

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**CHENEGA INTEGRATED
MISSION SUPPORT, LLC**

and

Case 28-CA-111598

**SHEET METAL WORKERS' INTERNATIONAL
ASSOCIATION, LOCAL UNION 359, AFL-CIO**

ORDER¹

The Employer's petition to revoke in part subpoena duces tecum B-731346 is denied. The subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).²

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² The Region's unopposed motion to supplement its opposition to the Employer's petition is granted.

With respect to the Employer's arguments that the subpoena seeks privileged or confidential information, we note that it has provided no legal or factual support for these assertions. In addition, we note that the Employer has failed to follow the procedures set out in Para. P of the "Definitions and Instructions for Use" section of the subpoena, which address such concerns. Thus, to the extent that the subpoena encompasses some documents that the Employer believes in good faith to be protected from disclosure, the Employer may submit a privilege log providing sufficient detail to permit an assessment by the Region of the Employer's claims, or seek a confidentiality agreement from the Region.

With respect to the relevance of the requested information to the Employer's status as a successor, the Board's determination of that issue requires an examination of whether the business is essentially the same and whether the employees are doing the same jobs in the same working conditions under the same supervisors, including a consideration of the work done by all employees, in order to determine if there is substantial continuity between the enterprises. See *Fall River Dyeing & Finishing Corp. v. NLRB*, 482 U.S. 27, 43 (1987) (citing *NLRB v. Burns Security Servs.*, 406 U.S. 272 (1972)).

Dated, Washington, D.C., June 2, 2014.

KENT Y. HIROZAWA,	MEMBER
HARRY I. JOHNSON III,	MEMBER
NANCY SCHIFFER,	MEMBER

Member Johnson would grant in part the Employer's petition to revoke. In Member Johnson's view, the Region's subpoena duces tecum is too broad. The focus of the information sought should be on matters related to the unit of 14 tradesmen and helpers who were represented by the Charging Party Union when employed by Chugach Management Services. However, the subpoena requests documents regarding all of the approximately 200 employees that were employed by Chugach. Member Johnson would limit the information to be provided. Requests numbers 4 through 8 and 14 through 23 inclusive should be limited in scope to the following: Such requests should be limited to apply only to those employees who are in or would be applying for jobs in the unit of tradesmen and helpers, or any employees who perform any maintenance or maintenance support work for the unit. Request number 4 further extends to anyone who supervises any of the foregoing employees.