

# *BHI Policy Study*



## **Project Labor Agreements on Federal Construction Projects: A Costly Solution in Search of a Problem**

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## Executive Summary

In February 2009, President Barack Obama issued Executive Order 13502, which allows executive agencies to require contractors to use Project Labor Agreements (PLAs) for federal construction projects costing \$25 million or more.<sup>1</sup> PLAs establish the conditions and standards under which construction projects will be conducted, requiring contractors to hire workers through union hiring halls and to follow union rules.

Obama's Executive Order was instated on the notion that "large-scale construction projects pose special challenges to efficient and timely procurement by the Federal Government" and that PLAs are necessary in order to meet these "special challenges." The Executive Order claims that, without a PLA, large scale construction projects are likely to experience (1) labor "disputes," (2) difficulties in predicting labor costs and in avoiding interruptions in labor supply, (3) a lack of coordination on construction projects and (4) uncertainty about the terms and conditions of employment of workers – all of which ostensibly lead to delays and cost overruns.

The Obama Administration thus views PLAs as a solution to problems that could threaten the efficient and timely completion of construction projects. However, the use of PLAs is controversial. Opponents of PLAs argue that the worries about labor disputes and coordination are unfounded and that PLAs are merely a gimmick for, in effect, compelling union membership among the mainly non-union construction workers and compelling contractors to adhere to union-pleasing but inefficient work rules.

In fact, the Executive Branch of the U.S. government has been at the center of this issue and has gone back and forth in its stance toward PLAs for at least the last 17 years. In

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<sup>1</sup> The White House, Office of the Press Secretary, "Executive Order: Use of Project Labor Agreements for Federal Construction Projects," [http://www.whitehouse.gov/the\\_press\\_office/ExecutiveOrderUseofProjectLaborAgreementsforFederalConstructionProjects/](http://www.whitehouse.gov/the_press_office/ExecutiveOrderUseofProjectLaborAgreementsforFederalConstructionProjects/) (accessed August 12, 2009).

1992, President George H. W. Bush issued Executive Order 12818 forbidding the use of PLAs on federally-funded projects.<sup>2</sup> In 1993, President Bill Clinton rescinded that order<sup>3</sup> and later, in 1997, encouraged the use of PLAs on construction project contracts over \$5 million, including renovation and repair work for federally-owned facilities.<sup>4</sup> President George W. Bush banned PLAs on federally funded projects during his Administration.<sup>5</sup> And now President Obama has issued an Executive Order permitting them to be reinstated.<sup>6</sup>

The federal government's recent prohibition of PLAs provides a laboratory for us to examine the performance of non-PLA federal construction projects. This allows us to determine whether the claims put forth in Obama's Executive Order regarding the benefits of PLAs are warranted. If the non-PLA projects initiated during the Bush Administration were not, in fact, characterized by labor "disputes," then the case for PLAs largely evaporates.

In this study we use data on federal projects initiated during the Bush Administration – all without government mandated PLAs – to determine whether, as alleged, those projects were prone to labor disputes that resulted in delays and cost overruns. We also consider the effect that PLAs reinstated under the current Administration can be expected to have on construction costs.

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<sup>2</sup> National Archives, Executive Order no. 12818, 57 *Federal Register* 48713 (October 28, 1992): <http://www.archives.gov/federal-register/executive-orders/1992.html> (accessed August 12, 2009).

<sup>3</sup> National Archives, Executive Order no. 12836, 58 *Federal Register* 7045 (February 3, 1993): <http://www.archives.gov/federal-register/executive-orders/pdf/12836.pdf> (accessed August 12, 2009).

<sup>4</sup> "Presidential Memorandum: Use of Project Labor Agreements for Federal Construction Projects." William J. Clinton, June 5, 1997. <http://www.abc.org/files/Text%20of%20Clinton%20Memo%20on%20PLAs%20060597.pdf>. (accessed August 12, 2009).

<sup>5</sup> Government Printing Office, Executive Order no. 13202, 66 *Federal Register* 11225 (February 22, 2001) [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2001\\_register&docid=fr22fe01-112.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2001_register&docid=fr22fe01-112.pdf) (accessed August 12, 2009).

<sup>6</sup> *Ibid.*

Over the course of the Bush Administration, the federal government spent \$147.1 billion on federal construction projects.<sup>7</sup> Of that \$147.1 billion, only a portion would have fallen under President Obama’s Executive Order, encouraging the use of PLAs. Table ES-1 shows the value of federal public construction put in place on contracts worth \$25 million or more, i.e., contracts that would have been affected by the Executive Order.

| <b>Table ES-1: Value of Federal Construction Applicable Under Executive Order 13502, 2001-2008</b> |  |
|--|--|
| Year   | Value of Federal Public Construction Put in Place on Contracts Worth \$25 million or More (millions of \$) |
| 2001   | 3,861  |
| 2002   | 6,164  |
| 2003   | 5,667  |
| 2004   | 5,935  |
| 2005   | 6,449  |
| 2006   | 6,222  |
| 2007   | 8,220  |
| 2008   | 14,770   |
| Total  | 57,287   |

Source: U.S. Bureau of the Census, [www.usapsending.gov](http://www.usapsending.gov) and BHI.

In view of the length of time over which the Bush Administration initiated construction projects and in light of the policy concerns expressed in President Obama’s Executive Order, one would expect there to be dozens of tales about labor strife, slowdowns and significant cost overruns that characterized this PLA-free world. Yet, we found no record of any such tales.

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<sup>7</sup> U.S. Census Bureau, “Annual Value of Federal Construction Put in Place 1993-2008,” <http://www.census.gov/const/C30/federal.pdf> (accessed June 10, 2009).

### Analysis of Federal Construction

In early 2009, the Beacon Hill Institute (BHI) undertook a multi-pronged effort to determine just what the record was. If there were instances of the labor strife and cost overruns that characterized non-PLA projects during the Bush years, we wanted to know what they were. And we wanted to try different approaches to get at the truth in order to have confidence in any data we were able to amass.

One prong of our approach consisted of utilizing the responses to a letter sent by Associated Builders and Contractors (ABC), under the Freedom of Information Act (FOIA), to the Office of Management and Budget (OMB). The letter asked the OMB, which has oversight responsibility for all U.S. government procurement, to identify all documents containing factual data or information relating to the “special challenges” referred to in Executive Order 13502. ABC specified that these documents should include records relating facts that support the existence of any of the labor related issues identified in the Executive Order, such as labor disputes and lack of coordination among employers. The goal was to identify any federal construction projects worth \$25 million or more that were completed without a PLA during the Bush Administration and that experienced delays or cost overruns due to labor related problems.

In its response, the OMB was unable to produce any evidence of delays or cost overruns on non-PLA projects worth \$25 million or more that were initiated during the Bush Administration. If there were any such delays or cost overruns, the OMB was unable or unwilling to show evidence of them in its response.

Although the OMB’s response appears to settle the issue, there were other prongs to BHI’s approach that we should summarize. All efforts were aimed at determining whether federal construction projects completed without a PLA were subject to cost overruns and time delays due to labor disputes.

First, we examined responses received by ABC to FOIA letters that it sent to other federal agencies asking for the same information that it asked of the OMB. Second, we examined the responses received by ABC to surveys that it sent to member companies asking for information about their experience with construction projects performed for the federal government since 2001. Finally, we combed through an online U.S. government database of federal construction projects for evidence of projects that were delayed owing to the absence of a PLA. Not one of these efforts revealed any large-scale non-PLA federal construction project that was stricken by labor problems causing significant delays or cost overruns.

Taking into account the response from the OMB as well as from the other federal agencies that replied to the FOIA request, the reported experience of contractors working on federal projects and our examination of data provided by the U.S. government, we conclude that there were no significant instances of federal construction projects initiated during the Bush era that would have been benefitted from Obama's PLA policy, had it been in place. The "challenges" mentioned by Obama's executive order thus turn out to be a red herring – a solution in search of a problem.

The Executive Order is a costly solution as well. Our earlier research shows not only that the claim that PLAs ensure the efficient and timely completion of projects is inaccurate, but also that PLAs add measurably to construction costs. Since 2003, the Beacon Hill Institute has estimated the effects of PLAs on construction costs in three states: Massachusetts, Connecticut and New York. The studies of all three states show that PLAs increase bid prices on construction projects. Two studies – of Massachusetts and Connecticut – show that they increase final construction costs. Using these results, we assessed the likely effect of the Obama Executive Order on U.S. construction costs. We found that, had Executive Order 13502 been in effect in 2008, and all federal construction projects worth \$25 million more initiated that year had been done under



PLAs, the PLAs would have increased the cost to federal taxpayers by \$1.6 to \$2.6 billion.

