

Anti-Project Labor Agreement (PLA) Amendment on NDAA

DESCRIPTION

Rep. ROSCOE BARTLETT is offering an ANTI-PROJECT LABOR AGREEMENT Amendment that prohibits the use of the PLA business model on any DoD military construction project. At first glance, this amendment does not appear to prohibit the DoD from using a PLA business model. In reality, it is a back door way to do it. Specifically, the awkward way the amendment is written would mean that the DoD would be unable to even have an option to choose whether or not a PLA would be appropriate to use. Current policy gives them that option and this amendment would nullify that.

At a time when federal agencies are being required to cut money and be fiscally responsible, it DOES NOT make sense to remove one of the DoD's business model options that has been proven to keep construction projects on time and budget by employing skilled craftsmen and women to work on military construction projects. See separately attached PLA talking pts and more specific ones regarding military construction projects below.

RECOMMENDATION – Vote "NO"

UNDERSTANDING THE BARTLETT AMENDMENT

The Bartlett Amendment says, "*(d)(1) The Secretary of Defense and the Secretaries of the military departments awarding a construction contract on behalf of the Government, in any solicitations, bid specifications, project agreements, or other controlling documents, shall not—*

(A) require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations;

If the Department of Defense can NOT require or prohibit the use of a PLA, then they can't use them at all. What else can they do if the amendment says they can't require or prohibit a PLA business model? They ***literally*** can't make a decision either way and therefore it is not even an option to use one. As a result, the Bartlett Amendment is prohibiting the use of a PLA on DoD construction

projects.

The Bartlett Amendment is a back door way to ensure the project labor agreement business model is not available as an option for the federal government to even consider using on military construction projects.

Put another way; The Department of Defense currently has 2 choices - "yes" we want to use them or "no" we don't want to use them. The Bartlett Amdt does NOT allow them to continue making a "yes" or "no" choice. Consequently, that would nullify the decision-making ability of the Department of Defense to use a PLA business model. Without that ability, the option of even considering whether to use a PLA business model on construction projects is taken away. Therefore, PLAs are effectively not allowed to be used by the Department of Defense.

PLA BENEFITS ON MILITARY CONSTRUCTION PROJECTS

Perhaps no other government agency needs the flexibility and choice to use a PLA more than the Department of Defense and Army Corp of Engineers. Consider the extenuating circumstances existing on their job sites; heightened security on military installations, the requirements for job-site safety, and the need for a skilled workforce to construct or maintain the unique building facilities / structures.

(I) PLAs UPHOLD SECURITY ON MILITARY INSTALLATIONS

Security is always a concern. Thousands of contractors' and subcontractors' employees work on military installations every year. Knowing who enters and exits the job site as well as the installation itself is the most important aspect of preventing a terrorist attack or sabotage. In a government or private sector construction project, PLAs guarantee workforce screening and background credentialing for project security requirements, namely by using the E-Verify system.

Upholding security has been a concern of the Navy as it expands the facilities at Naval Base Kitsap in Washington state. Therefore, they used the PLA business model to ensure a pre-employment security screening was conducted to maintain the higher than normal security levels at this military installation. The PLA business model has also been used in this way on new construction and maintenance of the Los Alamos and Oak

Ridge facilities.

In contrast, a PLA could have prevented the smuggling of illegal immigrants into Elmendorf Air Force Base in Alaska when hangars were being built for the F-22 Raptors being stored there. Aside from a contractor's use of illegal immigrants, this was a huge security breach in an active military base at a time when we have seen terrorists go to great lengths to attack the American military.

(II) SKILLED TRAINING & SAFETY EQUALS ON-TIME & ON-BUDGET WHICH COMPLIMENTS AMERICAN MILITARY OPERATIONS

The PLA business model sets employees' required skill level for what the project and the government require or desire. For military construction projects, a skilled workforce is needed to construct what must be near flawless facilities for the United States military or Army Corp of Engineers civilian projects, such as levees and dams. These are high tech facilities and low job skills cannot be tolerated during maintenance or construction. In addition, the presence of a skilled workforce on the job site means they know how to use the tools and materials correctly in order to keep a project on time and on budget. This is especially important for a military construction project. Building such facilities require construction to stay on budget and on time as scheduled troop movements or other military activities are dependent on their timely completion.

