

PROJECT LABOR AGREEMENTS

PLA Primer *and* PLA Briefing Book

Prepared by:

**Gerard M. Waites, Esq.
Scott M. Seedorf, Esq.
O'Donoghue & O'Donoghue, LLP
4748 Wisconsin Avenue, N.W.
Washington, DC 20016**

November 2010

PLA Primer

I. Introduction

Project Labor Agreements (PLAs) provide one of the most effective project planning tools available for large capital facility construction projects. As evidenced by a growing national trend involving over \$160 billion of PLA-construction, project owners in both the public and private sector are increasingly utilizing this tool to protect capital investments and ensure successful project delivery.

By providing facility owners with a unique and exceptionally reliable source of skilled, trained manpower in all applicable trades, PLAs promote safe, timely, cost-effective construction delivered to the highest quality standards. Moreover, due to looming skill shortages in the construction industry, PLAs help address long-term needs of project owners by providing a highly effective strategy for recruiting and training the next generation of skilled construction workers, thus assisting the industry's critical need for future workforce planning and development.

But economic and business advantages for project owners are not the only thing PLAs do. In addition, PLAs permit public and private owners to leverage capital facility investments in a way that generates substantial benefits for local communities. Because PLAs rely on local building trade union referral systems, workers recruited for and deployed on projects are generally local residents who receive good wages and health care and pensions and the very best skill training and education the industry has to offer the construction trades.

This paper provides an overview of these various benefits and, together with the attached Briefing Book, highlights the growing trend of PLA-construction. Given the effectiveness of this tool to improve construction project planning and execution, this is a trend that is likely to continue in the future as more project owners throughout the industry recognize its utility.

II. PLA Basics: Key Component of Effective Capital Facility Planning

Project Labor Agreements are single-site collective bargaining agreements between building trade unions and site contractors that govern terms and conditions of employment for all craft labor on the designated construction project. When used on large capital projects, PLAs are included in project specifications at the direction of the project owner for the purpose of promoting core project goals: quality, safety, timely delivery and cost-efficiency.

More specifically, from a project owner's perspective, PLAs are used to provide: (1) access to reliable local supply sources for highly trained, highly skilled construction craft labor; (2) no-strike/alternative dispute resolution provisions to prevent labor disputes and related project delays; (3) significant cost reductions through minimized risks of disruption and delay, a higher-quality work product, and uniform rules that translate into lower administrative costs.¹

PLAs have been used in the private and public sectors for nearly a century and three-quarters of a century, respectively. It is not by accident that PLAs have been used for so long. The advantages PLAs provide in time, quality, safety, and cost-efficiency are the driving reasons behind the long history of these agreements.

¹ See Jeff Caldwell, *Project Labor Agreements – Toyota's Way* (Toyota North America's construction costs roughly one-third less than other major automobile manufacturers who do not use PLAs) (document available from authors); Press Release, Office of Governor George E. Pataki, *Governor: DOT to Use Project Labor Agreement I-287 Project* (Oct. 30, 1999) (PLA for reconstruction of Cross Westchester Expressway yields more than \$8 million in savings to taxpayers), available at <http://worldcat.org/arcviewer/1/AO%23/2007/01/12/0000057321/viewer/file2583.html>; see also Dale Belman, Russell Ormiston, William Schriver, and Richard Kelso, *The Effect of Project Labor Agreements on School Construction in New England*, Michigan State University SLIR Working Paper Series (2005) (dispelling the myth propagated by the Beacon Hill Institute and allies that PLAs increase construction costs).

These are the same reasons for their consistent expansion over time, to the point where it was recently documented that project owners in various industries and market sectors have used PLA-construction to deliver over \$160 billion of capital facilities construction projects throughout the U.S.² Successful tools prove themselves.

Significantly, use of PLAs in the private sector, driven primarily by cost-efficiencies, has long outpaced the public sector. But public sector use has also markedly increased in recent years, as successes of private corporations in this area have come to light, including those of leading Fortune 100 and 500 companies, including Toyota, General Motors, Wal-Mart, Bank of America, CVS, Target, Sunoco and Disney. Thus, government officials and agencies increasingly use PLAs because they produce timely, cost-effective project delivery that protects capital investments³

Consistent with these developments, President Obama issued Executive Order 13502 to promote PLA-construction in the federal sector.⁴ As a result of this initiative, the federal government has greater access to the same proven project management tool used by numerous corporations and state and local governments. This is an important and necessary step toward further realizing a federal procurement system that secures for taxpayers the best value in major government acquisitions.

III. Economic Benefits for Project Owners: Safe, Timely, Cost-Effective Delivery

Construction is a highly specialized, highly skilled, and highly-labor intensive industry that requires numerous contractors, both union and non-union, and crafts to work collaboratively and efficiently to achieve common project goals. Accordingly, the degree of coordination and the skills, quality and reliability of the craft labor workforce used on a given project will each have a direct and substantial impact on successful project delivery. The absence of either can make or break a project.

By securing access to the best-trained, most highly skilled local workforce available, PLAs promote safe, timely, cost-effective execution of capital projects, resulting in innumerable economic benefits for project owners and other public or private parties responsible for or dependent upon such projects. Such benefits have been documented in several major studies aimed at evaluating the efficacy and economic benefits of PLA-construction.⁵ These studies demonstrate that PLAs help to maximize efficiency, minimize risks, reduce costs and ensure timely project delivery.⁶

The benefits of PLAs, particularly access to reliable sources of highly-skilled craft labor, are also increasingly important as an aging workforce and acute skill shortages subject projects to greater levels

² See Gerard M. Waites and Scott M. Seedorf, *Project Labor Agreements: Briefing Book* (2010) (document attached).

³ See e.g., Peter Cockshaw, *Private PLAs Become Widespread*, Cockshaw's Construction Labor News & Opinion 345(8)(2005); Press Release, Office of Mayor Michael R. Bloomberg, Mayor Michael R. Bloomberg, Schools Chancellor Joel I. Klein, and BCTC President Edward Malloy Announce Landmark Agreements Between Department of Education and Building and Construction Trades Council (6/6/05) (school construction PLA to produce \$500 million in savings over 5 years), available at <http://prt-l-prd-web.nyc.gov/html/om/html/2005a/pr012-05.html>.

⁴ Exec. Order No. 13,502, 74 Fed. Reg. 6,985 (Feb. 6, 2009).

⁵ See Dale Belman & Matthew Bodah, Economic Policy Institute, *Building Better: A Look at Best Practices for the Design of Project Labor Agreements* (2010); Fred B. Kotler, Cornell University School of Industrial and Labor Relations, *Project Labor Agreements in New York State: In the Public Interest* (2009); Dale Belman, Matthew M. Bodah, and Peter Phillips, ELECTRI International, *Project Labor Agreements* (2007); Ralph Scharnau & Michael F. Sheehan, The Iowa Policy Project, *Project Labor Agreements in Iowa: An Important Tool for Managing Complex Public Construction Projects* (2004); Contra Costa County General Services Department, *Project Labor Report (May 2002-November 2003)* (2004); John T. Dunlop, Harvard University Joint Center for Housing Studies, *Project Labor Agreements* (2002); Daniel Rounds, UCLA Institute for Labor and Employment, *Project Labor Agreements: An Exploratory Study* (2001); Kimberly Johnston-Dodds, California Research Bureau, *Constructing California: A Review of Project Labor Agreements* (2001).

⁶ See *id.*

of risk. These trends, which will obviously also impact project cost and quality, require project owners to take serious and more pro-active measures to ensure reliable project staffing for capital facilities programs.⁷ PLAs can assist these efforts and play a useful, even decisive role in future workforce development.

IV. Workforce Development: Building a Skilled Workforce for the Future

As noted, the construction industry nationwide is facing severe skill shortages. This problem threatens to reach a crisis point in the near future, could undermine capital facilities planning and adversely impact projects relating to critical infrastructure, economic development and other major public works programs. PLAs help combat this problem by encouraging needed investment in high skills training programs both in the short-term and in the long-term.

In the short-term, PLAs guarantee project owners an adequate supply of highly skilled craft workers through union hiring halls or referral systems. While local referral systems are usually adequate, these systems can also call upon workers from surrounding regions and across the county if needed to meet local demands. In addition, PLAs can help expand the long-term supply of craft workers needed for the future. When PLAs are used, local union referral systems are forced to expand their capacity and recruit and train more workers to meet manpower demand. This, in turn, facilitates long-term workforce planning and development, which is critically needed by the industry.

Moreover, construction is a highly specialized industry that requires the deployment of multiple, diverse crafts. As studies have shown, however, the open shop sector provides training in some trades but maintains little or no presence in others. The open shop has also been unable to develop or maintain an effective system of craft training that ensures open shop workers uniformly meet requisite, minimum skill standards. For these and other reasons, it fails to adequately invest in skill training or produce sufficient numbers of properly trained workers. This, in fact, is one of the primary causes of the industry's current skill shortages.⁸

In contrast, union construction apprenticeship programs regularly invest over \$600 million in state-of-the-art training programs every single year, provide a quality of training that is far superior and maintain programs that cover the wide range of all essential crafts needed for large capital facility projects. Thus, the use of PLA-construction, which provides work opportunities to union referral systems that have a greater capacity to recruit, train and deploy the next generation of skilled construction craft personnel, serve the long-term workforce development interests of project owners.

V. Local Community Benefits: Local Jobs, Good Wages & Excellent Training

In addition to providing high value to project owners, PLAs offer many important benefits to local communities affected by capital projects, including local employment opportunities, good wages and the best skill training opportunities available in the industry.

A. Local Hiring: PLAs are structured to require that all project contractors hire their craft labor through local union hiring halls or referral systems. Local hiring is of particular value to public project owners because of the multiplier effect it has on taxpayer investments. They understand that local workers purchase goods and services at local businesses, which, in turn, provide jobs, healthcare and other benefits to other local workers.

⁷ See Construction Users Roundtable (CURT), *Confronting the Skilled Workforce Shortage* (June 2004); *The Perfect Storm: Factors Come Together Creating a Storm in the Construction Workforce*, *The Construction Executive* (June 2004), pp. 21-25; See also Construction Labor Research Council, *Craft Labor Supply Outlook: 2005-2015* (2005).

⁸ Cihan Bilginsoy, University of Utah, *Apprenticeship Training in the U.S. Construction Industry* (1998), at 9.