Our work on PLAs has prompted criticism from two sources, both of which have been cited by PLA proponents in support of their position. We examined these sources of criticism and find them to be unpersuasive.

The fatal error in the argument for PLAs is that it arrogates to the suppliers of construction labor services an issue that should be the sole province of the users of those services: how to get work of the expected level of quality within the prescribed period of time at the lowest cost. Labor disputes should not be an issue unless the principal sources of such disputes, i.e. the unions, plan to disrupt the peace in retaliation for not getting a PLA. It is the prospect of this kind of disruption that represents the real, implicit threat behind the union case for PLAs.

Finally, case studies provide evidence that complicated projects not conducted under PLAs can be completed on time and on budget, just as other projects completed under PLAs can suffer delays and overruns. These pieces of evidence belie the idea that non-PLA projects suffer systematically from problems that result in cost and schedule overruns.

In order to make a case for PLAs, it would be necessary to show (1) that non-PLA projects have systematically suffered from delays and cost overruns and (2) that the observed delays and cost overruns were the result of conditions that could have been prevented by a PLA. Delays and cost overruns are possible, as we will show, on PLA as well as non-PLA projects, and for reasons — design changes, poor management and unpredictable problems of every description — that have nothing to do with the presence or absence of a PLA.

Our examination of the record produces no evidence of any systematic connection between the presence or absence of a PLA, on the one hand, and cost overruns or delays caused by labor disputes, on the other. It shows only a systematic, positive relationship between PLAs and construction costs. Therefore, the justifications offered by the Obama Administration for reinstating PLAs are not supported by the evidence.

## Introduction

Project labor agreements (PLAs) are agreements between construction users and labor unions setting forth the conditions and standards under which construction projects will be conducted. This study focuses on government-mandated PLAs, a particularly controversial variety, which operate differently from voluntary private sector agreements authorized under limited circumstances by the National Labor Relations Act. PLAs typically require contractors to hire workers through union halls and non-union workers to pay union dues for the length of the project. In addition, contractors must follow union rules on pensions, work conditions and dispute resolution. In exchange, unions give up their right to strike and to undertake other job actions that – so it is alleged – would otherwise cause delays and cost overruns.

In February 2009, the Obama Administration issued Executive Order 13502, which allows federal and state authorities to consider the use of a PLA on a case-by-case basis for construction projects where the total cost to the Federal Government is \$25 million or more. Executive Order 13502 was instated on the basis that “large scale construction projects pose special challenges to efficient and timely procurement by the Federal Government,” specifically claiming that:

- “A lack of coordination among various employers, or uncertainty about the terms and conditions of employment of various groups of workers, can ... threaten the efficient and timely completion of construction projects undertaken by Federal contractors.”
- “The use of a project labor agreement may prevent these problems from developing by providing structure and stability to large-scale construction projects, thereby promoting the efficient and expeditious completion of Federal construction projects.”

On the basis of these observations, Obama’s Executive Order proclaims that “it is the policy of the Federal Government to encourage executive agencies to consider requiring the use of project labor agreements in connection with large-scale construction projects in order to promote economy and efficiency in Federal procurement.”<sup>8</sup>

The Obama Administration thus views PLAs as a solution to problems that could threaten the efficient and timely completion of construction projects. However, the use of PLAs is controversial. Opponents claim that PLAs are not needed to prevent labor strife and that they are anti-competitive. Union work rules cause project costs to rise. PLAs also distort free and open competition in the bidding process. Because work rules, such as staffing levels, are restrictive — and from the union’s point of view non-negotiable — non-union firms are discouraged from bidding on PLA projects. This results in fewer bidders for the project and higher costs.

In fact, PLAs have been the topic of debate for many years, with the Executive Branch at the center of the debate. For at least the last 17 years the Executive Branch has gone back and forth in its stance toward PLAs. In 1992, President George H. W. Bush issued Executive Order 12818 forbidding the use of PLAs on federally-funded projects.<sup>9</sup> In 1993, President Bill Clinton rescinded that order and later, in 1997, encouraged the use of PLAs on construction projects over \$5 million, including renovation and repair work for federally-owned facilities.<sup>10</sup> In February 2001, President George W. Bush canceled the Clinton order by issuing an Executive Order prohibiting PLAs on federally-funded and

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<sup>8</sup> Ibid.

<sup>9</sup> U.S. General Accounting Office, *Project Labor Agreements: The Extent of Their Use and Related Information* GAO/GGD-98-82, (May 1998) <http://www.gao.gov/archive/1998/gg98082.pdf> (accessed August 20, 2009).

<sup>10</sup> Ibid., 3.

assisted construction projects.<sup>11</sup> And now, most recently, the Obama Administration lifted the ban on PLAs and replaced it with Executive Order 13502.

The most recent Executive Order implies that complex projects warrant PLAs on the premise that they avoid delays and keep costs down by preventing labor disruptions. But is it true?

One way to address this question is to ask whether the labor issues that PLAs are supposed to avoid actually characterize non-PLA projects. Another is to examine PLAs to see if they have delivered the promised benefits — whether they have delivered on the promise of on-time and on-budget completion of projects and of labor peace.

This study addresses both matters. It addresses the question whether or not federal construction projects undertaken during the period of the George W. Bush Administration (when PLAs were prohibited) were in fact plagued by the problems attributed to PLAs by Executive Order 13502. The study also asks whether Presidential Executive Order 13502, allowing PLAs on federally-funded construction projects going forward, will deliver on the promised benefits. Specifically, we:

- (1) Examine the track record of non-PLA projects under the Bush Administration to determine whether there were labor problems of the kind predicted by the current Administration.
- (2) Examine the cost implications of PLAs, using results from previous PLA studies conducted by BHI.
- (3) Review some recent criticisms of BHI's work on PLAs.

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<sup>11</sup> Worcester Municipal Research Bureau, "Project Labor Agreements on Public Construction Projects: The Case For and Against." Report No. 01-4. (May 21, 2001) <http://www.wrrb.org/reports/01-4pla.pdf> (accessed August 1, 2009).

- (4) Use the range of cost increases estimated by BHI to determine the cost implications of Presidential Executive Order 13502.
- (5) Consider some case studies of PLA projects that suffered the very overruns, delays and labor strife against which PLAs are intended to protect.

### **Analysis of PLAs under the Bush Administration**

Executive Order 13502 would make it appear that any large federal construction project not undertaken with a PLA is likely to suffer labor problems, causing delays and cost overruns. What will come as a surprise to some readers is that, for the last eight years, the federal government has successfully funded many billions of dollars in federal and federally assisted construction projects, all of which were conducted without government mandated PLAs.

Federally funded construction projects initiated over the course of the two-term Bush Administration — during which period the federal government spent \$147.1 billion on construction — were performed without a PLA. If PLAs are necessary, as Executive Order 13502 maintains, in order to avoid cost overruns and delays due to labor strife, then federal construction projects completed over the period 2001-2008 would have experienced cost overruns, delays and labor strife, all attributable to the absence of PLAs.

The Bush Administration thus provides a laboratory for assessing the claims of the benefits provided by PLAs in Executive Order 13502. In order to uncover the facts about non-PLA federal construction projects we utilized the response received by a letter Associated Builders and Contractors (ABC) sent under the Freedom of Information Act (FOIA) to the Office of Management and Budget (OMB). Specifically, the letter asked the OMB to identify all documents containing factual data or information referred to in Executive Order 13502. ABC indicated in the FOIA request that these documents

should include documents relating facts that support the existence of any of the “special challenges” identified in the Executive Order. The “special challenges” referred to in the Executive Order are as follows:

- Labor disputes that delayed the completion date;
- Difficulties asserted by contractors in predicting labor costs and/or interruptions in the supply of labor;
- Lack of coordination among employers;
- Uncertainty about the terms and conditions of employment of various groups of workers; and
- Frictions or disputes regarding coordination among contractors and/or terms and conditions of employment, resulting from the absence of an agreed upon resolution mechanism.

