids be accompanied by a certified check or bid bond equal to at least 5% but not more than 10% of the bid payable to the city as a guarantee that if the bid is accepted the bidder will execute the contract. Upon the signing of the contract the certified check acting as a guarantee will be returned to the bidder. Where the successful bidder fails to file a contract and bond for the work, the amount of the bid bond or certified check is forfeited to the city as liquidated damages. If the certified check or bid bond is in substantial compliance with the minimum requirements but not technically adequate, the city, in its discretion,

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July 2009

July 1

Madison Membership
Janesville-Beloit Membership

July 2

La Crosse Membership

July 8

Northeast/Fox Valley Joint
Membership

July 9

Indianhead Membership

July 13

Kenosha-Racine Membership

July 23

Wisconsin Valley Membership

Upcoming Meetings

July 30-August 2, 2009

NECA Summer Meeting
Lake Lawn Resort, Delavan

September 12-15, 2009

NECA Convention
Seattle, WA

January 29-30, 2010

NECA Winter Meeting
Holiday Inn, Manitowoc

July 29-31, 2010

NECA Summer Meeting
Radisson, La Crosse

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reached at

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Whitewater is losing people and jobs, and they are working to change that. The city leaders are committed to launching a \$10 million technology park to help them create good jobs that will help attract the brightest talent to move to Whitewater.

Tom Still, president of the Wisconsin Technology Council says that Whitewater has plenty of potential for growth, but they must also remain patient as they pursue this venture. "University Research Park in Madison is very successful, but it took 10 years to get its legs under it."

The city is teaming with the University of Wisconsin-Whitewater to build the Whitewater University Technology Park and hopes the jobs created will also help them retain university graduates. The proposed park is generating plenty of interest; however, many start-up businesses are finding it difficult to secure financing right now with tight credit situations.

Nonetheless, city leaders are pushing forward with their plans and have applied for a \$3.4 million grant to help them start the project.



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

Take the Safety Partnership Survey

OSHA in the State of Wisconsin is collaborating with the Department of Workforce Development - Division of Workers Compensation and other parties to form the Safety Partnership. They are working on a safety and health issue believed to be pervasive across all industries and work groups especially in the current economic situation - Effects of Fatigue on Worksite Safety and Health. Due to downsizing, fewer employees are tasked with more duties and responsibilities which often entail longer working hours. The initial approach was to address fatigue resulting from extended work hours; however, the partnership soon discovered there is no uniformity in the definition and implementation of a "normal work day". Many healthcare industries now consider a twelve-hour workday "normal."

Studies have shown that:

- 19% of adults surveyed report falling asleep at work;
- 18% of adults surveyed indicated that they have called in sick due to a poor night's sleep
- 29% of adults surveyed indicated that they do not feel well rested when getting up for work
- 27% of adults surveyed reported dozing off behind the wheel of an automobile



The Safety Partnership has been struggling with the idea of how widespread the issue is in our state and how are employers addressing it. In that venue they have developed a survey, which has been posted on www.blogspot.com. Responses are anonymous. Please take the time to visit the site and complete the survey at

<http://www.safetypartnership.blogspot.com/> Thank you!

Tom's Code Corner

Question: A bank wants me to install a generator to back up their computers. I understand that all standby generators are required to be located more than 20 feet from normal utility distribution equipment. Is this correct?

Answer: You are referring to Comm 16.700-(2) and 16.701-(1). Comm 16.700 applies only to required emergency systems. Comm 16.701 applies only to legally required systems. A generator that supplies only optional loads does not have to be separated from outdoor electrical equipment. A generator that only supplies computers or normal lighting and power loads does not have to meet the separation requirements.

Several changes have been made to these rules. A properly sized barrier can now be used to reduce the separation. With a barrier, no minimum separation distance is required. Generators required to comply with either rule must also be at least 10 feet horizontally from buildings of Type III, IV or V construction.

MANPOWER STATISTICS

For the Month of -- **April 2009**

Local Union #	14	127	158	159	388	430	577	890	TOTAL
	=====	=====	=====	=====	=====	=====	=====	=====	=====
Local Contractors: NECA	7	3	4	17	5	5	3	6	50
Non-NECA	34	9	14	18	9	16	8	14	122
Total Local Contractors:	41	12	18	35	14	21	11	20	172
Traveling Contractors: NECA	8	4	6	2	4	3	5	6	38
Non-NECA	4	7	4	3	0	3	1	2	24
Total Traveling Contractors:	12	11	10	5	4	6	6	8	62
TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:	53	23	28	40	18	27	17	28	234
Contractors More Than Two Months Delinquent in N.E.B.F.	1	3	1	0	4	0	0	0	9
Total Number of Contributing Contractors in Area:	54	26	29	40	22	27	17	28	243
Employees: NECA	237	47	106	499	187	33	140	146	1395
Non-NECA	179	98	147	71	35	49	57	63	699
TOTAL EMPLOYED:	416	145	253	570	222	82	197	209	2094

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

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

A study by the Integrated Benefits Institute found that the true cost of employees who suffer from depression is considerably greater than most employers imagine. The study looked at true lost-time costs of depressed employees on disability leave, and included the cost of disability payments and lost productivity. The result of the study is that the lost-time costs were 2-1/2 times the costs of the medical care and pharmacy benefits combined. Lost productivity accounted for 60% of the "full costs."