- B. Good Wages:** By establishing good, livable wages for all site workers, PLAs ensure that local workers will receive a decent income, which, in turn, supports the local economy. Good wages also help attract the best qualified workers to the project and protect local residents from the unscrupulous practices of companies that hire transient workers at substandard wages.
- C. Cutting-Edge Skills Training:** Skill training programs operated by local Building Trades Unions provide the best training available in today's construction industry.⁹ In fact, a number of recent studies conducted across the country demonstrate that union apprenticeship programs attract and graduate far more apprentices, including more minority and female apprentices, and can be counted on to train for all essential construction trades.¹⁰ These programs include more advanced training for more experienced workers and provide meaningful, life-long career opportunities to participants.¹¹
- D. Health Care & Pension Benefits:** Since PLAs incorporate local union collective bargaining agreements, they also ensure that workers on the project receive adequate health care and pension coverage. These benefits promote a better quality of life for local workers and protect local jurisdictions from having to subsidize such benefits for workers who do not receive them from their employers.

V. Keeping the "PLA Debate" Honest – Sorting Fact From Fiction

Notwithstanding the substantial and compelling case for and evidence in support of PLAs, certain groups, namely non-union contractor organizations, oppose these agreements. Unfortunately, these opponents have little interest in having an honest debate on the issue or in developing effective workforce policies for federal construction.

Instead, opponents condemn PLAs outright and propagate blatant untruths and distorted facts in support of their position. They have, for example, used cost-increases in the notorious Boston *Big Dig* project to attack PLAs, when the labor agreement had nothing to do with cost-overruns on the job caused by design problems and unforeseen site conditions.

Likewise, opponents falsely maintain that the use of PLAs on federal projects will serve to exclude a majority of the nation's merit shop contractors and non-union workers. The fact is, however,

⁹ See e.g., Sarah S. Etherton, Stephen L. Cook, and Robert V. Massey, Jr., West Virginia University Institute for Labor Studies and Research, *Building Trades Apprentice Training in West Virginia: A Comparison of Union and Non-Union Building Trades Programs in the 1990s* (2002).

¹⁰ See Annetta Argyres & Susan Moir, Labor Resource Center, University of Massachusetts Boston, *Building Trades Apprentice Training in Massachusetts: An Analysis of Union and Non-Union Programs, 1997-2007* (2008); Erin Johansson & Fred Feinstein, *Apprenticeship Training Programs in Maryland: A Case Study of the Construction Industry, 1990-2003* (2005); Jeff Vincent, Indiana University Institute for the Study of Labor in Society, *Analysis of Construction Industry Apprenticeship Programs in Indiana* (2004); Randy Loomans & Mitch Seaman, Washington State Construction and Building Trades Council, AFL-CIO, *Apprenticeship Utilization in Washington State Programs in the Building and Construction Trades* (2003); Donald H. Bradley & Stephen A. Herzenberg, Keystone Research Center, *Construction and Apprenticeship Training In Pennsylvania* (2002); Sarah S. Etherton et. al., West Virginia University Extension Service, Institute for Labor Studies and Research, *Building Trades Apprentice Training in West Virginia: A Comparison of Union and Non-Union Building Trades Programs in the 1990s* (2002); Cihan Bilginsoy, University of Utah, *Apprenticeship Training in the U.S. Construction Industry* (1998); William J. Londrigan and Joseph B. Wise, Kentucky AFL-CIO, *Apprenticeship Training In Kentucky: A Comparison of Union and Non-Union Programs in the Building Trades* (1997).

¹¹ See www.BCTD.org. Collectively, the Building Trades Unions invest over \$600 million per year in top quality apprenticeship and journey person training programs and maintain a nation-wide network of some 20,000 state-of-the-art training facilities throughout the U.S. and Canada. In addition, at least 75% of all apprentices participating in registered training programs are in Building Trades programs. As such, these programs account for the vast majority of bona fide training efforts in the industry.

PLAs are fully open to bidding to ALL contractors, union and non-union alike. What's more, most public PLAs are undertaken in urban metropolitan areas, where prevailing wage surveys show that union workers comprise a majority of the affected workforce. Plus, non-union workers are permitted to seek work on PLA projects by applying through local union job referral systems and fully protected under federal labor law in doing so.

Because of these facts, and the considerable advantages PLAs offer, federal and state courts have widely upheld their use on public works projects.¹² Further, it's significant that the seminal court rulings in this area, including the leading case of *Boston Harbor*, decided 9 to 0 by a highly conservative Court, have stressed that the key focus for this issue must essentially rest on what is best for the *contracting agency* – regardless of the impact on the union sector or the merit shop.

Thus, the courts have said what is crucial is not what is good for contractors or unions or even workers – but what is best for the government body procuring the construction. Ultimately the focus must be on what is best for the taxpayers.¹³ Because they provide substantial benefits to the project delivery process, PLAs are routinely justified under this standard and widely used in various public building programs for tens of billions of dollars worth of construction each year. There is even greater use in the private sector, where corporate owners make similar decisions based on maximum value.

The fact that PLAs also provide benefits to workers and local communities is an added advantage, but a vital one to a country that is sorely in need of new good middle class jobs. Moreover, if PLA-construction makes sense from a straight economics and business standpoint, as the growing body of evidence shows, it would be a disservice to taxpayers and local communities *not* to leverage such large capital investments to create good local jobs.

¹² See Building and Construction Trades Council v. Associated Builders and Contractors (“Boston Harbor”), 507 U.S. 218 (1993); Johnson v. Rancho Santiago Community College Dist., ___ F.3d ___, 2010 WL 3928994 (9th Cir. 2010); Associated Builders & Contractors, Inc. v. Lavin, 431 F.3d 1004 (7th Cir. 2005); Associated Gen. Contractors of Am. v. Metro. Water Auth., 159 F.3d 1178 (9th Cir. 1998); Phoenix Eng'g v. MK-Ferguson of Oak Ridge Co., 966 F.2d 1513 (6th Cir. 1992); Sheet Metal Workers Local 27 v. E.P. Donnelly, Inc., 673 F.Supp.2d 313 (D.N.J. 2009); Albany Specialties, Inc. v. Bd. of Educ. of So. Glens Falls Sch. Dist., No. 99-CV-1462 (N.D.N.Y. Oct. 1, 1999) (unreported); Util. & Transp. Contractors Ass'n v. Essex County Improvement Auth., No. 98-4408 (D.N.J. Oct. 15, 1998) (unreported); JNS Heating v. Suffolk Co., No. CV-95-5227 (E.D.N.Y. Oct. 4, 1996) (unreported); McGraw's Custom Constr., Inc. v. City of Juneau, No. J96-0003 (D. Alaska Mar. 28, 1996) (unreported); Lott Constructors, Inc. v. Camden Co. Bd. of Chosen Freeholders, 1994 WL 263851 (D.N.J. 1994) (unreported); Enertech Elec., Inc. v. Mahoning County Comm'rs, 1994 WL 902493 (N.D. Ohio 1994), aff'd, 85 F.3d 257 (6th Cir. 1996); Associated Gen. Contractors of Am. v. County of St. Louis, 825 F.Supp. 238 (D. Minn. 1993); Laborers Local No. 942 v. Lampkin, 956 P.2d 422 (Alaska 1998); Elec. Contractors, Inc. v. Department of Education, 2009 WL 5945554 (Conn. Super. Ct. Aug. 7, 2009) (unreported); Associated Builders & Contractors, Inc. v. S.F. Airports Comm'n, 981 P.2d 499 (Cal. 1999); Conn. Associated Builders & Contractors, Inc. v. Anson, No. CV-98-0579841-S (Conn. Super. Ct. Oct. 26, 1998), aff'd, 740 A.2d 804 (1999); Master Builders of Iowa, Inc. v. Polk County, 653 N.W.2d 382 (Iowa 2002); John T. Callahan & Sons, Inc. v. City of Malden, 713 N.E.2d 955 (Mass. 1999); Util. Contractors Ass'n of New England, Inc. v. Mass. Dep't of Pub. Works, 5 Mass. L. Rptr. 17, 1996 WL 106983 (Mass. Super. Ct., 1996); City of Lansing v. Carl Schlegel, Inc., 669 N.W.2d 315 (Mich. Ct. App. 2003); Associated Builders & Contractors, Inc. v. Minnetonka Indep. Sch. Dist., No. 276, 1999 WL 1261743 (Minn. Ct. App. Dec. 28, 1999) (unreported); Queen City Constr. Inc. v. Rochester, 604 N.W.2d 368 (Minn. Ct. App. Dec. 28, 1999); Associated Builders & Contractors, Inc. v. So. Nev. Water Auth., 979 P.2d 224 (Nev. 1999) (unreported); N.Y. State Chapter, Inc. v. N.Y. State Thruway Auth., 666 N.E.2d 185 (N.Y. 1996); E.W. Tompkins Co., Inc. v. Bd. of Trs. of Clifton Park-Halfmoon Pub. Library, 813 N.Y.S.2d 789 (N.Y. App. Div. 2006); Associated Builders & Contractors, Inc. v. Bd. Educ. of Buffalo, 703 N.Y.S.2d 418 (N.Y. App. Div. 2000); Albany Specialties, Inc. v. County of Orange, 662 N.Y.S.2d 773 (N.Y. App. Div. 1997); Associated Builders & Contractors, Inc. v. Onondaga County, 160 L.R.R.M. 2905 (N.Y. Sup. Ct., Onondaga Co. Mar. 16, 1999); Flex Elec. Contractors, Inc. v. County of Orange, No. 4256-97 (N.Y. Sup. Ct., Sept. 30, 1997) (unreported); Rondout Elec. v. County of Orange, 151 L.R.R.M. 2254 (N.Y. Sup. Ct. 1995); Ohio Bldg. & Constr. Trades v. Cuyahoga Co. Bd., 781 N.E.2d 951 (Ohio 2002); Associated Builders & Contractors, Inc. v. Jefferson County Bd. of Comm'rs, 665 N.E.2d 723 (Ohio Ct. App. 1995); Hawbaker v. Department of General Services, No. 111 MAP 2009, slip op. at 17, 30 (Pa. Commw. Ct. Dec. 1, 2009) (unreported), appeal as of right pending, 405 M.D. 2009 (Pa. 2009); Sossong v. Shaler Area Sch. Dist., 945 A.2d 788, 794 (Pa. Commw. Ct. 2008), appeal denied, 967 A.2d 962 (Pa. 2009); A. Pickett Construction Inc. v. Luzerne County Associated Builders and Contractors Inc., 738 A.2d 20 (Pa. Commw. Ct. 1999); North State Mechanical, Inc. v. Department of General Services, No. 122 M.D. 2001 (Pa. Commw. Ct. Jun. 21, 2001) (unreported).

¹³ See e.g., Building and Construction Trades Council v. Associated Builders and Contractors, 507 U.S. 218, 231-232 (1993).

VI. Conclusion

As a tool for planning and executing large capital facility projects, PLAs have long been used by project owners in both the private and public sector to ensure successful project delivery of over \$160 billion of construction in virtually all industries and market sectors. The benefits these agreements provide to projects owners, local communities and the construction at large are considerable and as evidence of such benefits continues to grow, reliance on this tool will continue to expand. Good tools prove themselves.

