



Testimony

Submitted on behalf of the
Pennsylvania Chamber of Business and Industry

Project Labor Agreements

Before the
House Republican Policy Committee

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The Pennsylvania Chamber of Business and Industry is the largest broad-based business advocacy organization in the state, representing nearly 50 percent of the private workforce. The PA Chamber represents businesses of all sizes and across all industry sectors.

Our members' concerns with Project Labor Agreements (PLAs) include increased construction costs; the lack of competition; lower quality and delayed project completion; and threats of work stoppages.

Construction Costs

PLAs increase costs partially because they produce fewer bidders on a project due to the stringent requirements that come with hiring union workers, such as a required ratio of union to non-union employees or limits on current non-union staff's hours in order to accommodate the union to non-union employees allowed on the job. This leads to a less competitive pool of contractors to complete a particular project.

In reviewing the impact that PLAs have on the cost of bidding and completing construction projects, the PA Chamber has found several studies that support concerns about increased costs. For example, Beacon Hill Institute¹ released a study in August 2009 that examined the cost effectiveness of PLAs in three states: Massachusetts, New York and Connecticut. In the Boston area, PLAs were used in 17 percent of the 126-project sample size and added 12 percent per square foot to the costs. In Connecticut, PLAs were seldom used (14 of 71 school construction projects sampled), however, the study found that costs increased by 18 percent. Finally, New York's construction cost bids were 20 percent higher relative to non-PLA projects (19 PLA projects out of 117).

Eliminating Competition

Regarding the use of PLAs, the Government Accountability Office stated in a 1998 report to Congress that "PLAs are one form of 'prehire' collective bargaining agreements between contractors, or owners on behalf of contractors, and labor unions in the construction industry. PLAs are called prehire agreements because they can be negotiated before employees vote on union representation or before the contractor hires any workers."

PLAs eliminate competition of non-union contractors in the bidding process by placing stringent requirements in order to win the bid and execute the project. PLAs are used as a means to ensure that unions will benefit from a particular project(s) through mandates for union workers to be used on the project and non-union member's payments to the union in the form of dues and pension contributions.

Furthermore, contributions by non-union contractors to union benefits may be greater than those of union contractors and most likely will not be recovered after the project is completed. The employee must pay into the union's pension system, as well as their employer's benefits system during the length of this project. The employee has more ownership and investment in their

¹ Founded in 1991, the Beacon Hill Institute is the research arm of the Department of Economics at Suffolk University in Boston.

employer's benefits system than in the union's pension system throughout their employment in an "open shop." However, they will be required to contribute part of their paycheck to the union pension system with very little if any retirement benefits accrued from the union pension plan when they retire.

The employee is also forced to pay union dues to the union despite the fact that the union will not represent non-union employees in collective bargaining negotiations. Representation for a non-union employee would not be an issue if they were not forced to pay union dues which are financially onerous on the employee and unfair.

Right To Work laws preserve an employee's ability to work without being required to join a union or pay union dues. A PLA removes that protection by requiring that employee to pay union dues in order to work on the PLA project even in Right To Work states. Unlike nearly half the states in the nation, Pennsylvania has no Right To Work laws to protect employees from being compelled to join a union and/or pay contributions to unions as a condition of employment.

There is also the potential that while using the union contractors for the workforce, non-union employees could be coerced into joining a union. All of these issues are a disincentive to non-union contractors that want to use their own employees and use their own workplace policies and compensation packages to complete projects.

Additionally, women and minority owned contractors are adversely affected by the use of PLAs. These firms are generally smaller contractors that are typically not unionized. In September 2009, National Black Chamber of Commerce President Harry Alford testified before the Committee on Oversight and Government Reform about national unemployment. In his remarks, he stated that PLAs discriminate against small business and minorities and urged President Obama to cancel his Executive Order² and reinstate President Bush's Executive Order banning the use of PLAs³.

Quality and Timely Project Completion

An argument used in favor of PLAs is that projects can be completed on time with a better quality product. The PA Chamber has not found this to be the case.

² On February 6, 2009, President Obama signed Executive Order 13502 rescinding President Bush's executive order on project labor agreements and adopting a new federal policy on these agreements. Executive Order 13502 encourages federal executive agencies to consider the use of PLAs on federal construction projects where the total cost to the federal government is \$25 million or more. The EO allows federal contracting agencies to include in contracts for such projects a requirement for a PLA when such an agreement would advance federal interests in economy and efficiency, labor stability, and compliance with employment laws.

³ In 2001, President Bush issued Executive Order 13202 prohibiting federal agencies from requiring bidders on federal construction contracts to adhere to contracts with one or more unions relating to the construction project and from discriminating against bidders that refused to sign union contracts.

For illustrative purposes, in 2005, Sioux City, Iowa was constructing the Tyson Events Center with substantial similarities to a renovation of the Iowa Events Center, a PLA project. The Tyson project did not use a PLA and was completed on time and on budget with a cost of \$245 per square foot compared to \$268 per square foot for the Iowa Events Center (\$23 difference per square foot). The completion of the Iowa Events Center was delayed by 105 days, although there was a period of two weeks in which the steel supply was interrupted due to complications with a vendor's finances.

Supporters contend that PLA projects can avoid delays in completion because they are a collective bargaining agreement, regardless of whether it is a union or non-union contractor performing the work. By signing the PLA, there is an expectation that there will not be a work stoppage due to strikes or picketing outside of the construction site.

A tactic that can be used to leverage the signing of a PLA is to file legal and other administrative challenges in order to stall construction, which is essentially equivalent to work stoppage. Such a tactic was used by the California Unions for Reliable Energy (CURE) in 2004 when it filed objections against the city of Roseville, California's power plant. It became less costly for Roseville to sign a PLA than it was to work through the bureaucracy and legal challenges that CURE initiated along with the delay in physical construction. CURE withdrew its objections after the city signed a PLA for the power plant.

Summary

The Pennsylvania Chamber of Business and Industry supports the opportunity for all contractors to work on construction projects in the Commonwealth. We believe that bids reflecting the lowest reasonable cost, highest level of efficiency and highest degree of quality should be awarded to contractors regardless of their affiliation with organized labor. This competitive process is what drives our economy and ensures that construction projects are safely completed on time and on budget.

There should be no requirement for non-union companies to bring in union employees or change their own employee's status in order to be awarded a public project. This eliminates competitive bidding from taking place and increases the costs of the overall construction project.

As these public projects are paid for with taxpayer dollars, the PA Chamber believes it is in the best interest of Pennsylvanians to have construction projects bid on by as many responsible contractors as are capable of performing the work. Awarding a project based on the merits of the bidder is the fairest and most competitive process that should be used.