

STATE OF ILLINOIS – DEPARTMENT OF LABOR
160 N. LASALLE ST., STE. C-1300
CHICAGO, ILLINOIS 60601

IN THE MATTER OF:)

JAY ELDERS, PRESIDENT OF INTERNATIONAL)
UNION OF OPERATING ENGINEERS,)
LOCAL 318)

STATE FILE NO. 2024-H-RP08-2345

OBJECTOR(S),)

BRIAN REHBEIN, SECRETARY TREASURER OF)
EGYPTIAN CONTRACTORS ASSOCIATION &)
FRANK KAZENSKE, DIRECTOR OF LABOR)
RELATIONS OF THE ASSOCIATED GENERAL)
CONTRACTORS OF ILLINOIS)

PETITIONING INTERVENOR(S),)

v.)

JANE R. FLANAGAN, DIRECTOR of the)
ILLINOIS DEPARTMENT OF LABOR, and)
THE ILLINOIS DEPARTMENT OF LABOR,)

RESPONDENTS.)

ORDER

IDOL File No.: 2024-H-RP08-2345 coming on August 22, 2023 to be heard under the Prevailing Wage Act, 820 ILCS 130/0.01 – 12 (“the Act” or “PWA”), and in accordance with Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 – 10-70 and the procedures stated in the Department of Labor’s Rules at 56 Ill Admin Code 120.100, *et seq.*, and The Egyptian Contractors Association, Inc. Petition to Intervene, and the Associated General Contractors of Illinois’ Petition to Intervene, the Notice of Hearing issued thereunder, all parties having been duly advised on the premises:

IT IS HEREBY ORDERED THAT:

PETITIONS TO INTERVENE-56 II. Admin. Code Sec. 120.320

- a) Permission to Intervene
 - 1) Upon timely written application, the ALJ may, in his or her discretion, permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when:

- A) The party is so situated that he or she may be adversely affected by a final order arising from the hearing;
 - B) The party requesting intervention is a necessary party to the hearing proceeding; or
 - C) A party's claim or defense and the main action have a question of law or fact in common.
- 2) In exercising discretion under this subsection (a), the ALJ shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.
- b) Two copies of a petition for intervention shall be filed with the ALJ, and one copy shall be served on each party.
 - c) An intervenor shall have all the rights of an original party subject to the order of the ALJ, except that the ALJ may, in his or her order allowing intervention, provide that the party shall not raise issues that might more properly have been raised at an earlier stage of the proceeding, that the party shall not raise new issues or add new parties, or that in other respects the party shall not interfere with the conduct of the hearing, as justice and the avoidance of undue delay may require.

ARGUMENTS

The Egyptian Contractors Association, Inc. and the Associated General Contractors of Illinois seek status as intervenors in 2024-H-RP08-2345 because some Egyptian Contractors Association and Associated General Contractors of Illinois members will be adversely affected if descriptions of engineers and wage classifications are not replaced. Petitioners argue that some members of their organizations may be encompassed in the July 13, 2023 prevailing wage determination in that its explanation of classes for operating engineers does not correspond with the International Union of Operating Engineers, Local 318 Collective Bargaining Agreement.

The Department did not take a position on the petition to intervene.

FINDINGS

It is found that the Egyptian Contractors Association, Inc. and the Associated General Contractors of Illinois have successfully demonstrated that its members may be adversely affected by the establishment of differing rates and classifications. Any change in the rates and or classifications may adversely affect its membership.

Additionally, it is found that the Egyptian Contractors Association, Inc. and the Associated General Contractors of Illinois are necessary parties with the necessary information to enable the undersigned the ability to properly hold a full and fair hearing. Thus, the Egyptian Contractors Association, Inc. and the Associated General Contractors of Illinois have successfully proven under the regulation that they may be both adversely affected and are necessary parties to this dispute. **The Egyptian Contractors Association,**

Inc. and the Associated General Contractors of Illinois and their subsidiary and affiliate local unions are allowed to intervene in this matter.

IT IS HEREBY ORDERED:

1. The Egyptian Contractors Association, Inc. and the Associated General Contractors of Illinois and their subsidiary and affiliate local unions Petition to intervene are granted. Intervenors take the case as it is found and are not allowed to introduce new issues as provided under 56 Ill. Admin. Code 120.320@.
2. The parties and intervenors agree to accept service of pleadings via email.
3. General discovery (e.g. depositions, interrogatories, or request for production or admit) is not allowed pursuant to 56 Ill. Admin. Code 120.410a.
4. The parties and intervenors shall file motions for third party subpoenas, along with a draft copy of a subpoena (the subpoena shall show on its face the name and address of the party) at whose request the subpoena was issued with the undersigned **on or before AUGUST 30, 2023**.
5. Subpoenas for the attendance and testimony of witnesses shall be filed on or before **AUGUST 30, 2023**. The subpoena shall show on its face the name and address of the party at whose request the subpoena was issued.
6. Each party and intervenor shall provide all parties with a copy of any document that it may offer into evidence. The parties and intervenor shall exchange documents on or before **SEPTEMBER 12, 2023**.
7. Each party and intervenor shall provide all parties and the undersigned with a witness list containing the names/professional address/phone numbers for hearing of any witnesses who may be called to testify at hearing on or before **SEPTEMBER 12, 2023**. The disclosure must provide subjects/topics on which the witness will testify. the disclosure must sufficiently give reasonable notice of the testimony. The purpose of this disclosure is to prevent unfair surprise at hearing with creating an undue burden on the parties before the hearing.
8. All parties/intervenors shall have a duty to seasonably supplement all disclosures.
9. Any disclosure dispute is to be addressed with the opposing party/intervenor prior to filing any motion. Evidence demonstrating said outreach will be required before a motion will be entertained regarding the same.
10. **This matter is scheduled for telephonic hearing on September 14, 2023 at 9:00 a.m.**

DATE: August 22, 2023

/s/ Monica Silva

Monica Silva
Administrative Law Judge
Illinois Department of Labor
160 N. LaSalle St., Ste C-1300
Chicago, IL 60601
DOL.Hearings@Illinois.gov

STATE OF ILLINOIS)
)
COUNTY OF COOK)

CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section I-109 of the Code of Civil Procedure, I Blanca Rodriguez, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Order upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Order in Case No. 2024-H-RP08-2345 and a copy of the Certificate of Service in an email addressed to each party or party's agent at the respective email address shown on the order or on the Certificate of Service, having caused each Order and Certificate of Service to be served by email on the 22nd day of August, 2023 prior to 4:30 p.m.

EMAILED

Nick Bedenk Nicholas.Bedenk@illinois.gov

Jay Elders Jay@IUOElocal318.com

Brian Rehbein brehbein@etsimonds.com

Frank Kazenske fkazenske@agcil.org

/s/ Blanca Rodriguez
Office Associate
Illinois Department of Labor