In other words, the OMB was asked to identify records that document federal construction projects worth \$25 million or more that were completed without a PLA and that experienced delays or cost overruns due to labor related problems. In its response, the OMB did not produce any evidence of delays or cost overruns on non-PLA projects worth \$25 million or more that were initiated during the Bush Administration. If there were any such delays or cost overruns, the OMB was unable or unwilling to show evidence of them in its response.

The OMB did not produce any public records that reported instances of any of the “special challenges” referred to in the Executive Order. This means that the government agency that has the oversight responsible for federal procurement policy (which would therefore have access to all contractual federal documents) reported no instance in which non-PLA projects worth \$25 million or more suffered from cost overruns or

delays over the period 2001-2008. ABC's FOIA request to the OMB as well as the OMB's response can be found in Appendix A.

Although the OMB's response is very compelling, BHI undertook additional efforts in order to uncover the facts about the experience with non-PLA federal construction projects over the period 2001-2008. All methods were aimed at determining whether federal construction projects completed without a PLA were subject to cost overruns and time delays due to labor disputes.

First, we used the responses to FOIA requests that were sent by ABC to other federal government agencies. Second, we used results of surveys that were sent by ABC to member contractors asking for information about construction projects worth \$25 million or more that were performed for the U.S. Government since 2001. Finally, we examined an online database on federal construction projects. The purpose of these efforts was to explore every possible avenue for identifying any non-PLA projects undertaken during the Bush Administration that were characterized by labor disputes.

#### ABC's Freedom of Information Act Request

In March 2009, ABC submitted a FOIA request asking federal agencies that procured federal construction projects to identify any labor problems "which have threatened the efficient or timely completion" of federally funded construction projects, costing \$25 million or more, over the period February 2001 to present. (See the FOIA request to the General Services Administration, Appendix B.) Among the problems to be considered: labor disputes, lack of coordination among employers and uncertainty about the terms and conditions of employment of various groups of workers — all problems that, according to the Executive Order, PLAs are intended to avoid. None of the agencies that



have responded to ABC's FOIA found any record of a significant labor disruption that caused any project not to be completed in an efficient and timely manner.<sup>12</sup>

#### ABC's Survey of Government Construction Contractors

Second, ABC sent out surveys to member contractors who were asked to itemize projects they performed over the period 2001-2008, the total dollar value of each project, the federal agency for which each project was conducted and information on whether the contractor entered into a government mandated PLA and whether any project was delayed or over budget due to labor disputes. The respondents to ABC's survey, who entered into hundreds of contracts totaling billions of dollars worth of construction, did not identify any project conducted without a PLA that was delayed or that ran over budget due to labor disputes.

#### BHI's Analysis

Finally, BHI conducted its own examination of Bush-era construction projects. BHI turned to <http://usaspending.gov>, which provides an exhaustive data set on federal contracts, to determine whether any Bush-era projects were subject to labor disputes.<sup>13</sup> We attempted to collect data on projects that would be affected by President Obama's Executive Order, i.e., domestic federal construction projects worth \$25 million or more. Information was collected from either government agencies or contractors associated with the project. For each project we attempted to ascertain whether the project was (1) completed on time, (2) completed on budget and (3) completed without any labor disputes (e.g. strikes or slowdowns) during the time period of construction.

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<sup>12</sup> Only one agency found a record documenting one project that experienced a labor dispute. That dispute delayed the project only two days at a cost of \$16,000. It is unclear whether a PLA would have made any difference on this multi-million dollar project, since the dispute arose from an alleged failure of a contractor to pay prevailing wage.

<sup>13</sup> Ibid.

Our results are consistent with the FOIA responses received by ABC. Not one of the projects we reviewed was affected by a labor dispute, and not one was reported as being over budget. Only one of the projects was not completed on time, and in that instance, the contractor indicated that the project was very close to being completed on time. Furthermore, one of the projects was reported as being completed ahead of schedule and under budget. Because there were no reported labor disputes, the one delay that was reported would not have been prevented by a PLA.

Taking into account the response from the OMB as well as the other federal agencies that replied to ABC's FOIA as well as the other efforts that we made to find non-PLA projects that suffered from labor disputes over the course of the Bush Administration, there is only one conclusion to be reached: There were no significant examples of any such disputes. The Obama Executive Order is a solution in search of a problem.

### **The Economics of PLAs**

The Executive Order is also a costly solution. PLAs add measurably to construction costs. PLAs (1) drive up the lowest bid for the project by decreasing competition and (2) increase the costs by subjecting contractors to union hiring and work rules.

#### Decreased Competition

There are many features of PLAs that discourage non-union contractors from bidding on PLA projects. PLAs generally require contractors bidding on a project to:

- Hire employees through union hiring halls. This process sometimes prevents a non-union company from hiring its own employees and forces it to accept those workers the union hiring halls send to them.
- Pay workers' health and welfare benefits to union trust funds. Because non-union companies have their own benefit plans, this provision causes these companies to pay benefits twice: once to the union and once to the company plan.
- Follow union work rules.

- Require their workers to pay union dues and fees in order to work on a PLA project.

As a result, non-union contractors are often deterred from bidding on projects covered by PLAs, consequently narrowing the pool of likely bidders and decreasing competition. According to bid theory, when competition is reduced, the lowest bid will increase because bidders will not feel as strong of a need to underbid each other for the contract.

The evidence confirms that projects bid under a PLA reduce the number of bids from non-union contractors. A study by the Weber-Merritt Research Firm found that 70% of contractors would be “less likely” to bid on a federal project if it required a PLA.<sup>14</sup> Similarly, a separate independent survey in the state of Washington found that 86% of non-union contractors would not bid on a project with a PLA.<sup>15</sup>

In addition, a survey administered by ABC to their construction contractor members validated the theory that PLA construction projects are likely to receive fewer bids than non-PLA projects. ABC’s results showed that 98% of approximately 400 contractors state that they would be less likely to bid on a PLA project.<sup>16</sup>

### Increased Construction Costs

In conjunction with the reduction in competition for bids, the imposition of onerous and inflexible work rules raises the final cost of projects under PLAs. Rigid work rules are the result of the strict and often arbitrary division of tasks commonly found in union

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<sup>14</sup> Maurice Baskin, Esq. Venable LLP, “Union-only Project Labor Agreements: The Public Record of Poor Performance,” 13-16 (2005 Edition).

<http://www.opencontracting.com/studies/pdfs/PublicRecordofPoorPerformance2005.pdf> (accessed May 28, 2009).

<sup>15</sup> Gary Galles, “The PLA Menace,” *Ludwig von Mises Institute Daily*, (January 22, 2002), <http://mises.org/article.aspx?Id=880&month=40&title=The+PLA+Menace&Id=42> (accessed May 20, 2009).

<sup>16</sup> *Newsline*, Associated Builders and Contractors, “New Evidence Shows Project Labor Agreements Will Injure Competition,” (August 14, 2009) <http://www.thetruthaboutplas.com/2009/08/14/new-evidence-shows-project-labor-agreements-will-injure-competition/> (accessed August 17, 2009).

contracts. This practice prevents the assignment of work across trade lines, such as not permitting a painter to pick up a hammer.<sup>17</sup>

All of the factors listed above generally reduce productivity, thus driving up costs. It is worth noting that only a small portion of the nation's construction trades are unionized. Most projects in the private sector do meet cost and timeline constraints; otherwise every project in the private sector would be a PLA. PLAs exist because of the political clout exercised by organized labor.

### BHI Studies

If, as President Obama expects, PLAs help bring projects in "on budget," projects performed under PLAs should cost less than projects not performed under PLAs. On the other hand, if PLAs limit the pool of bidders and impose costly hiring and management procedures on contractors, PLAs should be observed to exhibit higher construction costs.

BHI has found that PLAs increase the dollar amount of winning bids and increase final construction costs. BHI has completed two studies that address the question of whether PLAs raise winning bids and final construction costs: (1) *Project Labor Agreements and the Cost of School Construction in Massachusetts* and (2) *Project Labor Agreements and the Cost of Public School Construction in Connecticut*. BHI completed one study, *Project Labor Agreements and Public Construction Costs in New York State*, which addresses the effect of PLAs on winning bids.

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<sup>17</sup> Project Labor Agreement Information Brief, Board of Trustees Study Session, College of Marin (March 8, 2005)

[http://www.marin.cc.ca.us/MeasureC/files/BOT/BOT%20COM%20PLA%20Briefing\\_03\\_08\\_05.pdf](http://www.marin.cc.ca.us/MeasureC/files/BOT/BOT%20COM%20PLA%20Briefing_03_08_05.pdf) (accessed May 20, 2009).

