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State Labor Agreement Under Scrutiny

By [JACOB GERSHMAN](#)

New York state Comptroller Thomas DiNapoli is holding up approval of a major highway construction contract amid allegations that the Cuomo administration improperly steered work to union crews at a cost of millions of additional tax dollars.

The comptroller's office says transportation officials have failed to justify their decision to broker the unusual pact with labor leaders. The state disqualified a nonunion contractor that submitted the lowest bid but wouldn't accept the union-friendly terms of the state's agreement.

The focus of the dispute is a \$70 million overhaul of a winding, traffic-choked Route 17 exit ramp on the western edge of the Hudson Valley. The site has emerged as the latest flash point in a national debate over the government-mandated construction pacts, called project labor agreements. The deals require the winning bidder on a project to abide by terms already negotiated with trade unions.

The state adopted the highway labor agreement—the first of its kind upstate—with guidance from the Obama administration, which two years ago revoked a Bush-era ban on such deals in federally funded construction. Since then, a handful of conservative-leaning states have blocked mandated agreements on public projects. And some GOP lawmakers in Washington are seeking to roll back the Obama policy.

Before deciding whether to sign a labor agreement on the Route 17 project, the state consulted with a subcontractor to weigh its worth. The consulting firm initially found that it couldn't "clearly recommend" an agreement for the highway project, citing a lack of evidence of "labor disharmony" on similar projects without the deals.

The consulting firm revised its report and recommended a labor pact after union leaders escalated their threats of disruptions around the project, according to the firm.

A consulting firm revised its advice about a state project labor agreement after threats of labor unrest.

A final go-ahead for a labor-backed contract on Route 17 in Wallkill has the potential to help union contractors establish a beachhead against their dwindling market share of construction jobs at a moment of scarcity for the wider industry. The state Department of

Transportation manages more than \$3 billion a year in bridge and highway contracts. The labor deals are more common in New York City and surrounding suburbs, where unions are stronger.

"The unions were really digging their heels on this," said Ed Arace, the managing partner of Arace & Co. Consulting. "They hadn't had a heavy highway PLA in the Hudson Valley for as long as people could remember....They were going to take this as a serious threat to their livelihood."

We concluded that a PLA's tools for managing the risk of labor disharmony and ensuring workforce continuity would be of some material benefit to the public owner and the taxpayers of New York but not sufficient, given the lack of work stoppage over the last three years to clearly recommend a PLA for the Exit 122 Project.

However, we concluded that a PLA's tools for managing the risk of labor disharmony and ensuring workforce continuity would be of material benefit to the public owner and the taxpayers of New York. We recommend a PLA for the Exit 122 Project because it will help to ensure the urgent completion of the Project and because key PLA provisions hold the potential for cost savings.

L. Todd Diorio, a union lobbyist who heads a 10,000-member trade council in the Hudson Valley, said the concerns weren't unfounded. "I could go out tomorrow and cause all kinds of labor unrest," said Mr. Diorio, who helped negotiate the pact.

The contract went out for bid in February, as the state quietly hammered out arrangements with union officials and lobbyists for union contractors. In exchange for labor peace and a reduction in benefits, the state assured that at least 85% of the workers on the job would come from union hiring halls.

The Cuomo administration then changed the contract terms, mandating compliance with the agreement as a condition of the award. Upstate contractor Lancaster Development, which submitted the lowest bid by \$4.5 million, was rejected. The state chose the second-lowest bidder, a union firm.

Lancaster and a national trade association filed a formal complaint with the comptroller, alleging the state mishandled the negotiations and buckled to "legalized extortion."

After reviewing the contract, the comptroller's office asked the state Transportation Department last week for a more detailed response to the protest.

A comptroller spokesman Wednesday said the allegations are "serious, which requires a time-consuming and diligent review."

"We understand that Lancaster is disappointed that it didn't get the job," said Jennifer Post, a Transportation Department spokeswoman. "We take all allegations very seriously, and we are reviewing their complaint."

Transportation officials say they drove a hard bargain with labor leaders and wrung valuable concessions. Most important, they say, their agreement defuses the threat of labor disruptions overshadowing the long-awaited project.

Trade union officials say they are skeptical of the cost-saving promises made by the disqualified firm, which they claim was muscling into more union-active territory downstate and snatching jobs away from local crews.

Lancaster says its complaint isn't about paying union-level wages—the state already sets a "prevailing wage" for public works—but is about union work rules and its ability to choose its own workers. The company says stricter job classifications would force it to hire more people than necessary to fill the job. And it says an influx of union workers under its employ could trigger a vote to organize.

Lancaster also argues that the agreement punishes its nonunion workers attached to the job by forcing them to pay union dues on long-term benefits that they won't ever get if they resume their nonunion jobs. Those dues come on top of any employee benefits provided by the firm.

"Since 1947, this has been a nonunion firm, and we'll be a nonunion firm until this business closes its doors," said Lancaster President Mark Galasso, who's also the mayor of the village of Cobleskill. "We choose to work that way, and that's our right. I refuse to have a union control my destiny."

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