

THE ACADEMY OF ELECTRICAL CONTRACTING

**Paper Presented by
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**PLANNING, ORGANIZING AND DEVELOPING A SUCCESSFUL LOCAL
GOVERNMENT AFFAIRS PROGRAM IN SAN DIEGO**

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What if your biggest customer posted payments to General Contractors on its website so all sub-contractors would know their money is available and ready to be passed along?

If this sounds like a sound business practice to you, it begs a follow-up question: Are you willing to support the effort necessary to make it happen?

It was through the NECA San Diego Chapter's efforts to plan, organize, and develop a local government affairs program that allowed us to successfully address some nagging payment issues that had been dogging our membership—including that of enacting local policies that have helped our contractors receive larger portions of their money more quickly (see attachment for details). If it can happen in San Diego, it can happen in your region.

There are some challenges we faced along the path to creating a successful program, and we have learned lessons that can be shared with others. But if the will is present, many goals that have been discussed at length among NECA's membership, but have infrequently been realized, can be achieved. Perhaps our experience can serve as a model for others.

The Initial Hurdle

The Board of Directors and staff of every NECA Chapter has the responsibility for carrying out a never-ending list of activities and services on behalf of the electrical contracting industry. A quick review of the Association's "objects," as listed in the By-Laws, reveals five work activity areas: Labor Relations; NECA Services (mostly education); Meetings and Events; Chapter Business (managing efficiently, effectively, and at the highest level of fiduciary responsibility); and finally, Government Affairs.

One of the San Diego Chapter's most practical activities is an Annual Board of Directors Retreat, initiated in 1983. At these three-day events, a long list of current industry problems is discussed. After these retreats, addressing the complete list with targeted solutions, however, just never quite gets done. Until recently, we were like many chapters: our time, staff, and energy simply were not sufficient to accomplish everything. One excerpt from the Chapter's 1998 retreat minutes reads:

The Chapter Board of Directors discussed the fact that our work is never done. Although our endeavors are many, we continue to have the *nagging, difficult issues and industry sores* we want to address such as:

- Separate bid-separate contract
- Ruinous contract and payment items
- Bid-shopping and bid-peddling
- Local government agencies "contracting policies"

The Board realized that, with most of the primary functions of the chapter, we were doing a good job. Even in the arena of addressing national government affairs, our participation with NECA continues to assist us with both nation-wide as well as state issues. *At the local level, however, our many other activities made any sustained efforts toward lasting solutions impossible.* The harsh reality was that we were not set-up to undertake these efforts, because our many other activities completely utilized existing staff time.

To compound our problem, local government agencies had been meeting regularly for years with other associations whose interests were in conflict with our own. As a result, public policy was not operating in favor of the sub-contracting industry. This fact was highlighted in stark relief when one mayoral candidate pointed out very candidly: "No, I really do not know the issues sub-contractors face. But then, you haven't come down to see me."

We had to come to grips with the fact that local government agencies award more work than state and federal agencies combined. We wanted to influence how that work was performed and paid for; yet, we were insufficiently active with local government contracting agencies.

Chapter Board Member and Academy Fellow, Kent Baker, made a statement which turned out to be a guiding philosophy during the planning for solutions to this problem. He said, "We must establish ourselves to the point that when a local government agency is considering anything affecting construction, they pause to ask, 'What does NECA think?'"

The First Step

The 1998 Board Retreat continued with an extensive discussion surrounding the possibility of

creating a new position: a local industry government representative. The chapter office was asked to propose methods for funding such a position.

A sub-committee of the Board conducted follow-up discussions during two half-day, seminar-type sessions utilizing Academy Fellow and Chapter Governor, Dave Raspolich's "Business Strategy for Groups" concept. Guided by this process, the committee developed a workbook of all the things we needed to accomplish in the arena of local government affairs, and concluded that the chapter should fund the activities through contractor-only contributions. An actual working job description was developed based exactly on the sub-committee's work. In part, it says:

The overall goal of this job function is to have San Diego Chapter NECA and the specialty contracting industry, become involved with government agencies at the local level and to develop working relationships with key local elected officials, staff members, and contracting officers of government agencies. As they are large consumers of construction services, these officials and agencies will be provided *valuable knowledge* of how the specialty contracting industry can help improve construction results through *improved* legal contracting methods. Our intent and need is for key people to recognize NECA as the knowledgeable, honest, and reliable source with whom they can and should consult on matters of mutual concern. They will understand the *benefits to them* of having NECA members involved in their construction projects.

