



Santa Barbara SCHOOL DISTRICTS

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Date: April 1, 2009
To: Dr. J. Brian Sarvis, Superintendent
From: David J. Hetyonk, Director of Facilities and Operations
Subject: Approval of Resolution 89/09-35, Approval of The Solis Group for Department of Industrial Relations Third Party Provider for Labor Compliance

April 14, 2009 Consent Agenda

Background:

In compliance with the passage of AB 1506 in 2002, the Board approved a Labor Compliance Program (LCP) for the districts at the May 27, 2003 Board meeting. This program received initial approval from the Department of Industrial Relations (DIR) on June 18, 2003. Initial approval was provided while the Department of Industrial Relations developed their final proposed amendments to the California Code of Regulations. The districts have received eight blanket extensions of the initial approval of our labor compliance for the last six years while this process took place. The District is required to administer its Labor Compliance Program on all projects funded from Propositions 47 and 55. The State Allocation Board has not provided funding for or required labor compliance on projects funded from Proposition 1D.

Issue:

The initial approval of the districts labor compliance program allowed the district to select any qualified third party to administer the districts labor compliance on required projects. Per past board action, the district has selected The Solis Group for labor compliance following a selection process and periodic proposals from other companies, who's proposals were in excess of The Solis Group.

Final proposed amendments have been approved and in order for the districts to be approved under the newly adopted regulations, the districts would need to identify a qualified trained, experienced employee or identify a permanent non-employee provider rather than have flexibility in selecting different third parties to administer our program.

Based on this requirement, the district did not apply for final approval of our labor compliance program.

The district is currently providing labor compliance on only one matching fund project, the modernization of the La Cuesta Building at Santa Barbara High School. The attached resolution will allow The Solis Group to continue with the labor compliance on the project using their labor compliance program instead of the districts. The board approved The Solis Group for this project on August 26, 2008.

Adams Elementary School	Harding Elementary School	Peabody Charter School	Goleta Valley Junior High School	Dos Pueblos High School
Cesar Chavez Charter School	McKinley Elementary School	Roosevelt Elementary School	La Colina Junior High School	La Cuesta Continuation High School
Cleveland Elementary School	Monroe Elementary School	Santa Barbara Charter School	La Cumbre Junior High School	San Marcos High School
Franklin Elementary School	Open Alternative School	Santa Barbara Community Academy	Santa Barbara Junior High School	Santa Barbara High School
		Washington Elementary School		

As part of the State budget deal, Senator Padilla authored budget trailer bill SBx 2 9 that authorized the DIR to asses a fee on school districts for certain construction projects. The Governor signed the bill on February 20 and it goes into effect in 90 days from the signing date. For future projects that will require labor compliance (proposition 47 and 55 funded) will be assessed a fee of up to .25% for school construction projects that receive state funds and the DIR will administer the labor compliance program. All of our future projects are expected to be funded from Proposition 1D.

Fiscal Impact:

N/A

Funding Source:

N/A

Recommendation:

It is recommended that the Board Approve Resolution 89/09-35, Approval of The Solis Group for Department of Industrial Relations Third Party Provider for Labor Compliance

Attachment(s)?	<input checked="" type="checkbox"/>	Yes (if so, please attach)	No	<i>Powerpoint</i>	<i>Overhead</i>	<i>Consultant</i>
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Resolution 08/09-35

**Board of Education
Santa Barbara School Districts**

RESOLUTION OF APPROVAL OF THIRD PARTY LABOR COMPLIANCE

WHEREAS, the Kindergarten-University Public Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 requires that the Santa Barbara School Districts (District) provide a Labor Compliance Program; and

WHEREAS, the District agrees to initiate and enforce a Labor Compliance Program, pursuant to the California Labor Code §1771.7, for projects financed in any part by funds made available by the Kindergarten-University Public Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004; and

WHEREAS, the District will contract with The Solis Group, a Department of Industrial Relations approved third-party provider, to initiate and enforce the District's statutory labor compliance requirements;

NOW, THEREFORE, BE IT RESOLVED that the Board authorizes by the approval of The Solis Group for the Department of Industrial Relations approved Third-Party provider for Labor Compliance services for the District.

