

INFORMATION PROVIDED BY ASSOCIATED BUILDERS & CONTRACTORS

From: Susan Siegert [<mailto:Susan@abcnorcal.org>]
Sent: Tuesday, March 19, 2019 3:20 PM
To: Leslie Orta <lorta@valleywater.org>
Subject: Educational Information about Project Labor Agreements
Importance: High

Hi Leslie, here is some of the information that I told you I would send to you after the last Santa Clara Valley Water District Committee Meeting. There is more information that I am still looking for and will send to you. There were two women on the Board that you told me might meet with me. One was Nai Hsueh and I can't remember the other. Are you able to give me her name. Thanks, susan

In order to make the most educated decision possible on the expenditure of taxpayer funds on one of the most controversial topics in the construction industry, below and attached is a variety of information and recent articles about Project Labor Agreements. Please let me know if you have any questions.

Project Labor Agreements (PLAs) create barriers for local, minority and women-owned construction employers and their employees from participating in building their community because they contain provisions that do not allow for the full utilization of their own workforces.

Furthermore, studies show these types of agreements increase project costs – anywhere from 10-30% above prevailing wage because they restrict competition. Open competition is healthy and increases quality. It levels the playing field and local money is invested into the community.

And finally, project labor agreements exclude the men, women, and veterans who have chosen to enter into state approved, unilateral apprenticeship training programs in pursuit of a construction career from the opportunity to work and gain the invaluable on-the-job training experience that provides stability for them, their family and their community.

For these reasons, we strongly and respectfully oppose Project Labor Agreements.

What is a Project Labor Agreement (PLA)?

- An exclusionary labor agreement that discourages the vast majority of local contractors and small business owners from competing on and winning construction projects
- Introduced as a tool to local school, city, county, state and federal officials by State and Local Building and Construction Trades Council Representatives

What the State Building and Construction Trades Council says about PLAs

- The vast majority of workers are dispatched from union hiring halls to both union-signatory contractors and non-union contractors who choose to work under a PLA.

Almost Every Construction Trade Organization opposes PLAs

- | | |
|---|-----------------|
| • Opposed: | In Favor: |
| • Air Conditioning and Trades Association | Building Trades |
| • American Subcontractors Association | |

- California Subcontractors Association
- American Road Builders and Transportation Association
- Asian American Contractors Association
- Associated Builders and Contractors
- Associated General Contractors
- Black Contractors Association
- Bay Area Black Contractors Association
- Californians for the Advancement of Apprenticeship & Training
- Golden State Builder's Exchanges
- Independent Roofing Contractors of California
- Independent Electrical Contractors Association
- Kern Minority Contractors Association
- National Association of Minority Contractors
- National Association of Women in Construction
- Painting Decorating Contractors Association
- Plumbing and Heating Contractors of California
- Western Electrical Contractors Association
- Independent Electrical Contractors Association

Concerns for non-union workers

- Union dues requirement for non-union workers on or after 8th day (less money on pay-check)
- Companies are forced to lay off productive non-union workers
- Requires payment into union pension programs in which workers may never vest
- Requires payment into union health & welfare program in addition to the mandated Affordable Care Act.
- Non-union apprentices cannot learn their trade and work on these jobs in their own communities

Concerns for the local govt.

- PLAs are routinely used in bankrupt cities like Vallejo and Stockton and fiscally mismanaged school districts like the West Contra Costa Unified School District and the Los Angeles Unified School District
- Federal regulations prohibit the "local hire" requirements contained in PLAs. Section 200.319 "Competition" of the Electronic Code of Federal Regulations states "The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference."
- Negotiations can take up to two years adding delays and legal fee expenses up to \$200,000.
- It costs money to administer a PLA. The related professional services add to the expense.
 - Riverside CCD \$1,800,000
 - San Diego USD \$1,000,000
- PLAs are exempt from DIR enforcement of prevailing wage requirements

As a result of SB 854, as of July 1, 2014, the DIR launched a new Public Works Contractor Registration Program. Contractors wishing to bid on public works will need to register online and submit a non-refundable \$300 annual fee. The public works contractor registration fee pays for all DIR administration and enforcement of prevailing wage requirements.