PLA Briefing Book

PROJECT LABOR AGREEMENTS

- Part I: Extensive Use of PLA-Construction**
- Part II: Federal Policy on Project Agreements**
- Part III: PLAs for Nuclear Construction**
- Part IV: PLAs by State & Local Government**
- Part V: PLAs for School Construction**
- Part VI: PLA Surveys, Reports & Studies**
- Part VII: PLA News & Journal Reports**
- Part VIII: PLAs Impact on Apprenticeship Training**
- Part IX: Use of PLAs to Address Construction Industry Skill Shortages**

Part I: Extensive Use of PLA Construction

Billions in Public & Private PLAs: Bldg. Trades National Project List 1

- Over \$26 billion in public and private PLAs were reported between 2005 and 2009 per Xcel Tracking System of Building & Construction Trades Department. This includes only a partial listing of recent/pending PLAs.

Source: Building & Construction Trades Department (BCTD), AFL-CIO.

BCTD List of National Construction Agreements from 2005 to Present 2

- Lists 37 projects; collective value over \$14.75 billion.

Source: Building & Construction Trades Department, AFL-CIO.

Cockshaw's Report: Private Sector PLAs Become Widespread 3

- Industry report shows PLAs have been used for billions of dollars of projects and have become widespread in the private sector, including substantial use by many Fortune 500 companies.
- Reviews use of PLAs by leading corporations, including Bank of America, CVS, Disney, IBM, Loews, Marriott, Sunoco, Target, Toyota, U.S. Airways, Wal-Mart and Xcel.
- Cites a study by the California Research Bureau which found that private sector PLAs outnumbered public PLAs in California. Stresses that this report found "*private owners specifically request that contractors use PLAs for economic reasons, labor stability and cost and scheduling factors.*"

Source: Peter Cockshaw, Private PLAs Become Widespread, Cockshaw's Construction Labor News & Opinion 35(8), Sept. 2005, at 1-4, available at http://www.buildri.org/stuff/contentmgr/files/c1f488859b6395396289bcdb03ccf84b/doc/2005.cockshaw_s_sept_2005.pdf.

Housing Trust: Nearly 4 Billion Invested in PLA Work Over 40 Years 4

- The AFL-CIO Housing Investment Trust reports approximately \$3.9 billion in multi-family housing development activity nationwide under PLAs and PLA-type agreements over the past decade.
- This work involved an estimated 35 million man-hours of construction work on over 37,000 housing units to revitalize communities; investments in this trust regularly yield above-average returns.

Source: AFL-CIO Housing Investment Trust, at <http://www.aflcio-hit.com/> (last visited May 30, 2006).

Building Trust Relies on PLAs for \$6 Billion of Investments

5

- Since 1988, the AFL-CIO Building Investment Trust (BIT) has participated in over \$6 billion in commercial real estate investment transactions.
- These investments relied on PLAs and PLA-type agreements for projects across the country involving some 30 million man-hours of construction; investments in this trust regularly yield above-average returns.

Source: AFL-CIO Building Investment Trust, at <http://www.afcio-bit.com/> (last visited Aug. 7, 2009).

Multi-Employer Trust Uses PLAs for \$10 Billion in Projects

6

- The Multi-Employer Property Trust's (MEPT) development, renovation, and tenant improvement investments have produced roughly \$10 billion in projects built under PLAs and PLA-type agreements.
- This work involved over 52.7 million man-hours of construction; investments in this trust regularly yield above-average returns.

Source: Multi-Employer Property Trust, available at <http://www.mept.com/> (last visited Aug. 7, 2009).

Part II: Federal PLA Policy

Executive Order 13502: Use of PLAs for Federal Construction Projects

7

- President Obama's Executive Order of February 6, 2009 encourages federal agencies to use PLAs for large-scale federal construction projects to promote timely and efficient completion of such projects.
- This Executive Order also directs federal agencies to develop PLA implementation plans and directs the Office of Management and Budget to conduct a study on broader future use of PLAs.

Source: Exec. Order No. 13,502, 74 Fed. Reg. 6,985 (Feb. 6, 2009), available at <http://edocket.access.gpo.gov/2009/pdf/E9-3113.pdf>.

Final Rule on Federal PLAs Documents PLA Successes in Public and Private Sectors and Facilitates Use for Federal Projects

8

- On April 13, 2010, the Federal Acquisition Regulation (FAR) Council issued a final rule implementing E.O. 13502, removing legal and administrative roadblocks that precluded consideration of PLAs by many federal agencies. The final rule gives federal agencies broad discretion to require contractors to execute and abide by a PLA as a condition of performing work on a large-scale federal project. (75 Fed. Reg. 19168, 19172 (Apr. 13, 2010)).

- The background section of the rule documents the long and extensive use of PLAs by various governmental bodies and private corporations for all types of construction. Among other things, it notes that PLAs “have been used by the private sector for a variety of construction projects that are similar in nature to those undertaken in the public sector, including for manufacturing plants, power plants, parking structures, and stadiums.” (p. 19170).
- In addition, PLAs have been used by the federal government on dams, defense installations, atomic energy facilities, and other projects for “many decades.” (p. 19170). These agreements have also been used by State and Local governments “in all 50 States and the District of Columbia . . . [on] an array of construction projects covering an expanding range and size of projects—from schools, hospitals, roads, bridges, and police buildings, to convention centers, courthouses, manufacturing facilities, airports, power plants, transit systems, stadiums, and a prison.” (p. 19170).
- The U.S. Department of Energy (DOE) uses PLAs at most of its key sites, including the Hanford Site in Washington State, the Savannah River Site in South Carolina, the Oak Ridge Reservation in Tennessee, the Nevada Test Site (NTS) (PLA in place since 1964), and the Idaho National Laboratory. In fact, as of the summer 2009, 21 of 25 DOE construction projects were either covered or slated to be covered by PLAs. (p. 19169-19170). The rule makes clear that DOE’s experience with PLAs has been positive, stating specifically that:

Current and past DoE representatives have stated that project labor agreements have contributed to economy and efficiency of DOE construction projects, including completion of projects on time and within budget, by, among other things—

- Providing a mechanism for coordinating wages, hours, work rules, and other terms of employment across the project;
- Creating structure and stability through the use of broad provisions for grievance and arbitration of any disputes that may arise on site, including procedures for resolving disputes among the construction crafts;
- Prohibiting work stoppages, slowdowns, or strikes for the duration of a project and obligating senior union management to use their best efforts to prevent any threats of disruptions of work that might arise; and
- Ensuring expeditious access to a well trained, assured supply of skilled labor, even in remote areas where skilled labor would have otherwise been extremely difficult to find in a timely fashion.

(p. 19170).

- Also noteworthy is the fact that the Tennessee Valley Authority (TVA) has used PLAs successfully on its construction projects for almost 19

years. “In the nearly 200 million man hours of work on TVA construction projects using project labor agreements, there have been no formal strikes or any organized work stoppages.” (p. 19170). Further, “[t]he rate of injury on TVA projects has also been significantly reduced, especially over the last approximately 5 years.” (p. 19170).

Source: 75 Fed. Reg. 19168 (Apr. 13, 2010) (to be codified at 48 C.F.R. pts. 2, 7, 17, 22, and 52), available at <http://edocket.access.gpo.gov/2010/pdf/2010-8118.pdf>.

General Services Administration Jumpstarts Federal PLA Construction With 8 Projects Totaling Over \$850 Million

9

- The U.S. General Services Administration (GSA), one of the largest federal purchasers of construction services, now has over \$850 million in PLA construction in effect. GSA began using PLAs to coordinate some of its largest and most important projects following the Federal Acquisition Regulation (FAR) Council’s completion of a final rule implementing President Obama’s PLA executive order.

Sources: The projects for which PLAs are being used are as follows:

A.J. Celebrezze Federal Building, Cleveland, OH (\$115M), at https://www.fbo.gov/spg/GSA/PBS/5PCI/GS_05P_09_GBC_0035/listing.html

Peter Rodino Federal Building, Newark, NJ (\$142M), at [https://www.fbo.gov/spg/GSA/PBS/2PCB/GS-02P-09-DTC-0018\(N\)/listing.html](https://www.fbo.gov/spg/GSA/PBS/2PCB/GS-02P-09-DTC-0018(N)/listing.html)

50 United Nations Plaza, San Francisco, CA (\$101M), at <https://www.fbo.gov/spg/GSA/PBS/9PCS/GS-09P-09-KTC-0065/listing.html>

Prince Kuhio Kalanianaʻole Federal Building, Honolulu, HI (\$80M), at <https://www.fbo.gov/spg/GSA/PBS/9PCS/GS-09P-09-KT-C-0103/listing.html>

Edith Green-Wyndell Wyatt Federal Building, Portland, OR (\$125M), at <https://www.fbo.gov/spg/GSA/PBS/10PDC/GS-10P-09-LT-C-0052/listing.html>

Modernization of GSA Headquarters Building, Washington, DC (\$159M), at <https://www.fbo.gov/spg/GSA/PBS/WPC/GS11P10MKC0025/listing.html>

Lafayette Building Modernization, Washington, DC (\$106M), at <https://www.fbo.gov/spg/GSA/PBS/WPC/GS11P10MKC0061/listing.html>

Consolidation of DHS at St. Elizabeth’s, Washington, DC (\$93M), at <https://www.fbo.gov/spg/GSA/PBS/WPC/GS11P10MKC0059/listing.html>

***Estimated project values based on GSA Public Buildings Service Procurement Instructional Bulletin, 09-02, (Aug. 11, 2009) (on file with authors).

Extensive Use of PLAs by U.S. Department of Energy

10

- The U.S. Department of Energy (DOE) has required PLAs, which it refers to as “Site Stabilization Agreements,” for billions of dollars worth of construction projects on DOE sites.

- Such agreements have been used at virtually all DOE's main nuclear sites, which include: Hanford Site in Washington State, Savannah River Project in South Carolina, Oak Ridge Reservation in Tennessee, the Nevada Test Site and Tonopah Test Range (Area 52), Rocky Flats Plant in Colorado, and the Idaho National Laboratory (INL).
- A review of project data at three of these sites indicates that over last several decades approximately 8.2 million man-hours have been worked under these agreements (Savannah River/2,830,000 man-hours; Oak Ridge/2,300,600 man-hours; and Handford/3,148,000).
- An example of such an agreement is the Idaho National Laboratory agreement, entitled "INL Site Stabilization Agreement," which was entered into as early as 1984.

Source: (1) *INL Site Stabilization Agreement (Mar. 1, 2007)*, available at https://idahocleanupproject.com/portals/0/documents/dmcs/brown/Site_Stabilization_Agreement.pdf; (2) *Statement of John Koskinen, OMB Deputy Director for Management, Before the Committee on Labor and Human Resources, U.S. Senate (Apr. 30, 1997)*, available at <http://georgewbush-whitehouse.archives.gov/omb/legislative/testimony/19970430-23262.html>.

