

PROJECT LABOR AGREEMENTS

A Record of Failure and Discrimination

Eric Christen
Executive Director, CFEC

WHAT IS A PLA?

- ✘ CFEC was created in 1998 to oppose Project Labor Agreements (PLAs).
- ✘ CEFC is comprised of both union and non-union companies and associations
- ✘ Without exception every PLA has contained the following provisions that make them problematic for merit shop contractors, employees, and apprentices.

WHAT IS A PLA? (CONT.)

All employees are required to comply with the union provision of the applicable Master Labor Agreement regarding rendering payment of applicable monthly working **dues and any non-initiation **fees**.**

WHAT IS A PLA? (CONT.)

All Employers, not signatory to a Master Labor Agreement with the appropriate Union, may employ, as needed, first, a member of his/her core workforce, then an employee through a **referral from the appropriate union hiring hall**, then a second core employee, and a second employee through the referral system, and so on until a maximum of four (6) core employees are employed, after which all further employees shall be **referred from the appropriate union hiring hall**.

WHAT IS A PLA? (CONT.)

Employers agree to be bound by the hiring practices of the **respective Union**, including hiring of apprentices, and to utilize **its registration facilities and referral systems**.

Employers shall pay contributions to the established employee health, welfare, and pension plans in the amounts designated in the appropriate **Master Labor Agreement** and make all employee authorized deductions in the amounts designated in the appropriate **Master Labor Agreement**

AT WHOM ARE THESE PROVISIONS AIMED?

Union membership and representation for the construction industry in California, 2010-2013:

Year	Member %
2013	15.9
2012	19.8
2011	16.2
2010	13.9

PLAS: THE OPPOSITION

Opposed:

- ✗ Air Conditioning and Trades Association
- ✗ 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

In Favor:

Some unions but not all

PLAS ARE OPPOSED BY WOMEN & MINORITY ORGANIZATIONS

“PLAs are de facto segregation...African-American workers are significantly underrepresented in all crafts of construction union shops...PLAs are non-competitive and, most of all, discriminatory.”

National Black Chamber of Commerce

“WCOE opposes government mandated PLAs...PLAs will disproportionately impact small business, particularly those owned by women and minorities.”

Women Construction Owners and Executives

“Bay Area Black Contractors Association has been a strong advocate for merit shop construction firms in the Bay Area and we are opposed to PLAs.”

Bay Area Black Contractors Association

“We believe PLAs make it more difficult for minority-owned contractors to compete...they effectively work against the goals of increasing the number of projects awarded to minority-owned businesses by placing roadblocks in the way.”

Latin Builders Association

“The ultimate effect of the San Francisco Airport PLA is clear...once the PLA was implemented minority business prime contract participation dropped 91.9%. This PLA has been a disaster for minority-owned businesses.”

Asian American Contractors Association

43 EDITORIALS IN CA.HAVE OPPOSED PLAS

“But PLAs favor union contractors and, by extension, unions. Thus public officials adopting a PLA are currying favor with, and possibly political campaign contributions from, unions. This is just the kind of cronyism the competitive bidding laws seek to avoid.”

Engineering News-Record

“The fact is that PLAs increase construction costs considerably and have no place in our community.”

Contra Costa Times

“Competition is the key to our economy...that’s why we question the Port of Oakland’s decision to negotiate an agreement (PLA) that does just the opposite.”

Oakland Tribune

“At issue is whether (UC) regents should force people to join a private group (unions) in order to work on a job. That’s hardly consistent with the intent of a major University.”

The Modesto Bee

“PLAs are about empowering unions, not helping workers.”

The Sacramento Bee

UNION FIRMS OPPOSED TO PLAS

Myth: “PLAs are only opposed by merit shop contractors who don’t take care of their workers.”

Reality: PLAs are opposed by every segment of the construction industry, union and merit shop alike.

