UNDERFUNDED PENSION LIABILITIES

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As NEA contractors move around the country bidding jobs in various locations, one question that should be evaluated, prior to deciding to bid, regards the status of the various union management pension funds in the geographic area where the job is located.

Today, many union management pension funds are under funded. What exactly does this mean? It means that the pension fund does not have the money to pay the benefits it is legally required to pay. Under the provisions of the pension documents, the fund has agreed to pay defined benefits to each worker. In order to provide funds for such benefits, contributions are made to the fund for each hour worked by each employee. The amount of the contribution must be actuarially determined to be sufficient to generate enough cash to make the required payments when the employee retires. According to rules established by ERISA, the joint union management trustees meet and hire actuaries, investment advisors, and other consultants, who make a determination of how to invest the pension fund assets to be sure that sufficient money will be available to pay the defined benefits. However, if the stock market drops significantly and interest rates are low, the projections made by the financial advisors and actuaries may prove to be wrong. In an example, assume that the investment advisors and actuaries have planned a portfolio that has an annual growth of 6% per year. This growth is based on the fund holding a mix of good quality bonds, stocks, and real estate. If the market drops, interest rates drop, and there is a problem with the real estate investments, the fund may in fact show a loss for several years in a row. If the trustees do not take immediate action to pump more money into the fund and change the investment strategy, the fund deficit will grow exponentially.

Further, if employees begin to retire at a rate that is faster than had been projected or if the number of employees working in the bargaining unit decreases significantly, the amount of the deficit will also increase.

What happens if the pension fund does not have sufficient assets to pay required benefits? The law states that employers, who have made contributions into the fund on behalf of employees, are responsible for the unfunded pension liability. This determination is made on a pro rata basis and in accord with an established formula.

If an NEA contractor is contemplating taking a large job requiring the employment of a significant number of workers in a trade having a relatively small union in an area with a large unfunded pension liability, as soon as the contractor begins employing workers and making contributions into the pension fund, that contractor has bought a part of the unfunded pension liability that exists as of the day his employees starting working.

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In deciding whether or not to bid any job, a contractor should take into consideration potential liability for unfunded pension benefits.