

PROJECT LABOR AGREEMENT OVERVIEW BRIEFING



OBJECTIVE

- Present background information on Project Labor Agreements
- Provide components of some recent Project Labor Agreements
- Present comments from Owners and Contractors regarding their opinions of Project Labor Agreements
- Provide a framework for Board discussion of Project Labor Agreements and their potential application for upcoming Projects

IMPORTANCE OF CAREFUL PROCESS

- Unions have been known to abuse the California Environmental Quality Act (CEQA) to delay or derail projects at the 11th hour while demanding labor agreements and other economic or labor concessions from public and private developers.
- This practice known as “greenmail” is sometimes difficult to resist. A well known nearby recent example is 2012 San Diego Convention Center.

PROJECT LABOR AGREEMENT (PLA)

- Unique to the construction industry
- Initially established as agreement between contractors and groups of building trade unions for specific projects
- Developed to supersede local trade agreements and local trade practices when larger contractors had nationwide agreements with building trades
- Has been expanded to agreements between Owners and groups of building trades to cover multi-project building programs or single projects exceeding \$25 million

COMMON ELEMENTS

PLA's differ from Collective Bargaining Agreements (CBA's) in several key ways:

- CBA's cover a specific geographic area
- CBA's usually take into account local market trends
- CBA's usually last three to five years
- CBA's are negotiated between a contractor and a specific trade
- CBA's are superseded by Project Labor Agreements

COMMON ELEMENTS

- Require recognition of the signatory union(s) as the exclusive bargaining representatives for covered workers
- Prohibit organized work stoppages (strikes) & lock-outs
- Requires hiring through union referral systems (hiring hall)
- Requires all contractors and subcontractors become signatory to the PLA
- Requires that all union employees be in good standing with dues
- Establish standardized and rapid dispute resolution or “grievance” procedures to resolve employee, contractor and/or inter-union disputes

COMMON ELEMENTS

- Establish standard work rules, hours, holidays, overtime pay and dispute resolution procedures
- Establish wages/benefits & drug testing
- Establish management rights regarding hiring, promotion, transfer, discipline, discharge, and rejection of any applicant referred by a union
- Establish pre-job conference prior to commencing construction to clarify the scope of work between trades
- Establish a labor management committee to meet on a regular basis

OTHER POTENTIAL ELEMENTS

- Social Justice Program
 - Local Business Preference
 - Local Workforce Hiring (before regional union hire)
- Supplemental Trust Contributions by nonunion workers
- Key / Core Employee Carve-outs
- Specialty Trade Carve-outs
- 48-hour referral timeline before looking elsewhere
- Underutilized Business Enterprise

EXAMPLES OF TRADE CARVE-OUTS

Oren R. Fox Medium Security Facility
Project Labor Agreement
Craft Exclusions



Trade and Specialty	Exclude	Trade and Specialty	Exclude
Insulators		Painters & Allied Trades	
Insulation		Glaziers	
Fireproofing		Drywall	
Bricklayers		Ceilings	
Masonry		Painting	
CMU		Signage and Displays	
Tile		Flooring	
Laborers		Plasterers and Cement Masons	
Earthwork		Concrete	
Landscaping		Precast	
Labor		Modular	
Fencing		Plumbers and Fitters	
Carpentry		Fire Protection	
Rough carpentry		Irrigation	
Finish Carpentry		Plumbing	
Architectural Woodwork		Domestic Water Distribution	
Casework	x	Fixtures	
Solid Surfaces		Penal Fixtures	x
Doors and Windows		Site Waste Equipment	
General Equipment Installation		Hydronic Piping	
Laundry Equipment	x	Mechanical Equipment	
Kitchen Equipment	x	Vacuum Waste Evac	x
Medical Equipment	x	Air Conditioning	
Detention Equipment	x	Building Automation System	x
Electrical		Heating	
Rough Electrical		Sheetmetal	
Finish Electrical		Ductwork	
Transformers, Switchgear		Flashing	
Generators		Metal Roof	
Lighting		Roofers and water proofers	
Audio Visual/CCTV	x	Waterproofing	
Security Electronics	x	Traffic Coatings	
Telecommunications	x	Roofing	
Elevator		Caulking	
Elevators		Teamsters	
Ironworker		Truck Drivers	
Structural Steel		Operators	
Rebar		Loading and Unloading	
Misc. Metals			
Decking			

HISTORY OF PLA'S

- Contractors and unions have used PLA's for major projects of extended duration that require many different trades
- Nationally, the use of PLA's has declined as union enrollment has declined
- A significant growth area for PLA's has been in public projects, rather than private projects
- Examples of California public projects with PLA's:
 - San Diego Unified School District
 - Shasta Dam
 - SF Yerba Buena Center
 - National Ignition Facility, Lawrence Livermore Labs
 - San Francisco International Airport
 - San Mateo County Jail Project
 - BART
 - LA Blue Line
 - Diamond Valley Reservoir
 - San Joaquin Hills Corridor

HISTORY OF PUBLIC PLA'S (CONT'D)

Project	Owner	Cost (Unadjusted to Current Real Dollars)
Los Angeles Convention Center	City of Los Angeles	\$390 million
San Joaquin Hills Corridor	CalTrans and San Joaquin Hills Transportation	\$795 million
Merrithew Memorial Hospital	Contra Costa County	\$82 million
Concord Police Facility	City of Concord	\$12 million
Los Vaqueros Dam	Contra Costa Water District	\$450 million
Bollman Water Treatment	Contra Costa Water District	\$35 million
Golden Gate Bridge Seismic Retrofit	GG Bridge, Highway & Transportation District	\$120 million
San Francisco International Airport	City/County of San Francisco	\$2.4 billion
National Ignition Facility	Lawrence Livermore Labs	\$1.2 billion