Energy Bill Would Require Use of PLA on ANWR Projects

11

- On January 6, 2009, U.S. Rep. Don Young (R-AK) introduced the American Energy Production and Price Reduction Act, H.R. 49, which would increase domestic oil production by opening additional coastal waters and Alaska's Arctic National Wildlife Refuge (ANWR) for drilling.
- Section 6(b) of H.R. 49 would require lessees of land in ANWR to use PLAs for all on-site production, maintenance and construction. According to the bill, the PLA requirement is based on "the Government's proprietary interest in labor stability and in the ability of labor and management to meet the particular needs and conditions" of such projects."
- Rep. Young's bill currently has 52 co-sponsors and enjoys strong Republican support. The bill's predecessor in the 110th Congress, H.R. 6107, had 181 co-sponsors.

Sources: *American Energy Production and Price Reduction Act, H.R. 49, 111th Cong. (2009)*, available at <http://www.opencongress.org/bill/111-h49/show>; *American Energy Production and Price Reduction Act, H.R. 6107, 110th Cong. (2008)*, available at <http://www.opencongress.org/bill/110-h6107/show>.

Office of Management and Budget Touts Benefits of Pro-PLA Policy

12

- Former OMB Deputy Director for Management John Koskinen testified before the Senate Committee on Labor and Human Resources in support of federal PLAs in 1997, noting they have proven valuable in the public and private sectors because they "help ensure projects are completed on-time and on-budget—without accidents, delays, and unexpected costs."
- Mr. Koskinen reported that the federal government has used PLAs to build dams, defense installations and atomic energy facilities and had a particularly successful track record at DOE sites. He stressed that the

federal government should be able to reap the same benefits that private firms and state and local governments achieve from PLAs.

Source: Statement of John Koskinen, OMB Deputy Director for Management, Before the Committee on Labor and Human Resources, U.S. Senate (Apr. 30, 1997), available at <http://georgewbush-whitehouse.archives.gov/omb/legislative/testimony/19970430-23262.html>.

Part III: PLAs for Nuclear Construction

PLA to Govern \$14.5 Billion Construction of Two New Nuclear Reactors at Southern Company's Vogtle Electric Generating Plant

13

- In April 2010, the Building & Construction Trades Department, AFL-CIO, and Stone Webster Construction agreed to use a PLA for the construction of the two new nuclear units at Southern Company's Vogtle Electric Generating Plant near Waynesboro, Georgia -- the first such units constructed in the U.S. in almost four decades. In February, the project received the backing of the Obama Administration, which awarded Vogtle \$8.33 billion in federal loan guarantees.
- Among other things, the PLA will ensure that the project is staffed by local workers and provide specialized training programs so that the skills honed at Vogtle can be leveraged on other nuclear projects across the country.

Source: Rob Pavey, Unions in Deal to Train Workers, The Augusta Chronicle, Apr. 20, 2010, available at <http://chronicle.augusta.com/news/metro/2010-04-20/unions-deal-train-workers>.

Nuclear Innovation North America LLC Chooses PLA for \$13 Billion Construction of Two New Nuclear Units at South Texas Project (STP)

14

- In April 2010, Nuclear Innovation North America LLC (NINA), a company jointly owned by NRG Energy, Inc. and Toshiba Corporation, announced an agreement with the Building & Construction Trades Department, AFL-CIO, to use a PLA for the \$13 billion construction of two new nuclear units at the South Texas Project (STP) in Matagorda County, Texas. (Press Release; Fact Sheet). The new units, commonly referred to as STP 3&4, are scheduled to come online in 2016 and 2017, respectively. (Press Release).
- "Clean reliable nuclear energy is key to meeting the environmental challenges we face as well as reducing our nation's dependence on foreign energy," said Steve Winn, CEO of NINA. "To ensure we can achieve these important goals and can build STP 3&4 and the many new nuclear units to follow, it is critical that we have a skilled pool of American workers. This agreement and the skilled labor it represents will help make that possible." (Press Release).

Sources: (1) Press Release, NRG Energy, Inc., Project Labor Agreement with America's Building Trades Unions Announced for South Texas Project Nuclear Power Expansion (Apr. 8, 2010), available at <http://finance.yahoo.com/news/Project-Labor-Agreement-with-bw-1526648672.html?x=0&.v=1>; (2) NRG Energy, Inc., South Texas Project Fact Sheet, Jan. 2010, available at http://www.nrgenergy.com/pdf/factsheets/factsheet_stp1-4.pdf.

Bechtel Construction Co. and Building Trades Unions Announce PLA for Construction of New \$4 Billion Nuclear Unit at Calvert Cliffs Plant

15

- In June 2009, Bechtel Construction Company announced that it had entered into a PLA with the Building & Construction Trades Department, AFL-CIO, and the National Construction Alliance II for the construction of a new nuclear unit at the Calvert Cliffs Nuclear Power Plant in Lusby, Maryland. (Press Release). According to Bechtel, the PLA guarantees skilled and qualified workers for the project in exchange for fair wages, benefits and working conditions for those workers. (Press Release). The estimated cost of the new unit is \$4 billion. (Pelton).
- "This is an historic agreement," said Carl Rau, Bechtel Nuclear president. "It not only benefits labor and Bechtel, it benefits the entire nuclear industry as it grows to meet the country's increasing demand for clean energy. The success of this agreement will point the way for the construction of future nuclear energy projects." (Press Release).

Sources: (1) Press Release, Bechtel Construction Company, The Building and Construction Trades Department, AFL-CIO; The National Construction Alliance II; and Bechtel Construction Approve Historic Project Labor Agreement (Jun. 1, 2009), available at <http://www.bechtel.com/2009-06-01.html>; (2) Tom Pelton, Nuclear Power Has New Shape, Baltimore Sun, Dec. 25, 2007, available at http://articles.baltimoresun.com/2007-12-25/news/712250014_1_reactor-nuclear-power-calvert-cliffs.

Part IV: PLA Construction by State & Local Governments

Alaska

Gov. Palin Endorses Use of PLA for Gasline Construction

16

- April 2007 article in *Alaska Economic Trends* by Governor Palin discusses her support for the Alaska Gasline Inducement Act (AGIA), which includes PLA requirements.
- Palin emphasizes that PLAs provide host of assurances for both management and workers, including labor stability resulting in less cost overruns, no-strike provisions which assure timeliness, opportunities to learn on the job with pay and benefits and a bidding process open to union and non-union firms.

Source: Sarah Palin, The Alaska Gasline Inducement Act and Alaska Hire, Alaska Economic Trends, Apr. 2007, at 3, available at <http://labor.state.ak.us/trends/apr07.pdf>.

California

PLA Successfully Employed in Solano County Government's \$113.5 Million 'Smart-Growth' Consolidation Effort 17

- In July 2005, Solano County brought together 16 departments from 15 different locations under one roof, a Government Center, as part of a \$113.5 million 'smart-growth' consolidation effort, the largest undertaking in the 155 year-old county's history.
- Fast-track schedule was achieved in part because of PLA. Government Center project logged 400,000 man-hours over 2.5 years without single lost-time injury. Since 80 percent of workforce came from local hiring halls or referral system, project cost was reinvested into the community.

Source: Tony Illia, Government Center Blends Bridging, CM and PLA, Design Build, May/June 2005, at 10, available at http://designbuild.construction.com/features/archive/2005/0506_cover.asp.

Port of Long Beach Approves PLA for Initial Phase of \$750 Million Modernization 18

- In a unanimous March 1, 2010 decision, the Port of Long Beach Board of Commissioners voted to adopt a PLA for the initial phase of a six year, \$750 million port modernization effort. The initial phase will be approximately 15 months and employ 1,000 to 1,200 workers.
- The Board is using this initial phase to "test" the PLA concept, and considering an agreement for the entire six-year project if the initial phase is successful.

Source: Tom Gilroy, Long Beach Port Approves PLA to Cover First Phase of Port Modernization Project, 56 Construction Lab. Rep. (BNA) No. 2760 at 60 (March 11, 2010).

Riverside Community College Adopts Standard PLA for Measure C Projects Over \$1 Million 19

- On March 16, 2010, the Riverside Community College District Board of Trustees approved a standard PLA for use on all projects which cost over \$1 million and drew funding from Measure C, a \$350 million bond measure that was approved by voters in 2004.
- Thirteen projects are immediately subject to the PLA.

Source: Imran Ghori, Riverside Community College District Seeking Consultant for Key Labor Accord, The Press Enterprise, Apr. 7, 2010, available at http://www.pe.com/localnews/riverside/stories/PE_News_Local_W_pla07.47edfa7.html.

PLA Reports From Various Public Project Owners **20**

- Presents succinct reports from various public project owners in California about their successful experiences using PLAs for public works construction projects in various parts of the state.

Source: Bill Rickman, Project Labor Agreements (State Building and Construction Trades Council of California 2002), available at <http://builtbest.org/sites/builtbest.prometheuslabor.com/files/669.PLAbookletCA.pdf>.

Connecticut

State Legislation Requires PLAs and Local Hiring for Development Properties or Compliance with Prevailing Wage Law **21**

- Mandates the use of a PLA or compliance with prevailing wage law in connection with construction of the Adrian's Landing and Rentschler Field (UCONN) projects.

Source: Conn. Gen. Stat. § 32-656 (2006), available at <http://law.justia.com/connecticut/codes/title32/sec32-656.html>.

Illinois

Illinois Capital Development Board: PLA Program **22**

- Reports from IL Capital Development Board show:
 - 86 active projects with PLAs worth over \$259.4 million in total (as of Jan. 20, 2009).
 - 141 completed projects with PLAs worth over \$1.2 billion in total (as of Jan. 2009).
 - 227 total projects with PLAs worth \$1.4 billion in total.
- Capital Development Board states that it has found PLAs “to be beneficial to all parties involved in the construction process” and have “worked exceptionally well throughout the State by allowing labor and contractors to interact together to assure a timely completion of our projects.”
- Illinois Department of Transportation has a PLA program similar to the Capital Development Board for state road and highway projects.

Source: Illinois Capital Development Board, Project Labor Agreements (Jan. 2009), available at <http://www.cdb.state.il.us/forms/download/PLAbooklet.pdf>.

State Legislation Requiring Grant Recipients in Renewable Fuels Development Program to Enter PLA **23**

- Requires grant recipients under Illinois's Renewable Fuels Development Program to enter into a PLA as a condition of receiving grant funding.

Source: 20 Ill. Comp. Stat. 689/15 (2005), available at <http://law.justia.com/illinois/codes/chapter5/2439.html>.

