

“Fairness in Construction”

The American Subcontractors Association California, Inc., (ASAC), which is comprised of Union and Open-Shop contractors and suppliers, promotes opportunity for all “responsible” contractors and individuals on both public and private construction projects.

Any restrictive clauses in project pre-qualifications, mandates, or agreements for public and private work projects, which exclude any “responsible” contractors or individuals, are in direct conflict with the mission of ASAC.

Examples of some clauses that ASAC finds exclusionary, and in turn should be removed from all project pre-qualifications, mandates and agreements, are as follows:

- 1) Any clause which requires or puts limitations on any contractor’s, employer’s or employee’s choice to become an affiliate of, member of, maintain membership in, pay dues in, pay fees to or participate in any organization, council, association or corporation.
- 2) Any clause that limits or restricts the sources from which labor/employees can be obtained for a project. (No particular association, organization or corporation should be deemed as the only source of manpower.)
- 3) Any clause which requires contractors, employers or employees to pay contributions to any specified health and welfare benefit plans, pension plans, deferred compensation funds, training trusts or other benefits beyond the scope of state or federal laws.
- 4) Any clause which requires a contractor, employer or employee to be bound to any specified trust agreement.
- 5) Any clause which requires a specific grievance procedure for contractors, employers or employees contrary to a contract or an employee’s normal grievance procedure.
- 6) Any clause which requires any contractor, employer or employee to deviate from any current agreements or their normal historical business practices as long as they comply with all laws, local codes and regulations.
- 7) Any clause which makes any special access provisions for members of associations, organizations or companies that do not have direct participation in the project.
- 8) Any clause, which disqualifies any apprenticeship program, approved by the State Division of Apprenticeship Standards, as an appropriate source to obtain apprentices.
- 9) Any clause that disqualifies contractors from participation due to claims against said contractors, which are not supported by a final judgment issued by a state or federal court.

Please note that this list does not encompass all exclusionary clauses but serves as an example of the types of clauses that the American Subcontractors Association California, Inc., finds inappropriate.