“PLAs first and foremost are discrimination, period. Secondly PLAs interfere with existing work rules that union contractors already have in place. It’s companies like mine that employ union workers, not the political types like (union) business agents who are pushing these things. This is important to remember because we will probably not bid a project covered by a PLA.”

Wayne Lindholm

Hensel Phelps Construction

THE PEOPLE ARE OPPOSED TO THEM

City of Oceanside – Charter Provision – Fair and Open Competition

Approved by 54% of Voters, June 8, 2010

City of Chula Vista – Ordinance – Fair and Open Competition in Contracting

Approved by 56% of Voters, June 8, 2010

San Diego County – Charter Provision – Prohibition on Requiring Project Labor Agreements

Approved by 76% of Voters, November 2, 2010 (nullified by Senate Bill 922)

City of San Diego – Ordinance - Fair and Open Competition in Construction

Approved by 58% of Voters, June 5, 2012

City of El Cajon – Charter Provision – Purchasing and Contracts

Approved by 58% of Voters, June 5, 2012

PLAS: A RECORD OF FAILURE

San Francisco International Airport Expansion

- ✗ *\$500 million over budget (30%) and completed over a year behind schedule*
- ✗ *Two separate strikes*
- ✗ *Subject to an FBI investigation and a lawsuit over minority participation*

Port of Oakland

- ✗ *Two separate strikes*

Contra Costa County's Family Law Center

- ✗ Before PLA was imposed there were 13 prospective bidders. Engineer's estimate: \$8.5 million
- ✗ After PLA was imposed there were 5 bidders with *the low bid 21% over estimate.*

West Contra Costa Unified School District

- ✗ First school to be built under the PLA (DeJean Middle School) was supposed to cost \$15 million. *Final cost: \$36 million!*

Petco Park in San Diego

- ✗ *Two work stoppages*

A RECORD OF FAILURE (CONT.)

L.A. Police Headquarters

- ✗ More than \$150 million over budget
- ✗ Strike and 2 work stoppages

Los Angeles Community College District

- ✗ 7-part series in the L.A. Times on the waste, fraud, and abuse that took place there
- ✗ Millions wasted on projects that had to be fixed and repaired due to poor workmanship

Port of L.A. Pier 400 Project

- ✗ Local residents were 7% and 12% of the work force despite goal of 30%

Oakland Unified School District

- ✗ A Construction Bond was passed for \$300 million in order to rehab and modernized old schools.
- ✗ Bids went out for a rehab project which received EIGHT bids. The lowest responsible bidder came in at \$1.8 million –which happened to be from a merit shop contractor.
- ✗ After the bids came in, the district decided to re-bid the contracts for the rehab project, as a PLA had been placed on all work. The result was another bid and this time there were only THREE bidders with the lowest coming in at \$2.2 million dollars. The project's cost actually increased by 24%, which is typical.

A RECORD OF FAILURE (CONT.)

Rancho Campana High School - Oxnard Union High School District

Estimate: \$42-\$45 million

Preliminary Guaranteed Maximum Price: \$58,285,794

Staff blames Project Labor Agreement as #1 of five likely reasons for the “staggering” cost of the project.

A RECORD OF FAILURE (CONT.)

On Pinole Valley High School, in the WCCUSD, WLC Architects had an original fee for their work of \$8.5 million based on a total construction cost of \$84.6 million. But by February of 2014, the construction cost had ballooned to nearly **\$134.4 million**. Billing at 12 percent of the total, MacQuarrie said WLC's fees should be increased by **\$4.3 million**.

But that wasn't all. WLC said they should be compensated more than \$3.2 million for the increased timeline, which has stretched from about **six years to 10 years**. In addition, he offered to provide on-site construction administration at the school for 59 months at a cost of \$806,251, for a grand total of \$8.3 million more, which would nearly double WLC's contract from \$8.5 million to \$16.9 million.

PLAS: WHAT THE STUDIES SAY

To date every comprehensive study done on PLAs refutes PLA proponents claims. What do the facts say?