Executive Order 2003-13 Requiring Evaluation of PLAs for Works and Adoption Where PLA Advances State Interest 24

- Requires executive agencies, on project-by-project basis, to include a PLA on public works projects where agency determines that a PLA advances the state's interests in terms of cost, efficiency, quality, safety, timeliness, skilled labor force, labor stability or the state's policy to advance minority- and women-owned businesses and minority and female employment.
- Cites as basis for Executive Order the state's compelling interest in securing highest standards of quality and efficiency at the lowest responsible cost on public works projects and the capacity of PLAs to deliver on these objectives.

Source: Ill. Exec. Order No. 2003-13 (May 7, 2003), available at http://www.faircontracting.org/NAFCnewsite/pla_pdf/Illinois-Executive-Order-on-PLAs-2003.pdf.

Indiana

State Legislation Requiring PLA Construction of Projects by Indiana's Stadium and Convention Building Authority 25

- Directs the Indiana Stadium and Convention Building Authority, as a prerequisite to the issuance of bonds for the construction, improvement, or renovation of facilities, to ensure that each associated contract or subcontract requires a PLA.

Source: Ind. Code Ann. § 5-1-17-18 (2006), available at <http://law.justia.com/indiana/codes/title5/ar1/ch17.html>.

Iowa

New Iowa Corrections Projects Will Be First State PLAs 26

- Iowa Gov. Chet Culver signed a March 16, 2010 letter committing to requiring PLAs for the construction of the new Iowa State Penitentiary and for improvements to a women's facility. They will be the first state projects to use PLAs; the combined cost of the projects is nearly \$200 million.

Source: Mark Wolski, *Governor Culver Signs Letter Requiring PLAs for Two Corrections Department Projects*, 56 *Construction Lab. Rep. (BNA) No. 2762* at 120 (March 25, 2010).

Gov. Culver Signs Executive Order Encouraging Use of PLAs 27

- On February 3, 2010, Iowa Gov. Chet Culver signed pro-PLA Executive Order 22. The order, similar to President Obama's Executive Order 13502, encourages state agencies to consider the use of PLAs on state projects costing \$25 million or more.

- The order comes in the midst of planning for several important state projects, including projects at two correctional facilities, a veterans' home, and the University of Iowa.

Source: Mark Wolksi, Culver Signs Executive Order Requiring State Agencies to Consider Using PLAs, 55 Construction Lab. Rep. (BNA) No. 2756 at 1589 (February 11, 2010).

New Jersey

State Legislation Authorizing PLAs on Public Works

28

- Declares New Jersey has a compelling interest in carrying out public works projects at the lowest reasonable cost, and with the highest degree of quality, in having disputes resolved without strikes, lock-outs or delays, and in ensuring that public works projects are safe. Legislature finds PLAs advance these interests and encourages public agency use.
- Authorizes PLAs for public works projects on a project-by-project basis where certain requirements are met and when such an agreement would advance the interests of the public entity.

Source: N.J. Stat. § 52:38-3 (2006), available at <http://law.onecle.com/new-jersey/52-state-government-departments-and-officers/38-1.html>.

Executive Order No. 1 Directing Use of PLAs on Public Works Projects Where State's Interests Would Be Advanced

29

- Executive Order issued in 2002 requires, on a project-by-project basis, use of PLAs on public works projects where it is determined that a PLA advances the state's interests of cost, efficiency, quality, safety, timeliness, skilled labor force, labor stability, and the state's policy to advance minority- and women-owned businesses.
- Among the reasons cited for the order are the state's compelling interest in awarding public works contracts so as to ensure the highest standards of quality at the lowest cost, and the cost-savings that a highly-skilled workforce produces over time by limiting repairs and maintenance. The order also states that PLAs allow public agencies to more accurately predict a project's actual cost and are particularly well-suited for larger, more complex projects.

Source: N.J. Exec. Order No. 1 (Jan. 7, 2002), available at <http://www.state.nj.us/infobank/circular/eom1.htm>.

New York

Mayor Bloomberg Announces Public Project PLAs Covering \$5.3 Billion of Construction and Yielding Savings of Nearly \$300 Million

30

- On November 24, 2009, Mayor Michael Bloomberg announced the creation of four separate PLAs for major public projects in New York City. Collectively, the PLAs cover \$5.3 billion in construction and 32,000 jobs, and will save the City nearly \$300 million over the next four years.

- The PLAs provide standardized work rules, ease the City's bidding requirements, and include provisions that ensure the participation of minorities, women, returning veterans, and recent high school graduates of New York City public schools.

Source: Press Release, Office of Mayor Michael R. Bloomberg, Mayor Bloomberg Announces Labor Agreements on Public Projects to Reduce Costs, Spur Projects, and Create Jobs (Nov. 24, 2009), available at <http://www.nyc.gov/html/om/html/2009b/pr509-09.html>.

PLA Provides for Timely and Tailored Construction of the Most Advanced Microprocessor Plant in the World

31

- On July 24, 2009, state officials, GlobalFoundries Inc., and others broke ground on a 1.3 million square foot semiconductor wafer fabrication facility in Saratoga County. *New York Times* calls it “the most advanced facility of its kind in the world.”
- The project's total capital budget is estimated at \$4.2 billion, including local construction expenditures of approximately \$800 million, and it will provide a boost to the regional economy.
- Governor Paterson facilitated the use of a PLA earlier this year to “smooth the way for timely construction” of this historic undertaking. The PLA takes into account the unique requirements of a world-class facility.

Sources: (1) Nicholas Confessore, *New Factory Seen as Boon for Upstate, N.Y. Times*, July 25, 2009, at A24, available at <http://www.nytimes.com/2009/07/25/nyregion/25chip.html>; (2) Press Release, Office of Governor David A. Paterson, Governor Paterson Breaks Ground on Global Foundries Fab 2 Project in Saratoga County (July 24, 2009), available at http://www.ny.gov/governor/press/press_0724091_print.html.

Gov. Pataki Issues Executive Order Requiring State Agencies to Consider PLAs for Public Construction Contracts

32

- Issued on February 12, 1997, Executive Order required state agencies to consider use of PLAs for public construction contracts, stressing that PLAs are “one of many tools which may be used by management and labor to promote the timely completion of public construction projects while limiting their costs,” Pataki said.
- *Source:* Press Release, Office of Governor George E. Pataki, Governor Pataki Announces Project Labor Agreements (Feb. 12, 1997), available at <http://worldcat.org/arcviewer/1/AO%23/2007/01/12/0000057321/viewer/file7165.html>.

PLA Adopted by New York Dept. of Transportation Major Road Project

33

- On October 30, 1999, Governor Pataki announced that the State Department of Transportation would incorporate a PLA into contracts to be awarded for the reconstruction of the Cross Westchester Expressway.

- “Project labor agreements are an effective means to complete projects quicker and at considerably less cost,” Pataki said. “This agreement in particular will save taxpayers more than \$8 million and hasten critical improvements to ease congestion and increase safety within the I-287 corridor.”

Source: Press Release, Office of Governor George E. Pataki, Governor: DOT to Use Project Labor Agreement I-287 Project (Oct. 30, 1999), available at <http://worldcat.org/arcviewer/1/AO%23/2007/01/12/0000057321/viewer/file2583.html>.

Ohio

Summit County Ordinance Authorizing PLAs for Projects Over \$500,000 34

- Ordinance authorizes the Summit County Executive to execute a PLA for the construction of any capital improvement project in the County where the total construction cost exceeds \$500,000.
- Observes that private and public construction owners have regularly required PLAs and that PLAs have been shown to provide an effective mechanism for project staffing and planning.
- Determines that PLAs for projects with total construction costs in excess of \$500,000 will advance the County’s interests in promoting timely, cost-efficient and high-quality construction with minimal delays and disruptions.

Source: Summit County, Ohio, Ordinance 2006-071 (Mar. 6, 2006), available at <http://www.co.summit.oh.us/council/pdfs/legislation/2006/2006-071.pdf>.

Pennsylvania

PLA Used to Coordinate \$400 Million Prison Expansion Project 35

- Pennsylvania’s Department of General Services (DGS) is using a PLA to coordinate the construction of a \$400 million prison expansion project at the Pennsylvania State Correctional Institution at Graterford (commonly referred to as “SCI Graterford”), located in Montgomery County.
- This massive expansion project is intended to address the growing problem of overcrowding in Pennsylvania’s prison system.

Source: Pennsylvania Dep’t of General Services, Prison Expansion Projects, at http://www.portal.state.pa.us/portal/server.pt/community/construction_and_public_works/1235/prison_expansion_projects/526276.

Philadelphia Executive Order 5-95 Encouraging Use of PLAs for Public Works Where Appropriate and Feasible 36

- Order issued by Mayor Ed Rendell in 1995 creates a pilot program to test the appropriateness and feasibility of PLA use on major public works projects. Under the order, agencies are authorized to use PLAs, subject to certain requirements and procedures, where appropriate and feasible with respect to the particular project.

- Order cites as a basis for the pilot the City's compelling interest in awarding public works contracts so as to yield the lowest reasonable costs and highest quality and efficiency. Order also cites the capacity of PLAs to ensure such projects are completed at the lowest reasonable costs, by the highest quality and most professional workforce, and in a timely manner without disruptions or delay.

Source: Phila. Exec. Order No. 5-95 (Nov. 8, 1995), available at <http://www.phila.gov/phils/docs/inventor/textonly/execorders/95-05.htm>.

Rhode Island

Independent Committee Reviews Evidence, Recommends PLA for \$50 Million Courthouse Construction Project

37

- Cockshaw discusses a legislative battle over whether to use a PLA for \$50 million courthouse construction project. PLA proponents prevailed because they, unlike PLA opponents, produced actual data and statistics on benefits of PLAs and their successful use in Rhode Island.
- The independent committee tasked with making recommendations on whether to use a PLA found that they were “unable to determine a single instance in which [Rhode Island] PLA projects were not completed in a timely manner or within budget. Several were completed early and/or under budget.”

Sources: (1) Peter Cockshaw, Independent Study Group Recommends PLA, Cockshaw's Construction Labor News & Opinion 33(12), Dec. 2003, at 7-8 (on file with authors); (2) Gregory A. Mancini, Testimony Regarding The Benefits of Implementing a PLA for Construction of the New Kent County Courthouse, Aug. 20, 2003, available at <http://www.buildri.org/contentmgr/showdetails.php/id/2000>.

Washington, DC

PLA Success Story: Nationals Baseball Stadium Project

38

- Nationals Park, home to Major League Baseball's Washington Nationals, was built under a PLA on budget and in record time. As reported by the Washington Post, the stadium needed to be completed in time for an exhibition game scheduled for March 29, 2008, “just 22 months after breaking ground in May 2006, making it one of the fastest-built ballparks ever.” (Washington Post). The Park also has the distinction of being “the nation's first major professional stadium to become LEED Silver Certified by the U.S. Green Building Council.” (Washington Nationals).
- In addition to the above benchmarks, the PLA achieved substantial goals in the development of a skilled DC workforce. According to a report by the Laborers' International Union of North America Local 657 at the end of January 2008, D.C. residents accounted for 87 percent of new apprentices working on the project and half of all new stadium hires. (ABC News 7).