### **1. The Massachusetts Study**

The Massachusetts PLA Study examined the costs of school construction projects in the greater Boston area from 1995 through 2003. We used a sample of 126 projects in order to determine the effect of PLAs on construction costs, of which 17% involved PLAs, the remainder of which did not. We found that PLAs added 12% per square foot to the cost of construction.<sup>18</sup>

### **2. The Connecticut Study**

In the Connecticut PLA Study we examined a sample of 71 public school projects, of which 14 used a PLA, and statistically tested whether the use of a PLA raised construction costs. We found that the presence of a PLA raised the cost of building public schools by 18%.<sup>19</sup>

### **3. The New York Study**

In the New York PLA Study, we examined a sample of 117 (19 under PLAs) public schools built over the period 1996-2005. In this study we reported information on projects' winning base bid. We found that the presence of a PLA increased a project's winning base bid by \$26.98 per square foot (in 2004 prices) relative to non-PLA projects, with a *p* value of 2.6%. Given that the average bid cost per square foot of construction for non-PLAs was \$134.71, PLAs raised the base construction bids of building schools by 20%.<sup>20</sup>

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<sup>18</sup> Paul Bachman, Darlene C. Chisholm, Jonathan Haughton and David G. Tuerck, *Project Labor Agreements and the Cost of School Construction in Massachusetts*, September 2003, <http://www.beaconhill.org/BHISTudies/PLApolycystudy12903.pdf> (accessed May 13, 2009).

<sup>19</sup> Paul Bachman, Jonathan Haughton and David G. Tuerck, *Project Labor Agreements and the Cost of Public School Construction in Connecticut*, September 2004, <http://www.beaconhill.org/BHISTudies/PLA2004/PLAinCT23Nov2004.pdf> (accessed May 13, 2009).

<sup>20</sup> Paul Bachman and David G. Tuerck, *Project Labor Agreements and Public Construction Costs in New York State*, April 2006,

Estimates for all three studies were obtained after adjusting the data for inflation (using an index that included the trend in both construction wages and in materials costs) and after controlling for (1) the size of the projects (both in square feet and number of stories), (2) whether or not the project involved new construction and (3) whether or not the school was an elementary school.

#### **4. Range of cost increases associated with PLAs**

To determine a range of cost increases associated with the use of a PLA we utilized our Massachusetts and Connecticut PLA studies (estimates from our New York PLA Study are not used because they represent increases in the winning bids, not the final construction costs). The Massachusetts PLA Study found that PLAs add 12% to the cost of construction while the Connecticut PLA Study found that PLAs add 18% to the cost of construction. Therefore, we can assume that PLAs increase the cost of construction by 12% to 18%.

### **Determining the Costs of PLAs on U.S. Projects**

By applying the BHI estimates of cost increases to current federal construction spending estimates, we can approximate the cost of President Obama's Executive Order 13502 (or the savings from President Bush's ban on PLAs). In 2008, total public construction spending amounted to \$307.5 billion, with federal construction spending making up about \$23.84 billion of the total and state and local construction spending making up the remainder.<sup>21</sup> Because reported construction costs include "soft" costs such as

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<http://www.beaconhill.org/BHISTudies/PLA2006/NYPLAReport0605.pdf> (accessed May 13, 2009).

<sup>21</sup> U.S. Census Bureau, "Annual Value of Public Construction Put in Place 2002-2008," <http://www.census.gov/const/C30/public.pdf> (accessed May 20, 2009).

contingency funds, insurance and bond costs, we made an adjustment to get actual construction costs. Based on conversations with construction managers, we estimated soft costs to range from 3% to 8% of the total construction cost.

We determined that reported construction costs less soft costs ranged from \$21.9 billion (assuming that soft costs are 8% of the total) to \$23.1 billion for 2008 (assuming that soft costs are 3% of the total). If PLAs add 12% to construction costs, then PLAs increased federal construction costs by \$2.6 billion to \$2.8 billion. If PLAs increase construction costs by 18%, then the range is \$3.9 billion to \$4.2 billion. Therefore, we can assume that if PLAs had covered all federal construction projects in 2008, the cost would have been \$2.6 billion to \$4.2 billion greater than it was.

We can use these figures to infer the effect of President Obama's recent Executive Order, allowing Federal agencies to use a PLA on projects over \$25 million. To estimate the percentage of federal money going towards construction projects worth \$25 million or more, we used data from the federal government's [USAspending.gov](http://USAspending.gov) web site. According to the web site, \$43.88 billion of federal award money was allocated in 2008 toward contracts for construction of structures and facilities. We found that approximately 62% of the federal awards (in the construction of structures and facilities category) were allocated towards contracts \$25 million or more in 2008.<sup>22</sup>

Applying this percentage to the U.S. Census estimate of \$23.84 billion of federal construction, we estimate that \$14.8 billion was on projects \$25 million or more. Using the same methodology as above (but this time only applying the cost increases to the

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<sup>22</sup> The dollar figure is larger than the amount reported by the U.S. Bureau of the Census. This discrepancy is due to a number of factors including the fact that that Census does not report projects that are completed abroad (as the [USAspending.gov](http://USAspending.gov) web site does), and the Census reports the actual value of public construction put in place versus [USAspending.gov](http://USAspending.gov), which records the dollar value awarded per contract. However, the web site does allow users to filter awards by dollar amount.

\$14.8 billion), we can estimate that had President Bush's ban on PLAs not been in place during 2008 (or, conversely, that President Obama's Executive Order had been in place during 2008) and had all projects \$25 million or more been conducted under PLAs, federal spending on construction projects would have been \$1.6 to \$2.6 billion greater.<sup>23</sup>

Although we cannot estimate the cost increases associated with state and local construction spending receiving federal assistance, it is likely that President Obama's Executive Order would have had an impact on that spending as well. Section 7 of the Executive Order stipulates that "the Director of OMB, in consultation with the Secretary of Labor and with other officials as appropriate, shall provide ... recommendations about whether broader use of project labor agreements, with respect to both construction projects undertaken under Federal contracts and construction projects receiving Federal financial assistance".<sup>24</sup> If the Executive Order is expanded to cover Federal financial assistance, state and local construction receiving Federal funding will be affected and thus subject to the cost-inflating effects of a PLA.

## **Criticisms of BHI's Cost Studies**

### **1. The Kotler Study**

At about the same time that we began this study, Cornell University published a vociferous defense of PLAs, authored by Cornell staff member Fred B. Kotler, that

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<sup>23</sup>The Executive Order 13502 Proposed Rule states that, based on FY 2008 data, there are only approximately 300 large scale construction contracts exceeding \$25 million that could be subject to an agency determination for use of PLAs but that, according to the government's labor advisors, only 10% of those projects would be deemed appropriate for a PLA. This means that the federal government believes that only 30 federal construction projects per year would be impacted by PLAs encouraged by Executive Order 13502, meaning that the cost implications would be less than we estimated. On the other hand, the proposed rule provides no evidence supporting its estimate that only 10% of large-scale construction projects would be deemed appropriate for a PLA.

<sup>24</sup> Ibid.



attacked our earlier work on this subject.<sup>25</sup> The Kotler article has received extensive praise from union leaders, including Mark H. Ayers, President of the Building and Construction Trades Department of the AFL-CIO, who said: “As we have known for some time — and which this study affirms — is that Project Labor Agreements are a valuable tool for ensuring a quality return on construction investments.”<sup>26</sup> Another story reported that Union Ironworkers “are in full support of the ... study.”

It is little wonder that construction union officials welcome the Kotler article. “Project Labor Agreements make sense,” Kotler writes, “because they promote a planned approach to labor relations, allow contractors to more accurately predict labor costs and schedule production timetables, reduce the risks of shoddy work and costly disruptions, and encourage greater efficiency and productivity.”<sup>27</sup>

Kotler expands on this theme with statements such as,

- “PLAs provide job stability and prevent costly delays.”<sup>28</sup>
- “PLAs have been demonstrated to be a very useful construction management tool for cost savings, for on-time, on-budget, and quality construction.”<sup>29</sup>
- “PLAs are a valuable construction management tool for project planning and labor cost reduction.”<sup>30</sup>

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<sup>25</sup> Fred B. Kotler, “Project Labor Agreements in New York State: In the Public Interest [Electronic version], (Ithaca, NY: Cornell University, School of Industrial and Labor Relations — Extension Division, Construction Industry Program), <http://digitalcommons.ilr.cornell.edu/reports/22/> (accessed May 20, 2009).