- **Exemptions:** As of April 1, 2015, and even after January, 1, 2016, the following projects are exempt from the requirement to have contractors and subcontractors furnish certified payroll records (CPRs) to the Labor Commissioner:
Projects covered by qualifying project labor agreements

- **Local Hiring Goals Are Falling Further Out of Reach under PLA policies.**

- San Diego Unified's Local Hiring Goals Are Falling Further Out of Reach - Voice of San Diego
- <http://www.voiceofsandiego.org/topics/education/san-diego-unifieds-local-hiring-goals-falling-reach/>

Concerns for the taxpayers

- **Reduction of bidders and increased costs**

- **\$39M Pinole-Hercules Wastewater Treatment Plant Expansion**

- 10 bidders pre-qualified for the Project
- 8 bidders present for mandatory job walk
- 2 bids received and opened on 12/10/15
- Bids came in at 8% and 22% above engineer's estimate of \$39M
- **Increased Costs**

- **\$68M SMUD Corporate Headquarters Remodel bid with a PLA was rejected because it came in nearly \$30M over the budget with just two bidders.**

- **Alameda County Hall of Justice project delayed and over budget**

- Local business participation under PLA. 60% goal, 2.58% achievement
- \$111,966,000 contract is now \$147,512,205
- Change in substantial completion date from 2/15/17 – spring of 2017.

- [Cost of Golden 1 Center jumps by millions | The Sacramento Bee](#)

What do studies say?

- EBMUD conducted PLA survey of its union and non-union contractors – Also see attached FSUSD, SJUSD, SCCC and SRJC Contractor Surveys
 - 100% said PLAs increase costs
 - 64% said PLAs were a disincentive to bid
- Increased costs of 13-15% on California School Construction (July 2011 study released by the National University System Institute for Policy Research)
- No studies exist that show PLAs save money

- Have you surveyed your contractor list to determine their position on PLAs and if they will decrease competition and increase costs?

11 entities in California have banned the use of PLAs including the cities of Fresno, San Diego, Chula Vista, Oceanside and El Cajon

City of Berkeley PLA One-Year Status Report

- 316 total workers employed on CWA-eligible projects
- 4 Berkeley residents
- 96 East Bay Green Corridor residents
- 35 Alameda County residents
- Reports of concerns about a "displaced core workforce" from small contractors at pre-bid meetings to comply with local hire requirements
- Increased engineer's estimates in order to allow for the higher bid prices

Solutions

- Continue bidding without PLA and keep **FAIR** and **OPEN** competition
- **ALL** sides should be represented in any negotiations
- Allow for **ALL** state approved apprentices to work on the project
- Allow contractors to hire their entire **CORE** workforce
- Allow contractors to pay health and pension benefits into their employees' **OWN** plans to care for them and their families
- Use an alternate bid approach
- Rebid the project **WITHOUT** a PLA if there are three bidders or less on project
- Set a **HIGH** Local Hire goal that benefits the workers in the community
- Establish metrics for **PROPER** PLA compliance, accountability, and transparency

Americans overwhelmingly reject PLAs

- In September 2009, nationally known pollster Frank Luntz surveyed Americans about taxpayer funded bidding procedures. 88.5% said they preferred a "fair, open, and competitive bidding process." 12% felt that unions should have the exclusive right to the work.
- California taxpayers want their projects built by the best contractors at the best price and want their elected officials to choose the construction firm that offers the best value. The record clearly shows PLAs harm all of these goals.

Additional PLA Educational Material for your review

In California, only **18.4%** of the private construction workforce belongs to a union. [State Building and Construction Trades Council](#) representatives, AFL-CIO affiliates, introduce Project Labor Agreements as a tool to local school, city, county, state and federal officials to exclude non-union workers.

More information about PLAs can be found at www.thetruthaboutplas.com

[Link to recently produced video about Project Labor Agreements; Not What We Need, Not What We Deserve](#)

Below are studies that show cost increases for public works projects on which contractors are required to sign Project Labor Agreements:

1. Here is the study released [in mid-July 2011](#) from National University's Institute for Policy Research (based in San Diego), with significant review from other economists:
<http://www.thecostofplas.com>. This study concludes that costs are **13 to 15 percent higher** when California school districts build a school under a Project Labor Agreement. In inflation-adjusted dollars, a Project Labor Agreement is associated with costs that are \$28.90 to \$32.49 per square foot higher. (In my opinion, this is the most comprehensive study ever conducted on the costs of Project Labor Agreements.) The study is also attached.
2. Two examples of projects in California bid without a Project Labor Agreement and then with a Project Labor Agreement. [The Burckhalter Elementary School in Oakland Unified School District](#) went from eight bidders to three bidders and the low bid **increased 24 percent**; the City of Pasadena's Glendale Power Plant had a net loss of one bidder and the low bid increased **more than 15 percent**. The winning contractor declared that the higher bid was "100 percent due to the PLA." See attached.
3. The Beacon Hill Institute at Suffolk University in Massachusetts has published studies comparing school construction costs in the Boston area, in Connecticut, and in New York State with and without PLAs. The studies conclude that Project Labor Agreements increased bid costs by **14 percent in the Boston area, by almost 18 percent in Connecticut, and by 20 percent in New York State**.