I want to stress that the word "lobbying" is not used in the job description. We found out that public contracting agencies are hungry for *education about the construction industry and how to actually get best value for the money they spend*. We now provide that education, slowly, honestly, and in usable portions.

Finding the Right Person

At the time we began, we had no model to copy. We created this position literally from the original concept all the way through to eventual reality. Still, in the early years, our vision contin-

ued to exceed our grasp. Finding the right person for the job proved to be difficult. It took 2 1/2 years, and two false starts with hires who were not suitable. The third person we hired turned out to be the right one for the job.

Sweet Successes

Once we found our chapter's Local Government Affairs and Economic Development Specialist, the accomplishment of our original goals has been attained at an outstanding level. In fact, the momentum has carried us beyond the original concept. At the beginning, what we wanted to accomplish was to develop relationships with local governmental agencies and elected officials, to the extent that these decision-makers would want to know what NECA thought about an issue *before* implementing construction policies. In our local area, these groups include (and we are now represented in regularly-scheduled meetings with senior staff in these groups):

- City of San Diego
- San Diego Unified School District
- Airport Authority
- Regional Procurement Committee

We enjoy a seat on the Citizen's Construction Oversight Committees for three school districts. We have complete access to elected officials as needed at the City, County, State, and School District levels.

To achieve the goal of being a voice in San Diego, it has been important to be known in circles other than construction and local politics. In our case, we try to be *where our customers are* as well. In this area, we have a voice and a presence at the following:

- San Diego Regional Chamber of Commerce
Vice-chair of Legislative Committee
Public Policy Committee
Transportation Committee
- San Diego North Chamber of Commerce
Legislative Committee
- San Diego County Taxpayers Association
Officer on the Executive Committee
Issues Committee
Citizens Oversight Subcommittee Chair
- Downtown Partnership
Urban Design and Planning Committee

Above and Beyond

Five years ago, our time was spent trying to *prevent* the implementation of ideas being proposed by our competitors. *Today, we are the ones* being proactive and *our competition is spending its time responding to our ideas:*

- PLAs
- Prevailing Wage
- Electrical Training and Safety Specifications
- Web site Posting of Payments to GCs
- Retention Reduction
- Prompt Payment Provisions Enforcement

There have been many instances over the years in which we have been able to educate representatives of a public agency. In many cases, they have seen the benefit to themselves of implementing our suggestions. In an attachment, I have included several “case history” examples of our successes that reach beyond our original concept, that have been achieved due to the active involvement of our “point person,” a paid staff position dedicated to government affairs.

Conclusion

We have found the most important reason for the successes we have eventually attained is that we have done most of our work one-on-one. For example, success on a vote, taken by a public body after the open speaker forum, is entirely based on our one-on-one activities *before* the vote. The typical three-minute speech at the public forum is merely a formality.

Another important fact we have learned is that *nothing is accomplished in a vacuum*. The successes we have enjoyed are primarily due to three factors:

- **Forming alliances:** It was a rare occurrence when something was accomplished simply because NECA wanted it to happen. By *having NECA take the leadership role*, however, and then working with other associations including the ASA, EGCA, Chambers of Commerce, Taxpayers Association, IBEW, and the Labor Council (when appropriate), we are able to accomplish much.
- **Construction environment:** The extreme cost increases over the last few years have focused

the attention of public agencies and private developers and made them more inclined to listen to our ideas because we are able to show them how each will benefit them.

- **Quality NECA contractors:** This point cannot be overstated. Every promise that we made, our contractors were able to back up. Without that support, we would have lost all credibility and our future suggestions would not have been taken seriously.

There is hope. It is possible to “address the *nagging, difficult issues and industry sores*” with which every NECA Chapter in the nation wrestles at the local level. It has taken no small effort, but over time, we have become more and more successful in attaining our goals.

The bottom line reason: We have committed to funding an individual whose tasks are specifically dedicated to those issues and goals. It takes much resolve, planning, and the allotment of a great deal of money to accomplish changes in the construction industry which favor sub-contractors in general—and union sub-contractors in particular—but we have proven it can be done.

Ronald A. Cooper started his career with NECA in 1969 in the Eastern Region and, in 1974, he began 14 successful years as the Executive Manager of the Wyoming Chapter. Mr. Cooper became Executive Manager of the San Diego Chapter, NECA in 1988 where he continued his industry service and achieved a number of benefits for both his local members and the industry as a whole. He was co-founder of a NECA-IBEW Alternate Dispute Resolution (ADR) workers compensation program in California which results in substantial savings to both NECA members and employees. In 2002, through Mr. Cooper's efforts, the nation's first Junior College Electrical Contracting Technology (ECT) Program at Palomar College commenced with 22 students. Mr. Cooper's impact has been far reaching in the areas of progressive labor relations and government affairs and he has served on numerous local and national committees. He remains active in affairs of the San Diego Chapter as Chapter Consultant.