<sup>26</sup> “America’s Building Trades Unions Hail New Study That Points to Effectiveness of Project Labor Agreements,” *PR Newswire*, April 14, 2009. <http://news.prnewswire.com/ViewContent.aspx?ACCT=109&STORY=/www/story/04-14-2009/0005005929&EDATE=> (accessed August 12, 2009).

<sup>27</sup> BHI, “Project Labor Agreements in New York State,” 2.

<sup>28</sup> *Ibid.*, 3.

<sup>29</sup> See abstract on Kotler at <http://digitalcommons.ilr.cornell.edu/reports/22/>.

<sup>30</sup> BHI, “Project Labor Agreements in New York State,” 31.

While the article is otherwise mainly a recitation of the way in which PLAs work and the circumstances under which they may come into play, it also purports to provide an analysis of the effects of PLAs on construction costs. The article, or so the author says, “also tests the validity of the claims made by PLA opponents that PLAs drive-up construction costs. Focus is on the studies conducted in recent years by the Beacon Hill Institute, a particularly outspoken opponent of PLA use in both the public and private sectors.”<sup>31</sup>

In fact, the article does not “test” any hypothesis concerning the effects of PLAs on labor costs, at least not in the manner that a statistician would use the word, “test.” Rather it merely dismisses, as “not credible,” the actual statistical tests performed by the Beacon Hill Institute.

Because it falsely purports to provide a statistical test where there is none, it is the Kotler article that must be dismissed as not credible. Indeed, it is not a “study” at all. A study considers the arguments for and against some policy, such as using PLAs. A study “tests the validity” of some hypothesis in order to determine whether the hypothesis is true at some minimally acceptable level of confidence. The Kotler article never gives serious thought to the disadvantages of PLAs or attempts to “test the validity” of any hypothesis.<sup>32</sup>

Focusing on our New York study, Kotler attacks our work on the ground that (1) we focus on bid costs not actual costs and (2) we fail “to segregate labor costs or account for various factors that influence project costs.”<sup>33</sup> It is not clear why the author made the first accusation inasmuch as he must have known about our Massachusetts and Connecticut studies, in which we did report on “actual costs” as well as “bid costs.” His

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<sup>31</sup> Ibid., 1.

<sup>32</sup> These deficiencies in Kotler’s article should come as no surprise in view of the fact that his job at Cornell is to direct a training camp for union activists and that his credentials consist primarily of his longtime history as a union organizer.

<sup>33</sup> BHI, “Project Labor Agreements in New York State,” 22.

second accusation is more complicated and, in fact, echoes a similar accusation made in an earlier study.

## **2. The Belman, Bodah, Philips Study**

This earlier study, entitled *Project Labor Agreements*, by Dale Belman, Matthew M. Bodah and Peter Philips, also finds fault with our empirical analysis.<sup>34</sup> According to this study, which unlike the Kotler article actually does test for the effects of PLAs on construction costs, our methodology falls short for including “very few variables ... that could affect construction costs.”

We disagree with this criticism. First, and as the Belman-Bodah-Philips study concedes, we account for five variables in our Connecticut study: (1) whether the project was conducted under a PLA or not, (2) whether the project involved new construction or not, (3) the size of the project, (4) the number of stories and (5) whether it was for an elementary school or not.

Our Massachusetts study used even more variables. In one of our regressions, we considered: (1) whether the school was new or not, (2) the number of square feet, (3) the square of the number of square feet, (4) the distance of the school from Boston, (5) the number of floors, (6) whether the school was an elementary school or not, as well as (7) whether it was conducted under a PLA or not. With this regression, we found that a PLA added \$17.86 to the price of the winning bid, at the 99.6% level of confidence.

All of our findings are highly robust for the effects of PLAs. The PLA coefficient was positive and significant for Connecticut schools when we considered small projects only, large projects only, elementary schools only or other schools weighted by size. The

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<sup>34</sup> Dale Belman, Matthew M. Bodah and Peter Philips, *Project Labor Agreements* (Washington, D.C.: Electri International, 2007), <http://massbuildingtrades.org/project-labor-agreements-white-papers>.

coefficient was positive and significant for both winning bids and actual construction costs for both Massachusetts and Connecticut schools.

The authors of *Project Labor Agreements* report a test of their own in which they regressed final cost against a number of variables that we did not consider, including whether there was an auditorium or not, had a cafeteria or kitchen or not, whether the roof “includes both low and steep pitches” and “whether the project was located in an urban area.” They find a positive but “insignificant” PLA effect. They concede that all small samples, ours and theirs included, have a number of problems, including sensitivity to “outlying variables.”

First, as the authors must know, any regression that uses a large number of variables as predictors is prone to a problem called “multicollinearity.” This problem arises when the predictor variables are highly correlated, which is what you would expect for example, when choosing both “size” and the presence of an auditorium or cafeteria as predictor variables for the same equation.

One of the consequences of this problem is that, while the addition of more and more predictor variables will ordinarily help the regression equation as a whole to gain predictive power, it will also make the individual predictor variables appear insignificant — precisely what happens in their model. All models, including ours, are vulnerable to this problem but their study is particularly so because of the large number of variables that they use.

Finally, consider what it means for them to suggest that theirs is the better model. It is as if to say that, because so many other variables are more important as cost predictors, owners should conclude that PLAs don’t affect costs. But if PLAs don’t affect costs, they can’t affect labor peace or the likelihood of on-time completion since both of those factors affect costs. Indeed, one of the reasons constantly put forward by PLA

advocates, including Belman, Bodah and Philips, is that PLAs increase efficiency. Not so, however, if, as they find, PLAs are “insignificant” as a predictor variable.

If PLAs really did increase efficiency, it would be possible to show statistically that they also reduce costs. The very regression provided by these authors shows that PLAs do not reduce costs.

The authors suggest that it is good enough for them to show that they can construct a regression model that renders the PLA predictor variable insignificant, though still positive. We suggest that the burden is on them to provide a model showing the PLA variable to be both negative *and* significant. If PLAs don’t reduce costs, why have them?

Another way to put it is as follows: Economic theory suggests that by burdening contractors with union rules and hiring procedures, PLAs reduce the number of bidders and thus increase both winning bids and actual construction costs. We have provided many regressions, with various specifications, for three states that confirm this hypothesis. The authors seem to believe that they can dismiss both economic theory and our findings on the ground that both are invalidated by the design of a school roof or the addition of an auditorium or cafeteria. We leave it to the readers to draw their own conclusions.

### **Non-PLA Case Studies**

In order to illustrate how contractors routinely perform projects on time and on budget, without encountering labor strife, and how they do so without PLAs for highly complex and architecturally challenging projects, we offer the following two case studies.

### Federal Correctional Institution (FCI), Pollock, Louisiana

The \$90 million construction of the Federal Correctional Institution (FCI) in Pollock, LA provides an example of a large scale project that was completed without a PLA, on time, on budget and without any labor disruptions. The project consisted of 14 buildings including special housing units, health services, education and recreation facilities, food service, work facilities, power plant and an administration building.

Extra measures were taken to avoid cost and time overruns such as on-site casting of tilt walls and modular prison cells. "Precast concrete wall panels and cells were fabricated on or adjacent to the site for construction efficiency and economic reasons and to avoid transporting these large items long distances from remote casting plants," stated the Vice President of the firm that won the contract to build the FCI. In addition, regardless of the fact that the project was completed during one of the wettest springs and summers on record, it was still completed on schedule.

Furthermore, the project provided many benefits to the local economy. In fact, the site was chosen because the final Environmental Impact Statement indicated the prison would offer "many beneficial impacts to the local economy, including providing employment opportunities."<sup>35</sup>

### U.S. Courthouse, Orlando, Florida

The U.S. Courthouse Annex in Orlando, Florida was also successfully completed without a PLA. Built adjacent to the former courthouse, the nine district judge courtrooms, six magistrate judge courtrooms, offices, detention cells and multiuse space were equipped with state of the art technology, including computer monitors in jury boxes. The Annex was built to withstand bombings and hurricanes with blast resistant

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<sup>35</sup> Angelle Bergeron, "Crime pays: Precast Pollock prison benefits contractors, community," *Louisiana Contractor*, January 2005, [http://louisiana.construction.com/features/archive/0501\\_feature4.asp](http://louisiana.construction.com/features/archive/0501_feature4.asp) (accessed May 20, 2009).

glass, and to embassy security standards. The building is highlighted by a five story atrium and a 50 by 20 foot colored glass mural by Al Held.

