

You Ought To Know

ISSUE: 10

What if I am required to carry a non-union employer as part of a bid package? Is that allowed?

The subcontracting language in the Principal Agreement prohibits a contractor from directly or indirectly subcontracting work that falls under the scope of the Agreement to any employer who is not signatory to our Agreement.

The Company shall not directly or indirectly contract, subcontract, or sublet any work under the jurisdiction of this Agreement to any other Employer or Employee who is not a Party to an IBEW Construction Agreement nor require any Employee to work on a piecework basis.

Carrying a non-union employer as part of a requirement of a tender is one example of a violation. ECAO realizes that this is sometimes necessary as part of the bid package, and we realize that refusing to carry the non-union employer could result in the loss of the job.

We recommend you advise the client/General Contractor that you are unable to carry a non-union employer to perform work under the scope of our Agreement. There are many signatory contractors who could perform this work (i.e., those with Belden certification). Follow up in writing.

We also recommend you reach out to your local Business Manager if the job will go non-union because you cannot bid on it due to the language in the Principal Agreement.

Can I change the terms of the Collective Agreement if the Business Manager approves?

Each local Appendix (White Pages) contains a Letter of Understanding (LOU) re: Market Recovery Program. This was negotiated by the parties (ETBA, IBEW, IBEW CCO) to permit local ECAs and local Business Managers to reach a Memorandum of Local Amendment in certain circumstances:

- Work not currently done, or not likely to be done, by signatory electrical contractors OR
- Where any provision of the Principal Agreement “works a hardship”

These are often called Market Recovery Agreements. There are requirements set out in the LOU that need to be followed, and some of the language differs slightly from local to local.

1. The Memorandum of Local Amendment is between the local ECA and the local union.
2. It can be for a specific project or a specific geographic location.
3. It must be in writing.
4. The terms must be equally applicable to all signatory electrical contractors; however, it is up to each contractor to ask if a Memorandum of Local Amendment is in place.
5. The Memorandum of Local Amendment expires in accordance with its terms or when the Principal Agreement expires (whichever is first).

It is important to note that the local Business Manager has exclusive discretion to decide to enter into a Memorandum of Local Amendment.



What is the difference between Market Recovery Agreements and Stabilization Funds?

In some local areas, there is no difference. The local union uses the same form for both. In other areas, they use the term Market Recovery Agreement when they are changing the terms of the Principal Agreement. For example, if the contractor requests time-and-a-half overtime rate or 40-hour work weeks, approval by the local Business Manager would be required and should be done in writing pursuant to the Market Recovery Program LOU.

Stabilization Funds have been included in the Principal Agreement since 1986. Initially, two areas established a Stabilization Fund as part of their union funds. By 2007, all local areas had a Stabilization Fund as part of their union funds ranging from \$0.20 up to \$2.00. Fast forward to 2023 and Stabilization Fund contributions range from \$0.20 up to \$6.70 per hour earned.

It is important to note that these Funds are part of union funds, to the left of the wage package in the wage schedules. As mentioned in an earlier edition of You Ought to Know, the IBEW and ETBA negotiate changes to the wage package each round of collective bargaining. The union and its members determine how the increase is distributed. If a local union and its members were to decide to no longer contribute to a Stabilization Fund, those contributions would go elsewhere (another union fund or the base rate).

Like the Memorandum of Local Amendment language, applications for Stabilization Funds are determined solely by the local Business Manager in accordance with their local's set of Stabilization Fund rules.

Contractors who use Stabilization Funds are relying on the local union to support them in their quest to be more competitive against non-union electrical contractors. We hear numerous complaints from contractors including not knowing if their application is approved or declined right up to the bid closing time, which might result in them not bidding the job, to being awarded Stabilization Funds only for those workers hired in the local area from the list.

How many projects are bid using Stabilization Funds?

Great question! ECAO does not have that information because it is not shared by the IBEW. To address that and many other gaps in knowledge, ECAO has launched a new project database. Members who upload projects using this secure and confidential system will be able to track project information such as the Stabilization Fund application status for a job, whether the application was processed in a timely manner, and whether the work was won or lost.

While users can only see their own company's information in the system, ECAO has access to all projects and will routinely prepare and distribute anonymized reports and share them with you periodically through this You Ought to Know newsletter so that you can understand how your company fares on Stabilization Fund utilization, among other things, compared to other members. For more information on this new and free database, please contact Patryk Wrobel at pwrobel@ecao.org

Do you know what You Ought to Know?

We hope that you're benefitting from the facts and insights we share through this publication, and we welcome your questions and content ideas for future issues at any time. Contact Jodi Travers, ECAO's Labour Relations Manager, at jtravers@ecao.org. You can access all previous issues anytime on the ECAO member website under Labour Relations.