Most significantly, lost productivity was greatest for employees who are still at work, but less productive due to their depression. Depression is more prevalent than many employers think. Of over 400,000 workers surveyed, 10% of them reported receiving medical treatment for depression.



From the Desk of Attorney Kay (continued)

(Continued from page 3)

may accept the check or bid bond and allow the bidder 30 days to furnish such additional guarantee as may be required. However, the insufficiency must be no more than one-fourth of 1% of the bid.

The city statutes permit the board of public works to reject any and all bids if in its opinion there has been a conspiracy or combination to prevent free competition. If the city council believes that any of the bids are fraudulent, collusive, excessive or against the best interest of the city, the council may by a two-thirds vote reject any and all of the bids received and order the work done directly by the city.

The statutes also contain a provision aimed at incompetent or otherwise unreliable contractors. Section 62.15(6) expressly states that whenever a bidder in the judgment of the city is incompetent or otherwise unreliable to perform the work contemplated by the bid, the board of public works should report to the city council the schedule of all the bids for such work together with a recommendation to accept the bid of the lowest responsible bidder, accompanied with the board's rationale. The council is authorized to direct the board of public works to either let the work to the lowest responsible bidder or rebid the work.

COUNTIES

Under § 59.52(29) of the Wisconsin Statutes, all public work undertaken by counties where the estimated cost of the work exceeds \$25,000.00 is to be let by contract to the lowest responsible bidder. Any work involving an estimated cost which does not exceed \$25,000.00 may be let as the county board directs. Once again, if the estimated cost of the public work is between \$5,000.00 and \$25,000.00 the board must give a class 1 notice before it contracts with any bidder. If the contract is expected to exceed \$25,000.00 of estimated cost, it is required to be let and entered into under the statutory provisions relating to construction by municipalities which is § 66.0901. Where the estimated cost of a contract exceeds \$25,000.00, the board may by a three-fourths vote of all the members decide to have the county perform the work directly without submitting the same for bids.



SCHOOL DISTRICTS

Public works by school districts may not be subject to the general municipality requirements of § 66.0901 of the Wisconsin Statutes. I will now turn to that general statutory provision on public works and projects.

“Municipality” under § 66.0901 is defined as:

“Municipality” means the state or a town, city, village, school district, board of school directors, sewer district, drainage district, technical college district or other public or quasi-public corporation, officer, board or other public body charged with the duty of receiving bids for and awarding any public contracts.

However, it should be noted that in order for this section of the statute to apply, the public body so defined must be expressly charged with the duty of receiving bids and awarding public contracts. No such provisions appear in the statutes relating to school districts, and therefore school districts may not be subject to the competitive bidding requirements.

Under § 66.0901, any person submitting a bid for the performance of public work who claims to have made a mistake, omission or error in preparing the bid, may, before the bids are opened, ask that the bid be returned to the bidder unopened. However, the bidder may not thereafter bid on the project. This is contrary to the provisions of § 16.855 that pertains to state construction.

Unlike any of the other statutes relating to public construction, § 66.0901(6) provides specifically for the awarding of separate contracts. The statute provides:

SEPARATION OF CONTRACTS; CLASSIFICATION OF CONTRACTORS. In public contracts for the construction, repair, remodeling or improvement of a public building or structure, other than highway structures and facilities, a municipality may bid projects based on a single or multiple division of the work. Public contracts shall be awarded according to the division of work selected for bidding. The municipality may set out in any public contract reasonable and lawful conditions as to the hours of labor, wages, residence, character and classification of workers to be employed by any contractor, classify contractors as to their financial responsibility, competency and ability to perform work and set up a classified list of contractors. The municipality may reject the bid of any person, if the person has not been classified for the kind or amount of work in the bid.

Electrical contractors should not be reluctant to become familiar with municipal government in their market area. Governmental units often provide a source of work even in a slow-moving private economy.

Not receiving your national **NECA News** anymore? Try checking your e-mail inbox. NECA has converted the biweekly newsletter to an electronic format, thereby eliminating the cost of printing and mailing the newsletter to all member firms. The new electronic format is called “**NECA This Week**”. If you did not receive a copy, that means that you should go online to register at www.necanet.org. Click the “Manage Profile” link in the right hand corner of the NECA homepage to add e-mail information so that you will continue to receive the national newsletter.

Meanwhile, the Wisconsin Chapter has begun to allow members to opt out of receiving “**Watts News**” by mail. We will continue to mail the monthly newsletter to those of you who wish to receive it via “snail mail”, however, if you are interested in receiving it *only* via e-mail, please e-mail Tavia at the Chapter Office (tavia@wisneca.com) and include your name and company name.