Here is a link to the Boston study : www.beaconhill.org/BHISudies/PLApolicystudy12903.pdf

Here is a link to the Connecticut study:
<http://www.beaconhill.org/BHISudies/PLA2004/PLAinCT23Nov2004.pdf>

Here is a link to the New York study:
<http://www.beaconhill.org/BHISudies/PLA2006/NYPLAReport0605.pdf>
4. A December 11, 2007 presentation by the California Department of Industrial Relations to the Director's Advisory Committee on Public Works included results from a study by [Leland Saylor Associates](#) (a California construction cost analysis and management firm) indicating that 8+ bidders reduces cost 10-20%, 6-7 bidders reduces cost 0-10%, 4-5 bidders increases cost 0-10%, 2-3 bidders increases costs 10-25%, and one bidder increases costs 25-100%. This would seem to conform with classical economic theory (and common sense) that **more competition results in lower costs**. See attached DIR slides.
5. **Government-Mandated Project Labor Agreements: The Public Record of Poor Performance (2014 Edition)**

Summary of PLA Research (2014 Edition) [The Impact of Government-Mandated Project](#)

Labor Agreements (PLAs): A Review of Key Reports and Studies (2014 Edition) (pdf) highlights excerpts from studies pertaining to common points of contention during PLA debates. A record of PLA construction projects experiencing an **unfortunate pattern of cost overruns, reduced competition, delays in construction, construction defects, safety problems and diversity issues**. It is a key resource to find failed government-mandated PLA projects in your community, illustrating why anti-competitive and costly government-mandated PLAs are nothing more than a bad solution in search of a problem.

6. Government Funded Study Finds PLAs Increase Costs and Offer Limited Value (June 2009)

A June 2009 study conducted by property and construction consulting firm Rider Levett Bucknall prepared for the U.S. Department of Veterans Affairs (VA) Office of Construction and Facilities Management found that PLAs would likely **increase construction costs by as much as 9 percent** on three of the five construction markets (Denver, New Orleans and Orlando) in which the VA is planning to build hospitals.

Project Labor Agreements – Impact Study for the Department of Veterans Affairs

7. Santa Cruz Metro Transit District Metrobase Project: 6 of 8 unresponsive bidders. Project bid September 12, 2012. Project not awarded until December 2012.

1) Life of Project (LOP) budget increased from \$27,350,425 to \$29,428,765.

2) Completion date was two years past contracted completion date (original was Dec, 2014, move in date was end of 2017).

8. Salinas Chamber case study at Hartnell College in the Monterey County market demonstrated that a PLA will result in fewer local jobs not more. Without Project Labor Agreements, 56% of the money spent stays in the local economy. With PLAs, only 10% does. See attachment.

9. Disastrous bid results under the Contra Costa Community College District PLA.

A. Contra Costa College New College Center

- a. Bid results 10.2% over low engineer's estimate of \$45M
- b. General Contractor from out of county
- c. Only 2 subcontractors from Contra Costa County
- d. 1 out of state contractor

B. Los Medanos College Student Services Remodel

- a. Bid results 9.8% over high engineer's estimate of \$15M
- b. General Contractor from out of county
- c. Only 2 subcontractors from Contra Costa County

C. Physical Education and Student Union Complex

- a. Bid range - \$35M - \$50M (District has now had to resort to a bid range vs. an engineer's estimate.
- b. 2 bidders
- c. Only 5 subs out of 24 from Contra Costa County and one from Quebec

10. **\$26M is the cost of PLAs at West Contra Costa USD to fund three updated construction bids** for projects at Kennedy High, El Cerrito High and Coronado Elementary. This **37% increase** over the \$44.8 Million allocated by Measures J, D & E is the cost of government-mandated Project Labor Agreements (PLAs). WCCCUSD has had a PLA in place since 2000. [Learn more](#). CC Times Article: Pricey school construction spending at WCCCUSD.

11. Oxnard Union High School District new Rancho Campana High School bid coming in 20% over estimates. The cost of the project had been estimated to be \$49 million while the price tag now stands at \$58 million. [GC blames PLA](#). Final project cost \$71.2M.