“...the reduction in the number of prospective bidders willing to bid work may not have resulted in the lowest possible price because of reduced competition. ”

Montgomery Watson review of Sump 2 Project in Sacramento

“...on federally-funded construction alone PLAs will increase costs an estimated \$4.8 billion, or in these days of budgetary restraint, a reduction in the amount of federal construction spending by 30%. ”

Herbert R. Northrup-Government Union Review

“Cost savings proposed by the PLA proponents are substantially unfounded. ”

San Diego County Taxpayers Association Review of San Diego County Water Authority 's Emergency Storage Project

“The Southern Nevada Water Authority PLA end-result has been reduced competition and higher costs. ”

University of Nevada Las Vegas review of SNWA PLA

“We have found no discernible economic or social (increased safety or pay for workers) benefit to utilizing a PLA, but there is substantial evidence that indicates the opposite is true. ”

Ernst & Young PLA review on the Erie County Courthouse (New York)

“In our analysis of 52 school projects the average PLA job cost \$31 more per square foot. ”

Beacon Hill Institute Study (MA.)

“PLAs add 13-15% more to the cost of projects.”

National University Study After Reviewing 500+ School Construction Projects in California

UNION LEADERS IN THEIR OWN WORDS:

“These (projects) were built with a hundred-percent union labor using project labor agreements . ”

Former California Building and Construction Trades Council President

Robert Balgenorth in speech before National IBEW

“...but it (PLA) does make us the exclusive source of manpower for the companies that successfully bid the work. ”

Joseph Hunt

Ironworkers International President

PLAs have, in some ways, become a welfare program for some unions that have been unable, unwilling or incapable of meeting the markets needs for years.

Mark Breslin, Engineering and Utility Contractors Association

UNION LEADERS IN THEIR OWN WORDS (CONT.)

“The best way to describe the meeting (John Swett USD Board Meeting) is that ABC’s snake oil salesmen and women, Eric “Captain Road Rage” Christian (sic), Kevin “The Weasel” Dayton, and Nicole “Clueless” Goehring and their small band of rat contractors...”

“As far as I’m concerned there’s no difference between ABC and child molesters.”

Greg Feere, Contra Costa County Building and Construction Trades Council (the guy who “negotiates” PLAs)

QUESTIONS THAT REQUIRE ANSWERS:

- ✗ What problems now exist that require a PLA to “correct” them?
- ✗ What are current “local hire” statistics on your projects?
- ✗ What do other PLAs actually say about “local hire” goals? Can it be mandated?
- ✗ How can union bosses, who have a irrational & demonstrated hatred of “others”, be expected to negotiate fairly for merit shop contractors, workers, and apprentices?
- ✗ How many strikes, slowdowns, and work stoppages have occurred on your projects?
- ✗ Do PLAs in fact prevent such things from occurring?
- ✗ Have you conducted a survey of contractors who have bid projects in the past for you to see what their feelings are regarding PLAs and asking them if they would bid a project with one?
- ✗ Will the Trustees be presented with copies of each union’s “Schedule A” and “Master Agreement”?
- ✗ What are the “dues” and “fees” for each union?
- ✗ Where is your BOC on the issue of PLAs?
- ✗ Why should non-union firms who already provide benefits be forced to pay into union plans?
- ✗ What are vesting requirements for each trade union?
- ✗ How much will it cost you simply to oversee the PLA? (RCCD)

LOCAL HIRE?

SBCCD Boards Local Hire Policy Keeps Jobs and Wages in the Inland Empire

Publish Date : 6/16/2014 2:22 PM By : Alisa Sparkia Moore, Esq., SBCCD Communications and PR

80% of Construction Projects using Local Labor

In November, 2013, the Board of Trustees of the SAN BERNARDINO COMMUNITY COLLEGE DISTRICT (SBCCD) unanimously approved Policy number BP 6610 in order to create opportunities for local hires and local business participation on district capital improvement and construction projects.

A recent review of the projects administered by the facilities offices of the District show that the policy has been implemented with great success.