Furthermore, the PLA business model is specifically set up to coordinate all the work schedules of the numerous construction workers that will be on a job site. Since these are complex and large construction projects, each craft must know they have a deadline to meet so the next one may start their work. For example, the painter can't come onto the job site until much of the other crafts have completed major portions of the project.

(III) GUARANTEED MILITARY VETERAN HIRING & JOB TRAINING

A PLA is also one of the only business models that guarantees the hiring of a certain percentage of military veterans as skilled construction workers. While the Veterans Administration has many ways to assist veterans, there are no procedures guaranteeing their hiring on construction projects in the public or private sector. However, PLAs help supply what ANY returning veteran deserves – career training, not short-term job training, and a guaranteed high skill job to support themselves and/or their families. Through private sector programs, such as Helmets 2 Hardhats, PLAs are a pathway to a post military service career on projects that require a skilled

workforce. At a time when private sector construction is very low in the number of projects being done, government projects are the lifeblood of many military veteran construction workers. The more the government chooses to use the PLA business model, the more it will create a job career opportunity for returning veterans after serving their country.

PLA "MANDATE MYTH" & THE AMENDMENT

The federal government and any of its agencies do NOT currently mandate PLAs. Executive Order 13502 states federal agencies *may* (not "shall") require them to be used on construction projects where the total cost to the federal government is \$25 million or above. In other words, it gives them a private sector option in their toolbox of business models to use for federal government construction projects. FYI - Walmart, Toyota and Boeing are just several of the Fortune 500 companies using the PLA business model on their numerous construction projects.

The REAL MANDATE would be prohibiting entirely the option of using a PLA such as this amendment does. Again, why is it smart to take away federal agencies' flexibility and option to use a business model to save the taxpayer money?

Actual language from the Executive Order:

Sec. 5. This order does not require an executive agency to use a project labor agreement on any construction project, nor does it preclude the use of a project labor agreement in circumstances not covered by this order, including leasehold arrangements and projects receiving Federal financial assistance. This order also does not require contractors or subcontractors to enter into a project labor agreement with any particular labor organization.

PLAs DO NOT REQUIRE A UNION OR NON-UNION WORKFORCE

The PLA business model does not mandate or predetermine a workforce to be union OR non-union. Remember, the National Labor Relations Act states that it is ILLEGAL to discriminate against a job applicant based on their union membership. Therefore, by law, the PLA business model cannot mandate a union-only workforce.

Hiring a workforce under the PLA business model is based on job-skill standards set by the owner, such as the government or private sector

entity. Both union and non-union workers must meet these skill requirements in order to be hired. Many times this results in a workforce being a mix of union and non-union employees.

PREVIOUS VOTES ON THE PLA BUSINESS MODEL

*All three (3) PLA House floor votes failed in 2011 of the 112TH Congress.

*All three (3) anti-PLA provisions did the exact same thing; prohibit the government from having the option of using the project labor agreement business model to potentially save money.

HR-1 - The failed Guinta Amendment outright banned the use of any project labor agreements on any federally funded project. Simply put, it was a more direct approach to ending PLAs. It was defeated on a bipartisan vote on the House floor.

HR-2017 (FY-12 Homeland Approps) – The failed Scalise Amendment takes a back door approach to prohibiting PLAs by cutting out the necessary process that determines the cost savings to the government and taxpayer and economic benefits to the local community.