Source: (1) Daniel DeLuc, *Ballpark Concept Becomes Concrete*, *The Washington Post*, Jan. 23, 2008, at B01, available at <http://www.washingtonpost.com/wp-dyn/content/story/2008/01/22/ST2008012203486.html>; (2) Nationals Website: "Green Ballpark," available at http://mlb.mlb.com/was/ballpark/green_ballpark.jsp; (3) ABC News 7, *Report: Nationals Stadium On-Time and On-Budget*, Jan. 30, 2008, available at <http://www.wjla.com/news/stories/0108/492170.html>.

Washington State

Gov. Lowry Executive Order Encouraging Use of PLAs on Public Works Projects

39

- Order issued by Governor Mike Lowry in December 2006 requires state agencies to consider PLAs, on a project-by-project basis, for public works projects where a PLA will promote labor stability and advance the state's interest in cost, efficiency, safety, timeliness, promoting women-owned and minority-owned businesses, and other project-specific factors.
- Among the reasons cited for the order are the state's compelling interest in securing the highest quality and efficiency at the lowest reasonable costs and the capacity of PLAs to advance these interests.

Source: Wash. Exec. Order No. 96-08 (Dec. 6, 1996), available at <http://www.governor.wa.gov/execorders/eoarchive/eo96-08.htm>.

City of Seattle 2002 Housing Program: PLAs Authorized for Housing Development Where Beneficial to Project Execution

40

- City of Seattle provides that an applicant for housing development funding may require a PLA for his or her project upon demonstrating to the Office of Housing that a PLA would be beneficial.

Source: Seattle Office of Housing, *2002 Housing Levy: Administrative and Financial Plan: Program Years: 2005-2006* (May 2005), available at <http://www.seattle.gov/housing/development/2005-2006A&FPlan.pdf>.

\$1.48 Billion Brightwater PLA Benefits Workers and Community

41

- King County Councilmember Carolyn Edmonds announces County Council's approval of a PLA for construction of Brightwater wastewater treatment facility, a project valued at \$1.48 billion.
- "We can't afford cost overruns or delays on the very tight schedule this project is under," Edmond stated. "The PLA can help prevent both." She also noted that a PLA ensures workers a livable wage, health and retirement benefits and safe working conditions.
- "We see the success of PLA's throughout our region," Edmonds declared, "I expect no less from this one."

Sources: (1) Press Release, Office of Councilmember Carolyn Edmonds, Brightwater Project Labor Agreement Benefits Workers, Community (June 20, 2005), available at http://your.kingcounty.gov/council/news/2005/0605/CE_Brightwater_PLA.htm; (2) King County Department of Natural Resources and Parks, Wastewater Treatment Division, Project Labor Agreement for the Brightwater Conveyance System, Jun. 20, 2005, available at <http://www.seattlebuildingtrades.org/agreements/Brightwater%20Conveyance%20PLA.PDF>.

King County Council PLA Approval for 100s of Millions of Dollars in Public Works Projects

42

- Members of the Metropolitan King County Council explain that their policy of expanding PLA use in the county is directly linked to their pledge to pursue responsible government upon taking office.
- The Council recommended a PLA for a \$257 million Harborview Medical Center upgrade, citing the benefits and long history of PLA construction, as well as their responsibility to protect taxpayers from financial adversity.
- Emphasizes that benefits of PLA use include set terms and conditions on wages, benefits and hours, coordination among workforce factions, and fair and rapid dispute resolution. But Council also points out that the benefits of a Harborview PLA go beyond fiscal considerations. The PLA also acts as an insurance policy against disruptions of the critical life saving functions of the Medical Center.
- In response to PLA critics, Council notes that companies that have used PLA-construction as a project delivery tool include GM, Ford Motor Company, British Petroleum, Walt Disney, Toyota, Humana, Budd Company and UPS.

Source: Cynthia Sullivan and Larry Phillips, *Project-Labor Agreements: Effective Safeguards*, *The Seattle Times*, May 1, 2002, available at <http://community.seattletimes.nwsourc.com/archive/?date=20020501&slug=pla01>.

Part V: PLAs for School Construction

California

LA County Schools \$20 Billion PLA Construction Program

43

- The LA County Public School System developed a PLA/Project Stabilization Agreement for a massive \$20 billion school construction program; this initiative is part of one of the most significant labor-community partnerships ever formed.

- More recently a similar PLA model was used to facilitate another major building program for the LA County Re-Development Authority that will cover over \$15 billion worth of public and quasi-public construction work in LA County.
- Both models incorporate the “*We Build Program*” as a core component of the PLA strategy. *We Build* is a community outreach/local workforce development program that connects local unemployed and underemployed workers with training and employment opportunities through PLA projects.
- These two building initiatives represent some of the largest construction undertakings for which PLAs are being used in California and throughout the U.S.

Source: Los Angeles Unified School District, Facilities Services Division, available at <http://www.laschools.org/contractor/webuild/> (last visited Aug. 5, 2009).

San Diego Unified School District Board of Education PLA for Projects Under \$2.1 Billion School Construction Bond Program

44

- On July 28, 2009, the San Diego Unified School District Board of Education approved a PLA for school construction projects under a \$2.1 billion bond measure (Proposition S), which was passed by voters in November 2008.

Source: School Board Passes Bond Labor Deal, Revenue Down, San Diego News Channel 6, July 28, 2009, available at <http://www.sandiego6.com/news/local/story/School-Board-Passes-Bond-Labor-Deal-Revenue-Down/7Ra4cHeR3EamCbfNfE1L5g.csp>.

San Francisco Unified School District Authorized to Negotiate a PLA for School Construction Program

45

- Based on the results of a previously ordered review of information from Bay Area school districts, the Board of Education of the San Francisco Unified School District authorized the Superintendent, in collaboration with the City Attorney’s Office, to hire a negotiator to pursue a school construction PLA with the San Francisco Building and Construction Trades Council.

Source: San Francisco Unified School District, Res. 41-13Sp4 (Approved Apr. 27, 2004), available at <http://portal.sfusd.edu/data/board/pdf/memberreso/supt%20%20PLA%20negotiator%20substitute%204%2004.pdf>.

Michigan

Detroit Public Schools and Local Unions Enter Into PLA

46

- In April 2010, Detroit Public Schools (DPS) entered into a PLA with 18 local unions covering work under a \$500.5 million bond program dedicated to school building construction and renovation. (Construction Lab. Rep.; DPS News Article).

- The agreement will help the school district save \$3 million in labor costs over the life of the project and establish a construction institute in Detroit schools, staffed by the unions, to help train students for careers in the building trades. (DPS News Article).

Sources: (1) Nora Macaluso, *Detroit Public Schools Official Drafting PLA with Greater Detroit Building Trades*, 56 *Construction Lab. Rep. (BNA)* No. 2759 at 28 (March 4, 2010); (2) *DPS News Article, DPS agreement, executive order encourage contractors, unions to give Detroit residents priority in hiring for bond program*, Apr. 19, 2010, available at: <http://www.detroit.k12.mi.us/news/article/1905/>.

Minnesota

State Legislation Authorizing School Districts to Use PLAs After Adopting Required Resolution

47

- Authorizes school boards to use a PLA for school construction provided the school board adopts a written resolution authorizing PLA use at a public meeting and notice of the meeting is published 30 days in advance.

Source: *Minn. Stat. § 123B.52 (2005)*, available at <http://law.justia.com/minnesota/codes/120/123b-s52.html>.

New Jersey

N.J. Schools Development Authority's \$8.6 Billion PLA Program

48

- The New Jersey Schools Development Authority (NJSDA) is charged with overseeing a public school construction and renovation program worth \$8.6 billion over 10 years. The program was launched in July 2000 and is the largest public construction program in the state's history.
- PLAs are authorized in all cases where project costs exceed \$5 million and a PLA would advance the state's interests. NJSDA reports that PLAs have been used uninterrupted since authorized in 2002.

Sources: (1) *New Jersey Embarks on \$8.6 Billion Public School Construction Project*, *Electrical Construction & Maintenance Magazine*, Aug. 1, 2004, available at http://ecmweb.com/mag/electric_new_jersey_embarks/; (2) *New Jersey Schools Development Authority, Project Labor Agreement*, at <http://www.njsda.gov/Business/PLA/index.html>.

New York

NYC School Construction Authority: PLA for \$13.1 Billion Capital Improvement & Restructuring Program Projected to Save \$500 Million

49

- On January 6, 2005, Mayor Michael Bloomberg announced a PLA entered into by the Department of Education and the Building and Construction Trades Council that is expected to produce \$500 million in savings for school construction projects over 5 years.

- The PLA governs the relationship between New York City’s School Construction Authority, its contractors, and labor with respect to school buildings that are scheduled for rehabilitation and renovation projects under the Department of Education’s \$13.1 Billion Five Year Capital Plan.

Source: Press Release, Office of Mayor Michael R. Bloomberg, Mayor Michael R. Bloomberg, Schools Chancellor Joel I. Klein, and BCTC President Edward Malloy Announce Landmark Agreements Between Department of Education and Building and Construction Trades Council (Jan. 6, 2005), available at <http://prtl-prd-web.nyc.gov/html/om/html/2005a/pr012-05.html>.

Buffalo Schools Construction Board Approves PLA Worth \$1 Billion

50

- On March 17, 2003, the Buffalo Joint Schools Construction Board unanimously approved a PLA covering \$1 billion in school construction and renovation work to be completed over 10 years.
- The PLA includes a bold effort to foster diversity in workforce through a requirement that contractors maintain apprentice programs with at least 35 percent minority and women participants.

Source: Phil Fairbanks, Panel OKs Agreement for School Project, Buffalo News, Mar. 18, 2003, at B1, available at <http://www.buffalotrades.com/pdf/Panel%20OKs%20agreement%20for%20school%20project.PDF>.

- In a letter to Superintendent of Chautauqua Lake Central School District, James Harris, Superintendent of the City of Buffalo School District, reports that, while ABC claims initially raised doubts about PLAs, an examination of the facts and actual track record persuaded him and school board members to use a PLA.
- “I can state unequivocally that the PLA has worked in the District’s interests,” Harris said in the letter. Harris goes on to explain that he owes no duty to unions or non-union contractors, that his concern is “building a school quickly, skillfully and within budget,” and that based on his experience, he is a “converted supporter.”

Source: Letter from James Harris, Superintendent, City of Buffalo School District, to Donald Belcher, Superintendent, Chautauqua Lake Central School District (Sept. 27, 1999) (document available upon request).