As part of the General Services Administration's Design Excellence Program, the Annex was described as "stunning" and "spectacular" by Supreme Court Justice Clarence Thomas at its dedication. It was designed by Leers Weinzapfel Associates, a Boston firm, and was cited in an article naming the firm "firm of the year" by the American Institute of Architects.

The project met various obstacles over the course of construction. Enduring four hurricanes during construction, the city of Orlando was not able to provide offsite storm water retention, and the contractor adapted by constructing a "temporary retention pond on the site."<sup>36</sup> Also, the site was vandalized. Despite these setbacks, the Annex was still completed on time and on budget.

The Annex is positioned as a transition for some of Orlando's poorer neighborhoods. There is hope that its presence will encourage development in those areas, linking them with the business district.<sup>37</sup>

### **PLA Case Studies**

As mentioned above, Section 7 of Executive Order 13502 allows a window for the President to consult with the Secretary of Labor, the OMB and other officials to determine whether broader use of PLAs is necessary. Broader use of PLAs includes

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<sup>36</sup> "United States Court House Judges Award and Best Public Building," *Southeast Construction*, December 2009, [http://southeast.construction.com/features/archive/0712\\_covera.asp](http://southeast.construction.com/features/archive/0712_covera.asp) (accessed May 20, 2009).

<sup>37</sup> Jim Leusner, "Judges' new home sparkles \$101M federal courthouse combines art museum, cathedral and fortress," *Orlando Sentinel*, August 27, 2007, <http://www.orlandosentinel.com/news/orl-courthouse2707aug27,0,7240216,print.story> (accessed May 28, 2009).

construction projects receiving Federal financial assistance, which means that a large portion of local and state spending would then be subject to PLAs. PLAs reinstated for federally-funded projects affect spending at all levels of government.

If the claims provided in Executive Order 13502 for PLAs are correct, then PLA projects, completed at the federal level as well as the state and local levels, should be completed in an “efficient and timely” manner. However, we have found that a PLA is no guarantee against such problems. In this section we review five PLA projects — highlighting instances of cost overruns, delays or labor actions (strikes or slowdowns).

### The Iowa Events Center

In 2000, the Polk County, Iowa Board of Supervisors approved the development of a new Iowa Events Center in downtown Des Moines. The project consisted of the Wells Fargo Arena, the Hy-Vee Hall, the Veterans Memorial Auditorium, and the Polk County Convention Complex. The Board of Supervisors entered into a PLA with the Central Iowa Building and Construction Trade Council for the construction of the project claiming it was “necessary to keep the project on time, keep it on budget, and complete it in a safe manner.”<sup>38</sup>

The project failed on all three accounts:

1. *The project went over its projected budget.*

According to the Polk County Auditor’s Report for Fiscal Year 2000, the Center was estimated to cost up to \$200 million. However, a subsequent edition of the Report showed that the cost had risen to \$217 million by the end of Fiscal Year 2005.

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<sup>38</sup> Amy K. Frantz, Jonathan Miltimore, Robert N. Stewart, Laura P. Keith and Brad Cook, “The PLA for the Iowa Events Center: An Unnecessary Burden on the Workers, Businesses and Taxpayers of Iowa,” Policy Study 06-3, Public Interest Institute at Iowa Wesleyan College, April 2006, <http://www.limitedgovernment.org/publications/pubs/studies/ps-06-3.pdf> (accessed May 28, 2009).



Much of the cost increase was due to changes in the scope of the project. However, inflated costs appear also to have stemmed from a lack of bids. Bidding for the Iowa Events Center construction project was broken up into 22 individual bid packages, each package covering a different area of the project. On average, the county received 2.8 bids per package. The majority of bid packages received three bids or less, including four bid packages that received only one bid. The General Works Site Package, initially budgeted approximately at \$2 million, received only one bid for nearly double this amount.

*2. The project was not completed on time.*

Initially, two lawsuits delayed the construction of the Iowa Events Center, one of them, filed in January 2003, regarding Polk County's decision to use a PLA on the project. Although both lawsuits ended in failure, they delayed the beginning of the construction process.

Once the lawsuits were settled, the County announced projected completion dates: Hy-Vee Hall was expected to be completed by September 2004; the Wells Fargo Arena by June 2005. However, the Hy-Vee Hall opened 105 days late and the Wells Fargo Arena opened 40 days late.

*3. The project was marred by accidents.*

Throughout the course of construction multiple accidents occurred. As of March 2006, over 200 accidents had been reported on-site, including a fatal accident in September 2004.

The use of a PLA on the project drove up the cost of the project by discouraging potential bidders and placed an unnecessary burden on taxpayers. In addition, the PLA did not ensure safety or the completion of the project on time.

### Fall River, Massachusetts

In 2000, the southeastern Massachusetts city of Fall River launched a plan to construct 11 new school buildings. In the first phase of the plan, four schools were completed between 2001 and 2004, all of which were on budget and on schedule.<sup>39</sup> The schools were bid under a full competitive bidding process, without a PLA. The next phase of the plan called for building five more schools. This phase of construction, however, called for a PLA.

The mayor of Fall River cited the conventional argument of timeliness for using a PLA. “Because students will be shifting around to different buildings during the construction process, it is imperative that all of the projects are completed without delay,” he said.<sup>40</sup>

Open-shop contractor groups warned city officials that the PLA would discourage non-union contractors from bidding on the projects, and thus limit the number of bidders and drive up costs. Nevertheless, because the Massachusetts School Building Authority (MSBA) was prepared to reimburse the city for 90% of the construction costs, thus mostly alleviating cost concerns for local taxpayers, city officials proceeded to negotiate a PLA.

In 2005, the city solicited the first round of bids for the first school under the second phase of the project. A review of the bids revealed a lack of bidders for several contracts, and no bids for the project’s electrical work. Moreover, the bids received were well above the architect’s budget, with the low bids on the project exceeding the \$11.8 million budget by more than \$5 million, even in the absence of a bid for the electrical work.

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<sup>39</sup> Ibid.

<sup>40</sup> Will Richmond, “Group wants school building bids open to all,” *Herald News*, November 4, 2005.

In response to the high bids, the city rejected several bids and reopened the bidding process again under a PLA. As a result, the project schedule was delayed six weeks, thus nullifying one of the arguments city officials used for the PLA in the first place. Although the city did receive a few bids lower than the original bids, the second round of bidding delayed the project by an additional two weeks and all bids remained well over budget.<sup>41</sup>

The city faced a similar situation when it opened bids for the next three school construction projects. The few bids received were well over budget. Specifically, for one of the schools, bids pushed the project almost \$5 million over the original budget.

The ever-escalating cost of the project began to raise concerns, especially when the MSBA held firm on its offer to reimburse Fall River only the original \$90 million for the five new schools.

Recognizing that the PLA process inflated the costs of these projects, the mayor finally canceled the PLA for the school building projects and reopened the bidding process for the phase two schools.

BHI obtained copies of the bids for Kuss, Small and Slade Schools (the three schools that received general and subcontractor bids with and without a PLA in place) and compared the bids obtained by the city with the PLA requirement and those obtained without the PLA. Table 1 highlights our findings.