MILCON – VA Approps – The anti-PLA language was attached by a Flake Amendment during the full committee mark-up of the bill. It is exactly identical to the failed (floor) Scalise Amendment on the Homeland Security approps bill. *A bipartisan passed floor amendment removed the anti-PLA provision before this appropriations bill was passed by the full House.*

AMENDMENT TO H.R. 4310
OFFERED BY MR. BARTLETT OF MARYLAND

At the end of subtitle A of title XXVIII, add the following new section:

1 **SEC. 28 ____ . USE OF PROJECT LABOR AGREEMENTS IN**
2 **MILITARY CONSTRUCTION PROJECTS AND**
3 **MILITARY FAMILY HOUSING PROJECTS.**

4 (a) **REQUIREMENTS.**—Section 2852 of title 10,
5 United States Code, is amended by adding at the end the
6 following new subsection:

7 “(d)(1) The Secretary of Defense and the Secretaries
8 of the military departments awarding a construction con-
9 tract on behalf of the Government, in any solicitations,
10 bid specifications, project agreements, or other controlling
11 documents, shall not—

12 “(A) require or prohibit bidders, offerors, con-
13 tractors, or subcontractors to enter into or adhere to
14 agreements with one or more labor organizations;
15 and

16 “(B) discriminate against or give preference to
17 bidders, offerors, contractors, or subcontractors
18 based on their entering or refusing to enter into
19 such an agreement.

1 “(2) Nothing in this subsection shall prohibit a con-
2 tractor or subcontractor from voluntarily entering into an
3 agreement with one or more labor organizations, as pro-
4 tected by the National Labor Relations Act (29 U.S.C.
5 151 et seq.).”.

6 (b) APPLICATION OF AMENDMENT.—The amendment
7 made by subsection (a) shall not apply to construction con-
8 tracts awarded before the date of the enactment of this
9 Act.





PROJECT LABOR AGREEMENTS: JUST THE FACTS

Project Labor Agreements (PLA)

- A project labor agreement is a business model that increases the efficiency and quality of construction projects for the private sector as well as local, state, and federal government(s)
- It is a pre-hire collective bargaining agreement that establishes the terms and conditions of employment for all workers and their respective crafts on one or more construction project(s).
- Used on all types of construction projects such as schools, hospitals, power plants, government buildings, and sports stadiums
- Widespread praise and use by Fortune 500 companies such as Walmart, Toyota, and Boeing

Pro-Business

- Prohibits all strikes or work stoppages by all construction workers on the project
- Establishes a single procedure for handling all workforce disputes regardless of the craft
- Is an effective tool for ensuring that large and complex projects are completed on time
- Provides construction contractors with access to a highly skilled & properly trained workforce
- Creates a set wage for each craft and apprentices on the construction project, allowing for accurate budgeting by the business owner and construction contractors on and off the job site
- Encourages employment of local residents, in turn ensuring that these workers' paychecks will be spent in the local community.

Job Training & "Pathways to a Career" for Local Citizens, Veterans, and Minorities

- May be used as a mechanism for enhancing work opportunities on the construction project for local residents, military veterans, and minorities, as well as minority contractors
- Provides workers of all skill levels with the most up-to-date training in their craft as well as on safety measures such as OSHA training
- Sets up a "pathway to a career" for veterans and young workers who can "learn while they earn" as they are trained on-the-job and in the classroom by more skilled and experienced workers

Cost Effective & Efficient

Simply put, project labor agreements help the end user (i.e. the government or private sector) increase the efficiency and quality of its project by promoting a business model that employs a highly skilled workforce.

Such a workforce ensures construction projects are built correctly the first time, on time, and as a result, on budget for the end user. This prevents costly delays that usually result from an unskilled workforce's lack of knowledge regarding

the use of building materials or tools as well as job site safety measures. Future building maintenance costs should be less, too. Regarding job site safety, a highly skilled workforce is safety certified to work in a dangerous job environment. Businesses will pay less for workers compensation and project delays because job site accidents will be less likely to occur.

Union vs. Non-Union & Workforce Standards

The PLA business model does not mandate or pre-determine a workforce to be union or non-union. It allows for the project owner, such as the government or private sector entity, to establish the workforce standards that both union and non-union workers must meet in order to be hired by contractors and sub-contractors under the PLA.

The PLA “Mandate Myth”

The federal government does not mandate PLAs. Executive Order 13502 states federal agencies *may* (not “shall”) require them to be used on construction projects where the total cost to the federal government is \$25 million or above.

Actual language from the Executive Order:

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More Information on PLAs can be found on www.plaswork.org