CASE HISTORIES

San Diego Unified School District stops bundling practice

This was our first endeavor and it took almost seven months to accomplish. Previously, one of our competitors had a proprietary lock on all fire alarm work. They used this proprietary spec to obtain any and all low voltage work by bundling all the work into one bid thereby shutting out all competition. Many efforts had been made to convince the District's maintenance department that this was not only unwise, but also illegal. Unfortunately, the maintenance department had a system they felt worked, irrespective of other factors. *We took the issue to the Citizen's Oversight Committee, and educated them both about the law and the cost to taxpayers.* They brought it to the head of the program and we eventually were able to open up the spec for new schools and prevent the bundling on all modernization work. The result: Our contractors now compete for the work and our credibility has been enhanced because the District saves a significant sum of money.

City of San Diego implements prevailing wage ordinance

As a charter city, the City of San Diego is not required to mandate prevailing wage on their municipal projects. They had no intention of doing so on an \$80 million water treatment plant at Miramar. After significant discussion with each Council member—including bringing a labor leader to one of the Councilman's tables at the Taxpayers' Dinner—we were able to have prevailing wage mandated at Miramar. Subsequently, prevailing wage was ordered on a \$50 million Alvarado Treatment Plant project; and finally, an ordinance was passed mandating prevailing wage on all municipal projects over \$10 million. *The final vote even had most of the Republican council members, including the Mayor, voting for prevailing wage.* We were able to educate them about the benefits that training has on moderating labor costs (supply and demand), as well as the benefit to the local economy of prevailing wage.

Contractor gets help with environmental regulation

A project was potentially delayed by a Department of Environmental Health regulation concerning underground fuel storage tanks. Since the storage tank in question was actually being placed on a slab in an underground garage, the regulation should not have applied. But bureaucrats being bureaucrats, the job was delayed. In this case, *we were able to use our contacts at the County and State levels, and at the Governor's office, to obtain a waiver of the regulation.* Chiefs of staff from all three local offices worked to convince both the state and county officials of our position, and got us the waiver in less than three weeks. This allowed our member to proceed on the project without further delay.

Personal relationships with individual school board members

We have achieved working relations with many school board members due to our participation—along with reps from our Statewide LMCC—in attending and supporting conventions for school board members. Those members now support direct bid through the construction manager (CM) method of contracting. NECA members have a dramatically higher capture rate when work is done “separate bid-separate contract.”

Helping our contractors receive payment

Because we have developed the right contacts, there are numerous instances in which we have been able to make a phone call or two to help our contractors collect money from a general contractor or public entity. Through education and heightened awareness of payment problems, we've succeeded in enacting policies that have helped our contractors receive more of their money quicker: web site posting of payments to general contractors; reduction of retention; and “prompt pay” awareness and enforcement. Two instances in particular stand out:

San Diego Unified School District: One of our contractors had the bad fortune to be working on two separate projects that went very wrong at the same time. By the time we were asked to intervene, they had not been paid money owed for over one year for claims, disputed change orders, and retention. They were also being told different stories by the District and the general contractor. After months of e-mails, phone calls, and meetings with District reps and the GC, our contractor was paid over \$250,000 (more than 90% of what they felt was owed), without having to resort to using an attorney.

Construction Manager delivers payment: The entire story of this project could fill a book by itself. Under the topic of getting payment, however, it's a story of relationship-building. Because of our local voice and participation, we were able to keep the lines of communication open between our contractor, the CM, and the public owner. These relationships allowed everyone to avoid filing claims and liquidated damages, while keeping the project moving smoothly. I can't stress enough the great relationship we have been able to develop with this particular CM. As an example, when our contractor told us that a progress payment was late, it only took one phone call to solve—a check for \$300,000 was delivered to him at NECA's golf tournament a few hours later.

Relationship with the D.I.R.

The State Department of Industrial Relations is responsible for interpreting and enforcing prevailing wage in California. We have built excellent relationships with a number of the Department's senior employees, and these relationships have proven beneficial to our contractors. Through our connections with the D.I.R., we've been able to get quick responses in numerous instances where a member has been faced with the potential withholding of payment due to the appearance of a prevailing wage violation. In every instance, our intervention with appropriate explanations and education has resulted in our contractor being paid in full. Because of our direct knowledge of the regulations and our ability to keep abreast of interpretations, we have become a valuable resource to local public agencies, and we have gleaned a high level of credibility among them.