HISTORY OF PUBLIC PLA'S (CONT'D)

Project	Owner	Cost (Unadjusted to Current Real Dollars)
Vista College	Peralta Community College District	\$67 million
San Mateo Community College District	San Mateo Community College District	\$90 million
Oakland USD Bond Program	Oakland USD School Board	\$200 million
Los Angeles Unified School District – New School and Rehabilitation	Los Angeles Unified School District School Board	\$2.4 billion
Santa Ana Unified School District	Santa Ana Unified School District Board	Projects greater than \$250,000
West Contra Costa Unified School District	West Contra Costa USD School Board	\$120 million
Eastside Unified School District	Eastside USD School Board	\$298 million

FACTS

VALIDITY OF PLA'S

- June 1999 President Clinton issued Executive Memorandum giving federal departments the option to use PLA's on large and significant construction projects “where a [PLA] will advance the Government's procurement interest in cost, efficiency and quality...”
- February 2001 President Bush issued Executive Order prohibiting the use of PLA's on federally financed construction projects
- April 2001 President Bush amended his directive to exempt projects with a PLA established before 2/17/01 from his executive order
- 2009 President Obama revoked Bush Executive Order, urging federal agencies to consider mandating PLA's on federal construction projects of \$25 million or more

ARGUMENTS FOR PLA

- Reduces risk of construction delays from worker shortages or labor disputes (labor peace)
- Fosters cooperation between construction workforce and management
- Established divisions of labor provide benefits:
 - ✓ Network referral systems (hiring halls)
 - ✓ Labor discipline
 - ✓ Higher skill levels developed by specialization

ARGUMENTS FOR PLA

- Evaluation / renegotiation of local conditions to meet special needs of project
- Reduction in cost overruns / change orders as result of higher certainty in estimated costs
- Timely completion due to access to immediate labor supply

ARGUMENTS AGAINST PLA

- Possibility for strikes & lockouts still exists (wildcat)
- Organizing tool to require construction workers on a PLA project to pay for union membership
- Potential increased construction costs (13-15%)
- Project-only union members may lose benefit of payments to union-controlled benefit programs at end of project

ARGUMENTS AGAINST PLA (CON'D)

- Results in unfair pressure for non-union shops to unionize.
- Limits rights of non-union shops to hire their regular non-union workers (only small number of “core employees” are usually allowed)
- Rigid divisions of labor and work rules slow down productivity. Non-union workforce rules allow:
 - ✓ Assignment of work across trade lines
 - ✓ Use of laborers to move materials
 - ✓ Employment of generalized helpers
 - ✓ Setting hourly wages based upon specific market requirements

VIEWPOINTS

“Most important and most clearly set out in the President’s Memorandum [Clinton] is that PLA’s should be employed where they will advance the Government’s procurement interest in cost, efficiency and quality and in promoting labor-management stability as well as compliance with applicable legal requirements. Accordingly, PLA’s should be used where they address broad public and policy interests, not the narrower interests of builders, unions or employees.”

- Nancy McFadden, General Counsel United States Department of Transportation

“...union referral systems are positive, well-proven systems, especially on large complex projects.”

- Bechtel

VIEWPOINTS (CON'D)

Refuting a claim that PLA's are anti-competitive, "We have seen no reduction in competition...and [the presence of PLA's] has consistently produced bids at or below the engineer's estimate."

- Michael D'Antuono, President of Parsons Construction Company

"...many in our workforce are multi-trade...I was unable to utilize this benefit due to the union's involvement. Laborers are only allowed to perform labor that fits within their trade."

- Rosario Ramirez Girard, Owner Phoenix Construction Services

VIEWPOINTS (CON'D)

“Public owners have a duty to the public to be fiscally responsible...These interests are not served when the agency requires a union-only PLA, which discourages the vast majority of the industry (over 80%) from bidding, particularly small and minority- or women-owned businesses.”

- Barbara Hoberock, Owner hth Companies

“In its May 1998 report on project labor agreements on federal construction contracts, the General Accounting Office was unable to document any cost-efficiencies achieved by [PLA's].”

- Mike La Pointe, Vice President JL Steel Inc

The previous statements were taken from testimony given at the August 6, 1998 Hearing for the House Small Business Committee

VIEWPOINTS (CON'D)

The Beacon Hill Institute at Suffolk University, 2003
Study on PLA's and School Construction Costs in
Massachusetts

- Analyzed 126 school construction projects in the Boston and Massachusetts area
- Finding: Construction costs are 8% - 15% higher on PLA projects when compared to non-PLA projects

“..contracts for construction should be awarded solely on the basis of merit rather than union affiliation.”

- Associated Building Contractors

ALTERNATIVES TO PLA'S

- Local hire guidelines:
 - ✓ Generally focus on subcontractors (although some agencies include truckers)
 - ✓ Metric is hours worked, not salary
 - ✓ Some policies are mandatory; others are goals, both well monitored with timed reporting
 - ✓ Policies generally state minimums, although some agencies give extra points / incentives to contractors who promise more
- Some design-build statutes: Requires design-build projects to increase number of workers that are graduates of state-approved apprenticeship programs to 60% by 2020

CONCLUSION

- PLA's have evolved from large single projects to multi-project or program agreements
- PLA's are negotiated independently for each project or program, can contain many elements, and can apply to:
 - ✓ An entire Capital Improvement Program, or
 - ✓ Be project-specific, based on:
 - Project complexity, and/or
 - Project construction cost
- PLA's are not about wages paid workers
- There are many political, economic and social issues surrounding Project Labor Agreements

Q & A