PASSED AND ADOPTED this fourteenth day of April, 2009 by the Board of Education of the Santa Barbara School Districts of Santa Barbara County, California by the following vote:

Ayes: _____

Noes: _____

Absent: _____

Abstaining: _____

I, J. Brian Sarvis, Clerk of the Board of Education of the Santa Barbara School Districts, State of California, do hereby certify that the foregoing resolution was duly adopted by the Said Board at a regular meeting held on April 14, 2009, 2009.

Clerk of the Board of Education

BOWIE, ARNESON, WILES & GIANNONE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
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REF. OUR FILE
17086 L.1

*A PROFESSIONAL CORPORATION

January 27, 2009

VIA E-MAIL

ATTORNEY-CLIENT COMMUNICATION
PRIVILEGED/CONFIDENTIAL

Mr. David Hetyonk
Director of Facilities and Operations
Santa Barbara School District
720 Santa Barbara Street
Santa Barbara, CA 93101

Re: Labor Compliance Program

Dear Mr. Hetyonk:

The Santa Barbara School District ("District") has inquired as to its obligation to update its Labor Compliance Program ("LCP") based on the newly adopted California Regulations ("Regulations") pertaining to the LCP. As is discussed below, we believe the District may not be required to update its LCP.

With the passage of AB 1506 in 2002, school districts were required to adopt a LCP as a condition of the receipt of funds derived from the Proposition 47 and Proposition 55 (also referred to as the Kindergarten-University Public Education Facilities Bond Act of 2002 and 2004). In other words, school construction funds derived from Proposition 47 or Proposition 55 requires the implementation of a LCP. However, the LCP required under AB 1506 only pertains to the use of Proposition 47 and Proposition 55 funds.

In 2006, Proposition 1D was approved, which provided additional funds for upgrading and repairing public schools. The Legislature has made various attempts to adopt legislation similar to AB 1506, such as SB 191, that would have required the adoption of a LCP for the use of Proposition 1D funds. However, the Governor vetoed such Legislation. As such, school districts do not need to adopt a LCP for the use of Proposition 1D funds.

As you may already know, the Regulations require those school districts that have a LCP to file an update that will provide the necessary information required under California Code of Regulation Section 16425(f) or 16426(f). The update will entail completing the requirements set forth in the Regulations provided by the Department of Industrial Relations. Furthermore, if the

Mr. David Hetyonk
Director of Facilities and Operations
Santa Barbara School District
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District chooses to update its LCP, it will require the District to amend its May 2003 Labor Compliance Manual to reflect the new changes set forth in the Regulations. However, the District may choose to forego updating its LCP and let the program expire because a LCP currently is necessary only for projects requiring the use of funds from Proposition 47 or Proposition 55. In other words, a LCP will only be necessary for the District's use of Proposition 47 or 55 funds. Should the District forego updating its LCP, the District may later comply with the labor compliance requirements by using an approved third party program or by re-submitting its application.

As of January 2009, the Proposition 44 fund amount available for construction and modernization is approximately \$28 million. In addition, the Proposition 55 fund amount for construction and modernization is approximately \$30 million. Currently, these amounts are not available due to the funding freeze. In summary, if the District is currently using Proposition 47 or 55 funds or if the District is anticipating the use of these funds, the District will need to update its LCP in accordance with the newly adopted regulations.

Please let us know after reviewing this letter if the District would still like to pursue updating its LCP so that the District may submit its update by the February 27, 2009 deadline. As always, please feel free to contact me with any questions.

Very truly yours,

BOWIE, ARNESON,
WILES & GIANNONE

By: 

Paul W. Lee

PWL:ad