“Between November 2013, when our local workforce participation statistics were last evaluated, and April 2014, the latest date for which data is available, the current local workforce analysis on our nine active Measure M Bond projects, four at San Bernardino Valley College and five at Crafton Hills College, indicates that we have used 80% local workforce, which supports our commitment to keeping our resources here in the Inland Empire,” said SBCCD CHANCELLOR BRUCE BARON. “The combined value of the contracts involved for these projects is in excess of \$15.5 million, of which wages are a substantial component.”

\$1.8 MILLION AT RCCD JUST TO OVERSEE!

- ✦ Agenda Item (IV-E-1)
- ✦ Recommended Action
- ✦ 11/3/2014 - Committee
Committee - Facilities (IV-E-1)
Agreement Amendment No. 1 for Project Labor Administration with Padilla and Associates District
- ✦ It is recommended that the Board of Trustees approve Agreement Amendment No. 1 in the amount not to exceed \$200,000 for project labor administration services with Padilla and Associates for additional projects with the Riverside Community College District
- ✦ **Background Narrative:**
- ✦ On March 16, 2010 the Board of Trustees approved an agreement with Padilla and Associates in the amount of \$1,600,000 for Project Labor Agreement (PLA) for Measure C projects in Riverside Community College District. The number of projects has exceeded the projects envisioned when the PLA was passed by the Board. The original contract amount in the PLA has been nearly expended or encumbered. The projects currently underway or about to start will require additional funds for the PLA in the amount of \$200,000.
- ✦ At this time it is requested that the Board of Trustees approve Agreement Amendment No. 1 in the amount not to exceed \$200,000 for additional PLA services with Padilla and Associates for additional projects with the Riverside Community College District. **This would bring the total contract amount to \$1,800,000.**



PLAs Hurt Workers

SANTA CLARA UNIFIED SCHOOL DISTRICT



Prevailing Wage Calculations

BASED UPON A "TOTAL PACKAGE" OF WAGES AND BENEFIT CREDITS

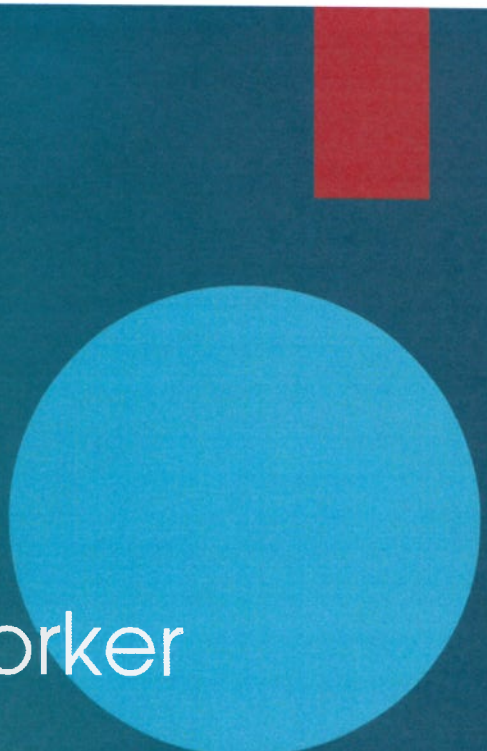


Electrician (inside wireman)

TOTAL PACKAGE - \$86.64

Permissible credits (deductions)