12. South San Francisco school starts amid construction project

School started Wednesday for children in the South San Francisco Unified School District. The fifth grade classrooms had not been completed due to construction delays. The district says part of the construction delays at Buri Buri Elementary School was due to roofing materials that didn't arrive on time. In fact, this is not the only school in the district that's behind in construction.

The district has used up all the funds from the \$162 million bond for school improvements and ran out. It moved \$10 million from its general fund to complete projects because of increased costs.

South SFO has been using Project Labor Agreements since 2011.

13. EBMUD conducted a survey of its union and non-union contractors who bid district projects about Project Labor Agreements.

- a. 100% said PLAs increase costs
- b. 64% said PLAs were a disincentive to bid

14. Southwestern Community College National City Higher Education Center project failed to garner the required 3 bidders for the following trades and is now rebidding them PLA free:

- BP 01 – Surveying (Prof licensed surveyor)
- BP 02 – Final Clean (B or D-63)
- BP 03 – Earthwork & Site Demo (A or C12 & C21)
- BP 04 – TI Demo (C-21)
- BP 06 – Masonry (C-29)
- BP 10 – Misc Metals & Stairs (C-51)
- BP 11 – Non-Lab Casework (C-6)
- BP 14 – Sheet Metal (C-43)
- BP 18 – Flooring (C-15)
- BP 24 – Elevator (B or C-11)

- BP 25 – Fire Protection (C-16)

<http://www.southwesterncollege.edu/2010R-2>

San Mateo CCD PLA Example

6/28/17 Agenda Item 17-6-7CA pages 131-132 <https://smccd-public.sharepoint.com/BoardofTrusteesPackets/2017-06-28%20Packet.pdf>

"APPROVAL TO REJECT ALL BIDS AND REBID COLLEGE OF SAN MATEO BUILDING 17 LEARNING COMMUNITIES MODERNIZATION PROJECT.

On June 14, 2017, the District received two bids for this project as follows: Contractor Total Bid D.L. Falk Construction \$4,649,700 Build Group \$6,233,510

The lowest bid received exceeds the project budget target for construction costs by 66%. Therefore, facilities is seeking approval to reject all bids and re-bid the project.

From: Susan Siegert [<mailto:Susan@abcnorcal.org>]
Sent: Tuesday, March 26, 2019 2:28 PM
To: Leslie Orta <lorta@valleywater.org>
Subject: Research re: Core Worker Definition limited to non-signatory contractors

Hi Leslie, below is more research on core worker requirements that I spoke to you about. It is one of the main reasons merit shop contractors will not bid the work if they read & understand the PLA. I believe it could potentially make the PLA legally discriminatory. Thanks, susan

<https://www.independent.com/2019/03/20/unions-win-big-in-city-construction-showdown/>

Under PLAs, **nonunion** contractors are allowed to bring only a limited number of "core" workers on PLA jobs;

<http://www.seattle.gov/contracting/docs/labor/TargetedHire.pdf>

Though PLAs often require the exclusive use of hiring halls, there are some limited exemptions for **open-shop** contractors to use their workforce, referred to as "core" workers

<https://www.lawa.org/-/media/lawa-web/employment/files/lawa-pla-flyer.ashx?la=en&hash=97AB7B8CC9E4DDEE0188D7CA46DD8E6BA2818E4F>

CAN PRIME CONTRACTORS & SUBCONTRACTORS USE THEIR OWN WORKFORCE? In accordance with PLA, Article 3, Section 10, to ensure that

contractors will have an opportunity to employ their experienced "core employees" on this Project, the parties agree that in those situations where a Contractor not a party to the current collective bargaining agreement with the signatory union having jurisdiction over the affected work is a successful bidder, that the Contractor may request by name, and the local will honor, referral of persons who have applied to the local union for Project work and who meet the following qualifications:

4. As needed, non-signatory contractors shall work with applicable union(s) to sign up and dispatch qualified core employees prior to start of work.

https://www.portofoakland.com/files/PDF/MAPLA_Agreement_2016.pdf Section 7.6 Port of Oakland

Union halls prioritize targeted workers when dispatching so non-signatory contractors will inevitably be dispatched those workers.

It appears that some PLA's require union contractors to submit a core-workforce list, but I don't believe they ever are dispatched (from local hire programs) off the hiring bench unless they need additional workers and cannot get apprentices from somewhere else.

I believe this has been added to the PLA to sell it as a workforce development tool and harm open shops at the same time, also, it should make the PLA legally discriminatory and show favoritism. Union shops would never comply with this and it will break the PLA if they were forced to comply.
Just my feedback as a contractor.

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