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<sup>41</sup> Ibid.

| <b>Table 1: Comparing Bids and Savings With and Without a PLA</b> |                     |                         |               |    |
|---|---------------------|-------------------------|---------------|----|
| School Construction Project                                       | PLA bids<br>(\$000) | Non-PLA Bids<br>(\$000) | PLA Surcharge |    |
|   |                     |                         | (\$000)       | %  |
| Kuss Middle   |                     |                         |               |    |
| Subcontractor   | 21,500              | 19,600                  | 1,900         | 10 |
| General Contractor  | 45,700              | 43,900                  | 1,800         | 4  |
| Small Elementary  |                     |                         |               |    |
| Subcontractor   | 11,100              | 9,900                   | 1,200         | 12 |
| Slade Elementary  |                     |                         |               |    |
| Subcontractor   | 11,800              | 10,900                  | 900           | 8  |
| As reported in <i>The Herald News</i> .                           |                     |                         |               |    |

The data show that the city saved \$5.8 million on the total construction bids for all three projects when they were bid without a PLA. Eliminating the PLA requirement clearly allowed for greater competition among bidders and thus produced significant cost savings on the projects.<sup>42</sup>

The Central Artery/Tunnel Project, Boston’s “Big Dig”

Boston’s Central Artery/Tunnel Project (CAT), also known as the “Big Dig,” is one of the world’s costliest public construction projects. Often cited as an engineering marvel for its success in creating a new highway under an existing highway with little disruption to a major city, the Big Dig formed its own political and economic culture. This culture did not find itself subordinate to ordinary laws of economics. Thanks to federal largess, the project was completed without any of the competitive pressures facing private industry. The enthusiasm, however, ran far ahead of the state-of-the-art engineering.

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<sup>42</sup>According to conversations with city officials, only minor changes to the athletic fields were made between the bidding with the PLA and without.

The Big Dig was tailor-made for a PLA, according to supporters. Pointing to a previous Boston mega-project, the Boston Harbor Clean-up which used a court-approved PLA, unions were quick to convince the Commonwealth to tag the Big Dig with the same designation. Supporters of the union-only agreement argued that a project of such magnitude would benefit from the lack of labor strife and the efficiency of union hall hiring. Indeed, there were no significant work stoppages or labor actions on the Big Dig PLA, but the promise that a PLA would ensure an on-time and on-budget solution was belied by the course of events.

Construction on the project began in 1991 although planning began a decade before. In 1982, the cost of the Big Dig, which included a new harbor tunnel and a depression of an arterial portion of the federal highway system, had been pegged at approximately \$2.6 billion. In 2007, officially the Big Dig's closing year, the price tag hovered at \$14.8 billion. The project was touted by business and organized labor as a major infrastructure upgrade — long overdue and vital to the region's economic life. An occasional critic may have rightly argued that the Big Dig inflicted huge opportunity costs on road and bridge projects outside metropolitan Boston, but support for the project never waned.

If PLAs were a check on the unruly and unpredictable vagaries of the labor market, they failed. In 2001, the Big Dig's chief resigned after failing to report more than a billion dollars in cost overruns. Congress, lead by Senator John McCain, capped the federal contribution to the project, leaving the state to come up with another financing plan. Burdened as it was with the Big Dig debt, the Massachusetts Turnpike Authority increased tolls.

The underground tunnel, part of Interstate 93, which runs under the city, is prone to water leaks. On September 15, 2004 drivers using the tunnel noticed saltwater gushing through the wall. The *Boston Globe* reported that the project was plagued by as many as

a thousand leaks and that the waterproofing provided "insufficient protection."<sup>43</sup> The *Globe* reported that Bechtel/Parsons Brinckerhoff engineers knew of these problems for seven years. State government, fearing a loss of support for the project, was complicit in keeping the information from the public.

An investigation found that the leak was caused by poor workmanship. Numerous other leaks were also discovered. Although organized labor was quick to blame the managing firm of Bechtel/Parsons Brinckerhoff for a lax attitude toward oversight, the leaks undermined union claims about quality and cost containment.

"Everyone put up with the spiraling costs because they could tell themselves that technologically the tunnel was built right and it was great for the city," said David Luberoff, executive director of Harvard's Rappaport Institute for Greater Boston and a supporter of the project. "But the leaks are unfortunate because it confirms people's worst fears about public projects." <sup>44</sup>

Eventually, the shoddy workmanship proved fatal. In July 2006, a panel from the tunnel's ceiling collapsed, crushing a driver. That portion of the tunnel was closed for a month while engineers figured out a way to strengthen the ceiling. In March 2009, the state attorney general announced final settlements with two companies involved in the Big Dig project, concluding the state's litigation in the 2006 tunnel ceiling collapse. As part of the settlement contractors will pay more than \$450 million over issues surrounding both the fatal tunnel collapse and the costs of leaks and design flaws.

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<sup>43</sup> David Abel and Mac Daniel, "Artery Tunnel Springs Leak: Traffic Snarled; Big Closes Lanes, Seeks Cause, Aims for Full Reporting," *Boston Globe*, September 16, 2004, 1.

<sup>44</sup> Michael Powell, "Boston's Big Dig Awash in Troubles: Leaks, Cost Overruns Plague Project," *Washington Post*, November 19, 2004, <http://www.washingtonpost.com/wp-dyn/articles/A61112-2004Nov18.html> (accessed May 20, 2009).

### The Woodrow Wilson Bridge

Spanning the Potomac River and connecting Maryland and Virginia, the Woodrow Wilson Bridge was originally built in 1961 to handle 75,000 vehicles a day. By 2000, like most bridges in fast growing metropolitan areas, the bridge handled 200,000 vehicles a day. Few disputed the need to expand the bridge, particularly as it became one of the nation's worst bottlenecks.

The solution to meet the needs of the Washington D.C. area rested on a Federal Highway Department plan to widen the bridge to 12 lanes in several phases. Like the Big Dig, the Wilson Bridge covered 7.5 miles of road. And like the Big Dig, the Wilson bridge project, although on a lesser scale, exceeded the original budget estimates – rising to \$2.2 billion from \$1.6 billion. And like the Big Dig, the Wilson was a target for a PLA. However, unlike Boston's Big Dig, the Wilson Bridge project involved two states (and the District of Columbia) administered by two different governors: Maryland's union-friendly governor, Parris Glendening, and Virginia's right-to-work governor, James Gilmore.

Governor Glendening and unions arranged a PLA for the Maryland bids. After the PLA was imposed, only one bidder responded to the RFP for Phase 1 of the project, at a bid price more than \$370 million, or 78%, above the State's engineering estimates.

Then, in February 2001, President George W. Bush issued Executive Order 13202 prohibiting the use of union-only PLAs on federally-assisted projects such as the Wilson Bridge. After the President's Executive Order, Phase 1 of the Wilson Bridge project was re-bid without the PLA in three smaller bid packages. This time multiple bids were received, and the winning bids came in significantly below the engineering estimates.

The AFL-CIO Building and Construction Trades Department sued to overturn the Executive Order. A round of judicial responses followed. The AFL-CIO won at the district court level and lost before the court of appeals.

Today, the entire Wilson Bridge project is overall on time and on budget, although other phases of the project exceeded the original budget.

#### Concluding Remarks on Comparisons of PLA and Non-PLA Projects

Executive Order 13502 would make it seem that any “complex” project not conducted under a PLA is bound to suffer labor strife and cause delays and cost overruns. Conversely, projects conducted under PLAs will benefit from labor peace and on-time and on-budget completion. However, the evidence does not support either of these statements.

### **Conclusion**

The Beacon Hill Institute undertook a multi-pronged effort to determine whether the claims put forth in Obama’s Executive Order regarding the benefits of PLAs on large-scale federal construction projects were justified by the facts. We found that the claims were at odds with the facts.

The records of federal agencies, which responded to a FOIA request and which contracted for construction without PLAs during the Bush Administration, revealed no significant delays or cost overruns caused by labor strife. A survey of contractors did not reveal one instance of a non-PLA project delayed or over budget due to labor disputes, labor shortages, or problems with labor coordination. Finally a search of a government online data base did not reveal one example of labor strife caused by the lack of a PLA.



The justifications for PLAs provided by Executive Order 13502 are, therefore, unproven. What is proven is that PLAs add costs to winning bids and to construction costs, as documented in three studies performed by BHI on state school construction projects. The Obama Executive Order should be seen as a costly giveaway to the construction unions with no proven benefit to the taxpayers.