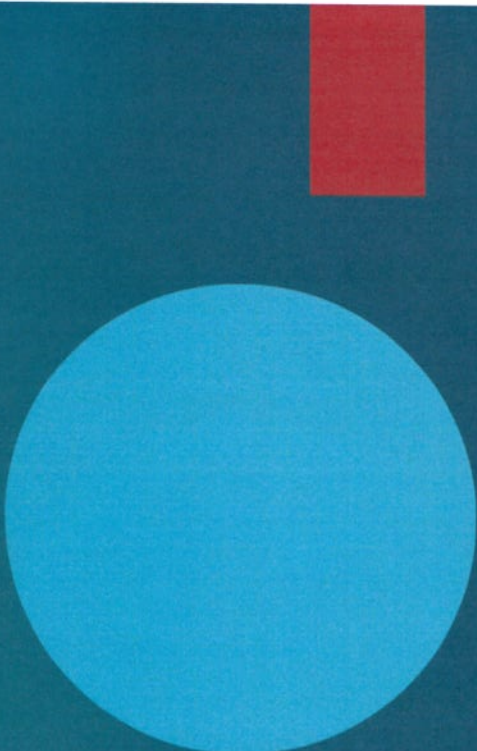
	With PLA	Without PLA
Total Package	\$86.64	\$86.64
Pension	\$18.03	\$18.03
Health care	\$12.98	\$4.69
Training	\$0.85	\$0.85
Other	\$0.51	-
Net before dues	\$54.27	
Union Dues	\$3.80	-
Take home	\$50.47	\$63.07
Annual PLA cost to worker	\$26,208	



But it can get worse for the worker
forced into a PLA

Pension

- ▶ Many pensions have a program that requires a vesting period – in some cases – up to FIVE years.
- ▶ That means a worker who is forced to contribute to a union plan loses the entire amount contributed if they don't accumulate FIVE years of service.



Lost Pension for a TWO year
construction project?

\$75,004.80

Solution?

- ▶ If an employer makes an irrevocable contribution to a qualified plan that immediately vests – they cannot be required to contribute to a union pension plan
- ▶ And/or, if the employer doesn't have a qualified plan, they must contribute to the union plan if the plan immediately vests for the worker and the worker can roll the contributions over to another plan immediately upon cessation of work

Health Care

- ▶ Union health plans typically have a “one size fits all” plan for their covered members. The cost of these plans are typically much higher than the market for ACA comparable coverage.
- ▶ Any “savings” for an employer who can provide medical care for less than the prevailing wage “credit” MUST be paid to the worker either in the wage or additional contribution to the pension.
- ▶ Further, most union health plans are based upon an “hour bank” system that could result in a loss of coverage to a worker who must be dis-enrolled in his/her employer’s plan and enrolled in a union plan.
- ▶ Worse, forcing a worker to change health plans serves no public purpose and can disrupt medical care and on-going treatment for pre-existing conditions.



Health Care Cost under PLA?
AS MUCH AS \$33,280

Solution

- ▶ Allow an employer to maintain its existing health care plan if it qualifies under the ACA as a gold level plan or above and covers the worker and his/her family.
- ▶ Allow a worker to keep their existing coverage as a qualified spouse or dependent.
- ▶ And/or if you mandate contributions to the union plan – the plan must waive the waiting period and cover the worker from day one of their employment

Union Dues

- ▶ Union dues or “fair share” fees are often required to be paid by core workers under a PLA.
- ▶ They vary from trade to trade and regionally.
- ▶ They are not part of the PW total package and are deducted from the wages of the worker (plus initiation fees)



Dues cost to worker
AS MUCH AS \$15,808

Solution?

- ▶ Require that a core employee agree to the dues deduction. The school district should not be the one deciding if a construction worker pays union dues or not.

Other elements of a Fair PLA

- ▶ **Core workers.** You select a contractor based upon his/her price and experience performing similar work. It is nonsensical to pick a qualified contractor to perform your work – then require them to replace their workforce with unemployed union workers. Allow a contractor to use their own workers and only require them to take additional workers from the unemployed.
- ▶ **Apprenticeship.** Many employers have existing apprentices enrolled in unilateral apprenticeship programs. These apprentices, in most cases, cannot work on PLA projects. Allow any state-approved apprenticeship program to dispatch apprentices.

What Women and Minority Groups Say About PLAs

"PLAs are de facto segregation... African-American workers are significantly underrepresented in all crafts of construction union shops...PLAs are non-competitive and, most of all, discriminatory."

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**At Some Point it
Becomes Obvious What PLAs are REALLY All About**

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