Ohio

Akron Board Seeks to Replicate Success Through Additional PLAs for New School Construction Projects

51

- On July 20, 2009 the School Board of Akron, Ohio approved PLAs for 3 of the 5 Akron schools that are next in the pipeline for construction. The school district’s construction project is worth \$800 million, though it is unclear from the article what portion of that sum belongs to PLA projects.
- Previously, only one PLA had been approved – for Leggett Elementary. However, the Board met to consider more PLAs after learning that the Leggett project employs significantly more local residents than three other elementary schools not covered by PLAs.

- School board President James Hardy, also a member of the board overseeing construction, said, “We want to see if the successes from Leggett can translate into other buildings.”

Source: Katie Byard, Akron Board OKs School Construction Labor Agreements, Akron Beacon Journal, July 21, 2009, at <http://www.ohio.com/news/education/51356932.html>.

Part VI: PLA Surveys, Reports & Studies

Overview of PLA Studies and Reports

52

- The studies and reports summarized in this overview demonstrate the value and benefits of PLA-construction for project owners and other construction users. They also dispel various myths perpetrated by PLA opponents.
- The reviewed research generally shows that PLAs enable public and private project owners to maximize efficiency and economy in construction, minimize risks, and promote timely project delivery.

Source: Gerard M. Waites and Scott M. Seedorf, Review of Recent PLA Studies and Reports (2009) (on file with authors).

Economic Policy Institute (2010)

Building Better: A Look at Best Practices for the Design of Project Labor Agreements

- This study begins with an overview of PLAs and the value they offer construction owners. The authors explain that PLAs are tailored to the unique challenges and conditions of the U.S. construction industry. These include the occupational or trade-specific structures of the work and of firms, the temporary nature of construction projects, and the presence of numerous trades and employers, each with their own work rules, hours, and wage scales, on larger projects. In addition, the authors identify other more recent challenges which have arisen as union representation in the industry has decreased. These include a declining apprenticeship system and related shortages in skilled labor. (pp. 4-5).
- Based on research and interviews with industry stakeholders, the authors report that PLAs have been used successfully to bring order to a diverse and decentralized industry while meeting the unique needs of the project at hand. The authors draw upon this experience in offering advice on how PLAs can be designed to: improve efficiency and innovation (pp. 10-14); expand opportunity for local residents and support community development goals (pp. 15-19); improve worker safety and health (pp. 22-27); resolve labor disputes and other disruptions that impede the on-time completion of projects (pp. 27-30); and facilitate the participation of non-

union contractors (p. 31-37). The authors conclude with a discussion of best practices for negotiating PLAs. (p. 37-41).

Source: Dale Belman and Matthew M. Bodah, Building Better: A Look at Best Practices for the Design of Project Labor Agreements, Economic Policy Institute (2010), available at http://epi.3cdn.net/179fd74170130cd540_ibm6ib3kd.pdf.

Cornell University, School of Industrial and Labor Relations (2009)
Project Labor Agreements in New York State: In the Public Interest

53

- Professor Kotler reports that PLAs have proven to be a useful management tool for achieving cost-savings as well as on-time, on-budget, and quality construction.
- Because they are negotiated pre-bid and tailored specifically to the particular needs of a single project, PLAs also allow project owners, contractors, and trade unions to anticipate and avoid potential problems.
- This report shows that PLAs serve to maximize project stability, efficiency, and productivity and minimize the risks and inconvenience to the public that often accompany large public works projects, which is why PLAs are increasingly being used by state, county and municipal agencies.
- For projects reviewed in the report, decisions to use PLAs were based on economic feasibility or due diligence studies that evaluated cost savings, risk avoidance, and other related issues.

Source: Fred B. Kotler, Project Labor Agreements in New York State: In the Public Interest, Cornell University ILR School (2009), available at <http://digitalcommons.ilr.cornell.edu/reports/22/>.

Report from Professors of Michigan State, Rhode Island, Utah (2007)
Project Labor Agreements

54

- This study provides a detailed overview of PLAs, observing at the outset that PLAs have been used in the private and public sectors without controversy for most of their history. (p. 5). Although President George W. Bush helped to reverse this trend with an anti-PLA Executive Order in 2001, private sector use of PLAs did not slow during his administration. (pp. 12-13). This is significant because the private sector is by far the largest consumer of PLAs, accounting for 75 percent PLA use.
- The authors find major flaws with some of the previous PLA research done by the non-union contractor association ABC, the conservative free-market Beacon Hill Institute and others. For example, the authors report that the Beacon Hill's studies in 2003 and 2004 "did an insufficient job at controlling for variables that affect construction costs. Hence, much of what was attributed of the presence of a PLA is actually explained by other variables, such as project location (e.g. the inner city) and building amenities (heating systems, swimming pools, etc.)." (p. 14).

- The authors interviewed approximately forty individuals with experience working with PLAs, including public and private users and contractors. Among the benefits of PLAs cited were their ability to assure the timely completion of a project (p. 27-28), the savings produced in the final cost of a PLA project (which are not necessary reflected in the bid price) (pp. 28, 29-30), enhanced minority participation and the facilitation of worker training (pp. 28-29), and the emphasis on safety on PLA jobs (p. 29).
- The authors then examined the effect of PLAs on bidding by looking at bidding behavior in adjacent San Jose, California school districts, and on costs by studying 108 school construction projects in New England. On bidding, the data showed “that the presence of a PLA has no statistically significant effect on the number of bidders per bid opening.” On costs, the authors lodged heavy criticism at various aspects of the Beacon Hill Institute’s research, most notably Beacon Hill’s failure to consider that PLA projects may be more complex and have more amenities (“why projects are build with PLAs in the first place.”) (p. 37). Contrary to Beacon Hill’s research, the authors’ thorough study of the 108 school projects revealed no impact of PLAs on project costs. (p. 37).
- The authors conclude with a number of case studies that show how PLAs can be adapted to meet a number of challenges, including tight schedules and labor markets, lightly unionized regions, sites that have to remain operational during construction (e.g., airports), and community-based needs regarding career training in the trades. (p. 39-59).

Source: Dale Belman, Matthew M. Bodah, and Peter Philips, Project Labor Agreements, ELECTRI International (2007), available at http://builtbest.org/sites/builtbest.prometheuslabor.com/files/PLA_NECA_Report%5B1%5D.pdf.

Michigan State University, School of Labor & Industrial Relations (2005)
The Effect of PLAs on the Cost of School Construction in New England

55

- This study revealed major flaws in anti-PLA studies conducted by the conservative Beacon Hill Institute, finding that when more complete data models are used, the evidence shows that PLAs do not raise the cost of school construction projects. (pp. 19-21).
- The authors examined the cost of 92 school construction projects in and around Massachusetts using a number of statistical models in order to examine the models’ conclusions about the cost impact of PLAs. When an overly-simplistic data model similar to the Beacon Hill Institute’s model was used, the study showed PLA projects being more expensive. However, as the authors applied progressively more complete models, accounting for differences in project characteristics such as type of school, location of the project, and other criteria, the so-called PLA cost premium disappeared. The most complete model, which incorporated all of these characteristics, showed that PLAs did not raise project costs. (p. 21).
- Among the serious flaws in Beacon Hill’s research was its failure to consider that PLA projects tend to be larger and more complex, a fact that is well-known in the construction industry. For example, the data showed that PLA schools tended to be much taller, were more than twice as likely

to be amenity-intensive vocational schools, and always required demolition work as compared to just half of the non-PLA schools. (p. 6-8).

- Beacon Hill's model also failed to consider other common-sense facts, such as the fact that high schools are more expensive and require more elaborate facilities, and the fact that urban schools cost more to build (substantially so) because of more exacting codes and the need in some cases for services such as 24 hour police protection. (pp. 10-13).
- The authors also noted that Beacon Hill's second study corrected a few problems and added a few variables to its data model. These marginal improvements to the data model alone reduced Beacon Hill's estimate of the cost impact of PLAs by 41 percent (p. 19).

Source: Dale Belman, Russell Ormiston, William Schriver, and Richard Kelso, The Effect of Project Labor Agreements on School Construction in New England, Michigan State University SLIR Working Paper Series (2005), available at <http://www.lir.msu.edu/faculty/workingpapers/>.

Iowa Policy Project (2004)

56

Project Labor Agreements in Iowa: An Important Tool

- Report by the non-profit, non-partisan Iowa Policy Project discusses how PLAs fit into the fabric of federal labor law and state competitive bidding laws.
- Makes the case that PLA use should be expanded in the public sector because they have proven to be cost-effective, efficient, and reliable mechanisms for large or complex project delivery.
- Dispels many of the myths used by PLA opponents and shows how PLAs are common-sense management tools that facilitate successful construction project delivery and provide public and private project owners with greater value for capital investments.

Source: Ralph Scharnau and Michael F. Sheehan, Project Labor Agreements in Iowa: An Important Tool for Managing Complex Public Construction Projects, Iowa Policy Project (2004), available at <http://www.iowapolicyproject.org/2002-2004docs/041201-PLAs.pdf>.

Contra Costa County, California, Director of General Services (2004)

57

Project Labor Agreement Report

- In January 2002, Contra Costa County Board of Supervisors adopted a policy requiring any county-funded construction project with a budget of or over \$1 million to include a PLA.
- Contra Costa County Director of General Services reports that union contractors submitted 44 of 62 bids for 8 projects between May 2002 and November 2003 and that bids for 5 of 8 projects subject to the PLA policy were lower than the architect/engineer's cost estimate.

Source: Memorandum from Bart Gilbert, Director of General Services, Contra Costa County, to John Sweeten, County Administrator, Contra Costa County (Jul. 7, 2004), available at http://www.lectet.org/Clearinghouse_Public/LECET/PLA/contra_costa.pdf.

Harvard University: Joint Center for Housing Studies (2002)
Project Labor Agreements

58

- Professor John Dunlop provides a historical overview of PLAs, which have their roots in construction developments during World War II and in the post-war era at atomic energy, space, and missile sites.
- Discusses many features and benefits of PLAs, including the means to achieve efficient operations through standardized terms and conditions, clear channels of communication and direction, and a steady and reliable supply of skilled labor.
- States that it is curious that no legal or public relations assault has been made on PLAs in the private and non-profit sectors, and suspects this is because PLAs have passed the private market test.
- Notes that PLAs have been used by various private organizations, including Toyota, Boeing, Inland Steel, Arco, among others—and that many of the private owners are repeat users. Such private experience, the author submits, should validate the public PLAs and override criticism.

Source: John T. Dunlop, Project Labor Agreements, Harvard University Joint Center for Housing Studies (2002), available at http://www.jchs.harvard.edu/publications/industrystudies/W02-7_dunlop.pdf.

