

## MedImpact Healthcare Systems new headquarters coming soon

By CARLOS RICO  
*The Daily Transcript*

**Reno Contracting** has just broken ground on a new healthcare facility that is set to gear a local pharmaceutical company into a new future.

**MedImpact Healthcare Systems, Inc.** new corporate headquarters is being built and is slated to open April 2010. The future home of MedImpact will be located at Interstate 15 off Mercy Road and Scripps Poway Parkway in Scripps Ranch.

The site will house two separate multi-story buildings, which will total 320,000 square feet of space. The new facilities are part of a multi-building development. This is phase one that has broken ground and will consist of a six-story steel frame building and a three-level parking garage.

The project is being designed to meeting the U.S Green Building Council's Leadership in Energy and Environmental Design (LEED) silver status and once completed, will have

water saving fixtures, energy efficient equipment and indoor environmentally materials.

Hanna Gabriel Well was the architect hired to design the project and the developer is **Sudberry Properties, Inc.**

"Our new facility will provide increased space to house the staff and infrastructure needed to support our continued growth and success, as well as continue our commitment to deliver service excellence to each of our clients," said Jerry Parker, senior

vice president of operations for MedImpact. "The new MedImpact headquarters will be a positive addition to the community, keeping over 700 jobs in the Scripps Ranch area of San Diego. San Diego-based MedImpact Healthcare Systems, Inc., founded in 1989, is the largest pharmacy benefit management company that does not sell drugs and serves roughly 30 million individuals.

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## Subcontractors: The public contract code can protect you from abuse — if you let it



### Construction Law

By Pamela J. Scholefield

While we may not all agree that our economy is truly in a recession, it is undeniable that there has been a dramatic downturn in available projects for subcontractors — especially in the residential market. Because of this, many subs have started showing up in the public works project arena — where the low bidder is supposed to take the work under the Public Contract Code. This code is supposed to (there's that phrase again) level the playing field for legitimate bidders for public works projects.

In fact, the equalizing objectives of this code can be plainly seen in the specific wording that is used, some of which are: "to provide all qualified bidders with a fair opportunity to enter the bidding process" and "to eliminate favoritism, fraud and corruption in the awarding of public contracts."

So, with these objectives, why do I use the phrase "supposed to" when referring to the effect of the Public Contract Code? Because, despite this code's noble objectives, subcontractors who don't know their rights can be taken advantage of when bidding public works projects.

One good example of the way subcontractors can be taken advantage of has been presented to me recently by more than one subcontractor.

The situation goes something like this: formally residential subcontractor decides to put its hat in the ring and bid a public works project, even though it has not done any public works projects in many years.

The subcontractor gets a list of general contractors bidding the project so that the subcontractor can offer its quote to the bidders.

Many of the general contractors are

also somewhat newcomers to public works projects for the same reasons the subcontractor is new.

The subcontractor also realizes that many of the general contractors are different, and perhaps larger, than the subcontractor is used to dealing with.

The subcontractor builds up a little rapport with a few select generals prior to the bid opening, which results in the general with the lowest bid using the subcontractor's number and the subcontractor is "listed" on the general's bid form. Great news for the subcontractor — it gets the project, right? Again, that's how it's supposed to work.

There's one more step in subcontractor's road to riches — or in the current economy, just keeping its doors open — it has to sign a subcontract with the general.

The general presents a subcontract with all sorts of bad terms for the subcontractor, such as overly strong indemnity provisions; higher than normal insurance requirements; unreasonably short notice provisions before default; the ability to hold a higher percentage retention than what the public entity is going to hold from the general; and a slightly larger scope of work than the subcontractor included in its bid.

The subcontractor tries to negotiate more reasonable terms with the general, but the general refuses to negotiate and threatens to use another subcontractor for the project unless the subcontractor signs the oppressive and overbroad subcontract.

The subcontractor being in a somewhat desperate situation because it needs the work, agrees to the bad terms while rationalizing that it can afford the cost of the extra scope of work by taking it out of its anticipated profits.

A little of something is better than a lot of nothing, wouldn't you agree if you really needed the work? Well, the subcontractor may not have had to agree to

these unfair terms just to keep the project.

What the subcontractor didn't realize is the general can't just decide to give the work to another subcontractor just because the subcontractor won't sign the subcontract. To make this type of substitution, the general has to jump through some hoops that are in place to protect listed subcontractors.

Because the subcontractor was listed on the general's bid, the general can replace the subcontractor only if after

having had a reasonable opportunity to do so, (the subcontractor) refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written subcontract is based upon the general terms, conditions, plans and specifications for the project involved and/or the terms of that subcontractor's written bid is presented to the subcontractor.

See **Construction Law** on 26C

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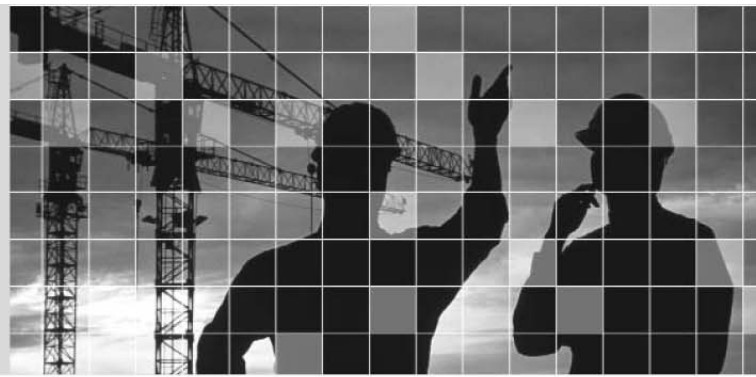
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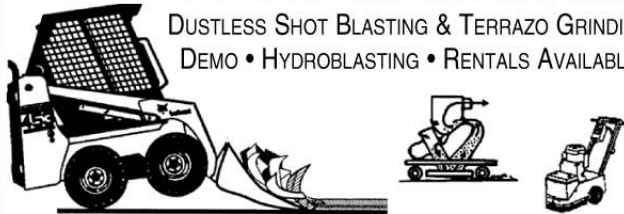
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## Construction Law —

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What this means is that the subcontractor can't be forced to sign a subcontract that has different terms than those in the general terms and conditions of the project, or that has extra work beyond what was included in the subcontractor's bid — nor can a general contractor beat down a subcontractor's price after the bid opening.

If the general wants to replace the subcontractor in this case, the general has to follow the procedure set forth in the Public Contract Code.

The procedure first requires that the general request the substitution.

Then, the public entity must give the subcontractor written notice of the request for substitution by certified or registered mail.

After that, the subcontractor has only has five working days within which to submit written objections to the substitution. A subcontractor who fails to file these written objections is deemed to consent to the substitution.

If the subcontractor files written objections, then the public entity must conduct a hearing on the substitution, and must give the subcontractor at least five days' notice of the hearing.

Thus, in this case, the subcontractor may have held on to the work without caving in to the general's demands.

As is usually the case, the subcontractor needs to make a business decision as to whether it wants to take the less controversial way out and lose some of its rights and profits — or, not sign the subcontract, thereby calling the general's bluff and taking a chance on the laws that should protect it.

If you have a construction question, submit it to: [info@construction-laws.com](mailto:info@construction-laws.com). We cannot guarantee that we will print your question and answer, but we will make every effort to include it in a future column.

### General disclaimer

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