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## Appendix A: ABC's FOIA Letter to the OMB & the OMB's Response\*



March 6, 2009

Ms. Dionne Hardy  
FOIA Officer  
Office of Management and Budget  
725 17th Street, N.W.  
Washington, DC 20503

**Re: Freedom of Information Act Request**

Dear Ms. Hardy:

Pursuant to the Freedom of Information Act and applicable regulations, I hereby request the following records: All documents containing factual data or information referred to in Executive Order No. 13502 (Feb. 6, 2009) ("Use of Project Labor Agreements For Federal Construction Projects") or relating to the matters addressed therein. Such documents should include but not be limited to any documents relating or referring to any facts that support the existence of any of the "special challenges" identified in Section 1 of the Executive Order, as follows:

- All documents relating facts regarding any labor disputes that have delayed completion of federal construction projects costing \$25 million or more, in the manner described in the Executive Order.
- All documents relating facts regarding any difficulties asserted by contractors in predicting labor costs and/or interruptions in the supply of labor that have occurred on federal construction contracts, in the manner described in the Executive Order.
- All documents relating facts regarding any lack of coordination among employers on federal construction projects costing \$25 million or more, which has threatened the efficient or timely completion of such projects, in the manner described in the Executive Order.
- All documents relating facts regarding any uncertainty about the terms and conditions of employment of various groups of workers, which has threatened the efficient or timely completion of federal construction projects costing \$25 million or more, in the manner described in the Executive Order.
- All documents relating facts regarding any frictions or disputes regarding coordination among contractors and/or terms and conditions of employment, resulting from the absence of an agreed upon resolution mechanism, that have threatened the efficient and timely completion of federal construction projects costing \$25 million or more, in the manner described in the Executive Order.

4253 North Fairfax Drive, 9th Floor • Arlington, VA 22203 • 703.012.2000 • [www.abc.org](http://www.abc.org)

The requestor hereby assumes financial liability for charges reasonably incurred by the Agency in responding to this request. However, it is our understanding that if the cost of searching for and reproducing any of the documents requested above is expected to exceed \$250, you will contact the undersigned prior to conducting the records search.

Thank you for your attention to this matter. If you have any questions about this records request, please contact the undersigned.

Sincerely,



Robert A. Hirsch  
Director of Legal & Regulatory Affairs  
4250 North Fairfax Drive, 8<sup>th</sup> Floor  
Arlington, VA 22203  
(703) 812-2039  
[Hirsch@abc.org](mailto:Hirsch@abc.org)



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

JUL 30 2009

Mr. Robert A. Hirsch  
Director of Legal and Regulatory Affairs  
Associated Builders and Contractors, Inc.  
4250 North Fairfax Drive, 9<sup>th</sup> Floor  
Arlington, Virginia 22203

Dear Mr. Hirsch:

This responds to your Freedom of Information Act (FOIA) request to the Office of Management and Budget (OMB) dated March 6, 2009, which was received in this office on June 5, 2009. Your request asked for:

"All documents containing factual data or information referred to in Executive Order No. 13502 (Feb. 6, 2009) ("Use of Project Labor Agreements For Federal Construction Projects") or relating to the matters addressed therein. Such documents should include but not be limited to any documents relating or referring to any facts that support the existence of any of the "special challenges" identified in Section 1 of the Executive Order, as follows:

All documents relating facts regarding any labor disputes that have delayed completion of federal construction projects costing \$25 million or more, in the manner described in the Executive Order.

All documents relating facts regarding any difficulties asserted by contractors in predicting labor costs and/or interruptions in the supply of labor that have occurred on federal construction contracts, in the manner described in the Executive Order.

All documents relating facts regarding any lack of coordination among employers on federal construction projects costing \$25 million or more, which has threatened the efficient or timely completion of such projects, in the manner described in the Executive Order.

All documents relating facts regarding any uncertainty about the terms and conditions of employment of various groups of workers, which has threatened the efficient or timely completion of federal construction projects costing \$25 million or more, in the manner described in the Executive Order.

All documents relating facts regarding any frictions or disputes regarding coordination among contractors and/or terms and conditions of employment, resulting from the absence of an agreed upon resolution mechanism, that have threatened the efficient and

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OMB ADMINISTRATION

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timely completion of federal construction projects costing \$25 million or more, in the manner described in the Executive Order."

Upon a thorough search of our files, we have found 19 documents (consisting of 247 pages) that may be potentially responsive to your request. Of these, we have determined that 7 documents (consisting of 181 pages) are appropriate for disclosure in their entirety. These 7 documents are enclosed.

It is my decision, however, that the remaining 12 documents (consisting of 66 pages) are exempt from mandatory disclosure pursuant to FOIA Exemption 5, 5 U.S.C. 552(b)(5). Under Exemption 5, the documents are being withheld because they constitute interagency or intra-agency predecisional, deliberative communications, the disclosure of which would inhibit the frank and candid exchanges of views that is necessary for effective government decision-making. I have concluded that the disclosure of these documents would not be in the public interest and therefore decline to release them.

This is my personal decision which may be appealed pursuant to OMB regulations, at 5 C.F.R. 1303.

Sincerely,

  
Dionne Hardy  
FOIA Officer

Enclosures

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OMB ADMINISTRATION

JUL-30-2009 14:05

\*The documents provided by the OMB are listed below. None of these documents provide evidence of large scale construction projects that experienced cost overruns or delays due to labor strife.

- President Clinton's Executive Order 12871 on Labor Management Partnerships (October 1993),
- OMB Director John Koskinen's statement before the U.S. House Labor and Human Resources on Federal PLAs (April 1997),
- U.S. Government Accounting Office (GAO) Report: Project Labor Agreements: The Extent of Their Use and Related Information (May 1998),
- PLAs on Public Construction Projects: The Case For and Against (May 2001),
- Project Labor Agreements (January 2007),
- Clinton's Memo on the use of PLAs for Federal Construction (June 1997), and
- PLAs in Iowa: An Important Tool for Managing Complex Public Construction Projects (October 2004).



## Appendix B: FOIA Letter



March 6, 2009

FOIA Requester Service Center (ACMC)  
U.S. General Services Administration  
1800 F Street, NW, Room 6001  
Washington, DC 20405  
[gsa.foia@gsa.gov](mailto:gsa.foia@gsa.gov)

Re: Freedom of Information Act Request

Dear Sir or Madam:

Pursuant to the Freedom of Information Act and applicable regulations, I hereby request the following records.

- All documents dated from February 2001 to the present relating or referring to any labor disputes that have delayed completion of federal construction projects costing \$25 million or more during the time period referenced above.
- All documents dated from February 2001 to the present relating or referring to any difficulties asserted by contractors in predicting labor costs and/or interruptions in the supply of labor that have occurred on federal construction contracts costing \$25 million or more during the time period referenced above.
- All documents dated from February 2001 to the present relating or referring to any lack of coordination among employers on federal construction projects costing \$25 million or more, which has threatened the efficient or timely completion of such projects during the time period referenced above.
- All documents dated from February 2001 to the present relating or referring to any uncertainty about the terms and conditions of employment of various groups of workers, which has threatened the efficient or timely completion of federal construction projects costing \$25 million or more during the time period referenced above.
- All documents dated from February 2001 to the present relating or referring to any frictions or disputes regarding coordination among contractors and/or terms and conditions of employment, resulting from the absence of an agreed upon resolution mechanism, that have threatened the efficient and timely completion of federal construction projects costing \$25 million during the time period referenced above.

The requestor hereby assumes financial liability for charges reasonably incurred by the Agency in responding to this request. However, it is our understanding that if the cost of searching for and reproducing any of the documents requested above is expected to exceed \$250, you will contact the undersigned prior to conducting the records search.

Thank you for your attention to this matter. If you have any questions about this records request, please contact the undersigned.

Sincerely,



Robert A. Hirsch  
Director of Legal & Regulatory Affairs  
4250 North Fairfax Drive, 9<sup>th</sup> Floor  
Arlington, VA 22203  
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## The Beacon Hill Institute Team

[David G. Tuerck](#) is Executive Director of the Beacon Hill Institute for Public Policy Research at Suffolk University where he also serves as Chairman and Professor of Economics. He holds a Ph.D. in economics from the University of Virginia and has written extensively on issues of taxation and public economics.

[Paul Bachman](#) is Director of Research at BHI. He manages the institute's research projects, including its STAMP model and other projects. Mr. Bachman has published studies on state and national tax policy and on state labor policy. He also produces the institute's state revenue forecasts for the Massachusetts legislature. He holds a Master of Science in International Economics from Suffolk University.

[Sarah Glassman, MSEP](#) is Research Operations Manager at the Beacon Hill Institute. She holds a Master of Science in Economic Policy from Suffolk University.

*The authors would like to thank Frank Conte, BHI Director of Communications, for editorial assistance.*

The Beacon Hill Institute at Suffolk University in Boston focuses on federal, state and local economic policies as they affect citizens and businesses. The institute conducts research and educational programs to provide timely, concise and readable analyses that help voters, policymakers and opinion leaders understand today's leading public policy issues.

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