California Research Bureau (2001)
Constructing California: A Review of Project Labor Agreements

59

- Johnston-Dodds of the Research Bureau of the California General Assembly provides a historical overview of PLAs in California beginning with the successful Shasta Dam project.
- This study reviews 84 California PLAs, 72% of which were for private sector projects. Notes that 22 out of 23 private cogeneration electricity plants used PLAs.
- One key finding stresses that “[o]wners increasingly want PLAs in order to meet their speed-to-market demands and to ensure against delays that can be caused by worker shortages, work stoppages, or collective bargaining negotiations.”
- Study presents the views of both union and non-union contractors, public agencies, and others on PLAs. Discusses in some detail the experience that Bechtel, one of the world’s largest contractors, has had with PLAs:

- Bechtel has used PLAs on more than 100 large construction projects over the last 25 years; 85 percent of PLAs used on Bechtel projects are in the private sector. Bechtel states that centralized union referral systems, training and apprenticeship programs are “positive . . . well-proven systems,” especially on larger, complex projects.
- Stresses that PLAs facilitate increased cooperation and communication between management and construction workers and permit use and testing of innovative safety programs.
- For example, one Bechtel PLA included a self-inspection safety program for the Shell Project during the mid-1990s. Development of this program was made possible by the PLA; after 2 million man-hours, no worker suffered an injury serious enough to warrant missing a day’s work. Bechtel now uses this program on projects all over the world.
- Highlights an innovative Port of Oakland PLA, which includes economic development, community capacity building, and social justice provisions aimed at creating local opportunities for historically disadvantaged residents and businesses.

Source: Kimberly Johnston-Dodds, Constructing California: A Review of Project Labor Agreements, California Research Bureau (2001), available at <http://www.library.ca.gov/crb/01/10/01-010.pdf>.

2001 Construction Law Update

60

The Case for Public Owner Project Labor Agreements (PLAs)

- Authors make the case for PLAs on public works projects based on legal and factual support gleaned from court decisions as well as the authors’ extensive hands-on experience with PLAs, including their “cradle-to-grave” experience exploring, drafting, and administering the well-known Tappan Zee Bridge PLA.
- Chapter begins with an explanation of what a PLA is and is not. For example, a PLA *is* typically limited in time and scope to the project for which it was negotiated, (p. 114), and *is not* a “union only” agreement that requires contractors to be unionized in order to bid or perform work. (p. 116).
- Chapter proceeds to a succinct analysis of the litany of court decisions upholding PLAs on public works projects and, thereafter, to a discussion of the authors’ own hands-on experience on the Tappan Zee Bridge project as well as ten other major public projects. On the Tappan Zee Bridge project and six of the other projects, the authors recommended a PLA; on three others they did not recommend PLAs. (p. 127).
- On projects authors were involved with and in which PLAs were used, they report, among other things, “that in highly unionized areas, not only did PLAs save substantial amounts in construction costs, but the amounts could be quantified for each cost-saving PLA provision.” (p. 127). Overall, the authors submit that “[p]robably the best argument for PLAs in the public sector is that they have been for decades, and still are, used in the private sector by large, sophisticated, experienced developers, owners, construction managers and contractors, all of whom are driven by the profit motive.” (p. 129).

Source: James M. O'Neill and Michael V. Griffin, The Case for Public Owner Project Labor Agreements (PLAs), in 2001 Construction Law Update (Neal J. Sweeney ed., Aspen Publishers, Inc. 2001), 111-162 (on file with authors).

University of California, Institute for Labor and Employment (2001)
Project Labor Agreements: An Exploratory Study

61

- Daniel Rounds conducted a pilot study to evaluate arguments made by proponents and opponents of PLAs. Specifically, the author investigated project performance at three PLA sites: two private and one public.
- This study concludes, based on project research and interviews conducted at the three sites, that PLAs facilitated workplace cooperation, delivered highly skilled labor, did not increase project costs and reduced the likelihood of labor unrest.

Source: Daniel Rounds, Project Labor Agreements: An Exploratory Study (UCLA Institute for Labor and Employment 2001) (on file with authors).

Part VII: PLA News & Journal Reports

Boston Globe Op-Ed by Mark Erlich of New England Carpenters
The Truth About PLAs

62

- In a July 3, 2010 editorial in *The Boston Globe*, Mark Erlich, Executive Secretary-Treasurer of the New England Regional Council of Carpenters, responds to criticism regarding the UMass Building Authority's decision to perform a \$750 million overhaul of UMass Boston's campus under a PLA.
- According to Erlich, critics' claim that 80 percent of the construction workforce is non-union is inaccurate because it is based on self-described occupational identities and includes laborers and summer house painters. "It does not reflect the real numbers of career trade workers in commercial, institutional, and highway construction – the only parts of the industry where PLAs are ever applied." Erlich states that the presence of union firms in non-residential construction, as documented in the highly-regarded Dodge Reports, is far a more accurate measure. It shows that union contractors actually account for "65 percent of the dollar value of Massachusetts projects."
- Erlich also points out that PLAs are only used on larger, more complex projects, which require larger companies to do the work. "That universe is overwhelming union," Erlich writes, as evidenced by the fact that 23 of the largest 25 general contractors in the Boston area have collective bargaining agreements.

- In addition, Erlich states that any contractor can bid and use its labor force, provided it complies with the terms of the PLA; however, non-union firms choose not to do so because they would have to pay their low-wage workers more.
- Erlich further writes that the claim that PLAs add costs is based on a 2003 Beacon Hill Institute school construction study that economists from Michigan State University and the University of Rhode Island have proven to be unreliable. Among other flaws, Beacon Hill “based their calculations on bid prices rather than final costs, failed to compensate for urban vs. suburban sites, ignored some schools that were built with PLAs and included others that never had PLAs.” Erlich points out that Beacon Hill was forced to revise its report, reducing its so-called PLA “premium” by 40 percent, in response to a wave of criticism. Even after that, critics of the report used Beacon Hill’s own data to show that there was “no appreciable difference” in the costs of PLA v. non-PLA construction -- the same conclusion arrived at by independent industry expert, Peter Cockshaw.

Source: Mark Erlich, The Truth About PLAs, The Boston Globe, Jul 3, 2010, available at http://www.boston.com/bostonglobe/editorial_opinion/oped/articles/2010/07/03/the_truth_about_plas/

Toyota’s Record of Success With PLAs

63

- Jeff Caldwell, former head of construction for Toyota North America, explains that he’s had numerous real world experiences with PLAs and can say “without any equivocation that they are a valuable tool for any entity seeking an economical and efficient construction process.”
- Noting that Toyota has constructed numerous production facilities in the U.S. with PLAs, Mr. Caldwell notes that they ensured labor harmony and a steady supply of highly skilled and productive workers.
- “In every instance the process worked beautifully,” he said, “[a]nd the proof is in the results.” Caldwell added that Toyota’s North American construction costs are roughly one-third less than other major automobile manufacturers who do not use PLAs and concluded by noting that PLAs are consistent with the vision at the core of Toyota’s global market success.
- *Source: Jeff Caldwell, Project Labor Agreements - Toyota’s Way (on file with authors).*

PLAs Can Help Diversify Construction Work

64

- Article states that, while PLAs provide stability on complex projects and keep them moving forward, they can also improve job opportunities for minorities, females, and low-income people who seek entry into construction trades. It cites the National’s Ballpark PLA (see page 14, *infra*) as a good example.

- Notes efforts by groups like Transportation Equity Network and public agencies like Missouri Department of Transportation to establish pre-apprenticeship programs in PLAs in order to enhance minority, female, and low-income participation in construction projects.

Source: Tony Pugh, Project Labor Agreements Can Help Diversify Construction Work, McClatchy Newspapers, March 26, 2009, available at <http://www.mcclatchydc.com/homepage/story/64885.html>.

PLAs Can Save Time and Money When Put Together Properly

65

- Article by a former New York State Deputy Labor Commissioner discusses the benefits of PLAs and the likelihood that they will be used more frequently in the public sector due to an executive order by former Governor George Pataki.
- PLAs can keep projects on schedule, on budget, and on the path to high-quality work, the author explains, which is why PLAs are becoming more popular, why the public sector has been using them for years, and why some of the most successful and best-run companies use them.

Source: Robert Gollnick, The Business Review (Albany), Project Labor Agreements Can Save Time and Money When Put Together Properly, April 11, 1997, available at <http://albany.bizjournals.com/albany/stories/1997/04/14/focus8.html>.

Cockshaw: Evaluating PLA Project Performance

66

- November 2001 article discusses two recent studies, the first by Daniel Rounds of UCLA and the second by Kimberly Johnston-Dodds of the California Research Bureau, that demonstrate the benefits of PLAs and reject major claims of PLA opponents.

Source: Peter Cockshaw, Evaluating PLA Performance, Cockshaw's Construction Labor News & Opinion 31(11), Nov. 2001, at 1-3, available at http://www.buildri.org/stuff/contentmgr/files/e82237e741344387505f41b08dfbca1/pdf/full_text_cockshaw_s_nov_2001.pdf.

PLAs: A Construction Management Tool

67

- Article by Mechanical Contractors Association makes the case for PLAs on private and public construction. It notes that PLAs have been used to create harmony and productivity on job-sites since the 1930s on well-recognized projects, including the Hoover Dam, the Grand Coulee Dam, the Shasta Dam, the St. Lawrence Seaway, Disney World, Cape Canaveral, the Trans-Alaska Pipeline, and the Seattle Seahawks Stadium.
- Discusses ways in which PLAs deliver cost-savings and are well-suited to deliver well-trained, highly-skilled workers at a time when the U.S. is experiencing a skilled labor shortage.

Source: Mechanical Contractors Association, White Paper: Project Labor Agreements: A Construction Management Tool, available at http://www.mcaproof.com/papers/pla_whitepaper.pdf.

Part VIII: Impact of PLAs on Apprenticeship Training

Impact of PLAs on Apprenticeship Training

68

- Reviews how use of PLAs promotes critical investments in and commitments to apprenticeship training in the short-term and long-term.
- Provides an overview of studies conducted in seven states that demonstrate that union programs attract and graduate a far higher percentage of apprentices, including minority and female apprentices, than programs that lack union participation. In addition, these studies show that union programs are comprehensive and train all essential trades.

Source: Gerard M. Waites and Scott M. Seedorf, Impact of PLAs on Apprenticeship Training (2009) (on file with authors).

Part IX: Use of PLAs to Address Industry Skill Shortages

Use of PLAs to Address Industry Skill Shortages

69

- Discusses how PLAs can help address industry skill shortages in the short-term and long-term. In the short-term, PLAs guard against delays by assuring project owners of access to skilled craft labor through a nationwide system of hiring halls or referral systems.
- In the long-term, PLAs permanently expand the available pool of skilled craft labor by rechanneling new and expanded training investments into established, successful apprenticeship training programs funded by new PLA-construction.

Source: Gerard M. Waites and Scott M. Seedorf, Use of PLAs to Address Industry Skill Shortages (2009) (on file with authors).