

Project Labor Agreements "Legalized Corruption"

Discrimination Should Be Outlawed, Not Legislated.

What Is a Project Labor Agreement (PLA)?

A Project Labor Agreement is an agreement between organized labor and an owner which requires that contractors on a project hire all or most of their workers from the union halls. Additionally, a PLA contains collective bargaining agreements with a variety of trades and other provisions which contractors must agree to before the start of construction.

What Are the Goals of a PLA?

In the private sector, a primary purpose of project labor agreements has been to attract contractors from *outside the area* to bid on local projects. The PLA offers a *non-local* contractor access to local workers from the union hall, and standardizes work rules (even if they are inflationary) to give the out-of-town bidder a competitive advantage in competing with local union contractors. When most large projects were performed on a union basis, the rationale was that costs could be decreased by attracting union firms who were specialists in large construction from outside the area. Today, however, when over 80% of all construction is performed merit shop, project labor agreements eliminate competition (including merit firms which may be the only installers of certain equipment) and thereby escalate costs. The current promotion of PLAs on public work by the AFL-CIO has one primary objective: to eliminate competitive merit contractors from public work. The following examples further illustrate the problems with PLAs.

PLAs Significantly Increase Costs on Projects



The use of PLAs on the Roswell Park Cancer Institute construction project *increased the project cost by 26%* (Roswell Study). This waste of tax dollars is a direct result of the PLA's reduction in the number of bidders. At Roswell, *bid packages requiring project labor agreements were 10% over budget while those that did not require PLAs were 13% under budget*. In areas where PLAs are anticipated, labor costs have increased as much as 30% to 90%.

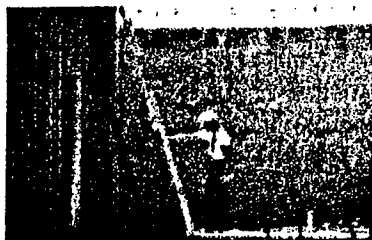
Recent Court Decisions Have Looked Disfavorably Upon PLAs

In *Albany Specialties, Inc. v. County of Orange*, the Supreme Court of the State of New York (May 1997) held that a determination to use a PLA in order to avoid the costs associated with “disruptive and possibly illegal union activity . . . *smacks of capitulation to extortion.*” In *ABC v. City of Oswego* (May 1997), the NYS Appellate Division (4th Dept.) ruled that a PLA and the contract that contained it was null and void. The project is now halted at 85% completion and contractors may be required to return any payments made under the illegal contract. PLAs by their very nature have an *anticompetitive impact on the bidding process*. To even be considered on public work, the NYS Court of Appeals ruled that a PLA must advance two protected interests: (1) must obtain the best possible work at the lowest possible price, and (2) must guard against favoritism, improvidence, extravagance, fraud and corruption. *NYS courts have ruled that social goals, funding deadlines, or an interest in avoiding labor unrest do NOT justify a PLA.* A public owner must not only negotiate significant union concessions under a PLA, it must also prove specific and significant losses which would be incurred without a PLA.

Minority Hiring Can Be Attained By Allowing “Helpers” on Public Work - PLAs Cannot be Used to Attain Social Goals

Women and minorities picketed the Buffalo Airport Project because *contracts with PLAs had fewer minorities* than non-PLA projects. The real problem here is that union rules enforced by the Labor Department eliminate job opportunities for minorities, women, welfare recipients, and the disadvantaged. When federal laws in the 1970s required minority hiring, union leaders lobbied state and federal labor department officials to remove “Helper” categories from union contracts. As a result, only high paid journey persons (averaging over \$20/hour plus over \$10/hour for fringe benefits in NYS) and a *limited number of registered apprentices* can work on a public project. *Opposing “Helper” categories is a sham for opposing opportunities for minorities, women, and the disadvantaged.* Because contractors simply cannot afford to hire inexperienced workers at high rates, job opportunities for disadvantaged workers (who often live in the neighborhood) are eliminated. Furthermore, New York state courts have ruled that minority hiring cannot be used as a rationale to justify PLAs.

Safety Is Not A Union/Non-Union Issue



A 1995 study performed by Charles Culver, former director of OSHA's Office of Construction and Engineering, concluded that *union construction between 1985 and 1993 had a higher fatality rate than nonunion construction.* But the concern with job safety is not a union/non-union issue. Safety is a vital concern for ALL employers. All firms are under the watchful eye of OSHA and subject to the same stringent regulations imposed by the agency. It is not a question of who has a better safety record, but rather that ALL firms must have impeccable safety records.

PLAs Result in More Non-Local Rather than Local Workers

PLAs almost always result in *more workers from outside the area* - not less - as well as pirating of workers from other firms, and increased labor costs. According to state and federal labor statistics, 80% of upstate New York construction workers have NOT chosen to belong to unions. *Furthermore, the majority of workers hired by open shop firms are from the local area.* A study of the effects of a PLA on the Onondaga County Jail showed that union contractors “imported” more workers from outside the region than open shop contractors. The Fort Drum PLA brought in out-of-state workers, while local skilled workers were excluded. *In any case, New York courts have ruled that preferences for local hiring are illegal, and cannot be used to justify a PLA.*

Over 80% of Today's Construction Workforce Is Not Union

- The vast majority of today's merit workers are well paid, with excellent benefits.
- Most workers today DO NOT WANT TO WORK UNION, where they are forced to give up job security and benefits, and to pay union dues.
- Most merit workers have higher annual incomes than union workers, who generally spend months on unemployment. Many union bosses even force workers to go on unemployment after 6 months.
- “Thanks” to union lobbying, merit workers have better protections than union workers. For example, union leaders lobbied to allow at least 10 years for a union worker's pension to be fully vested. Non-union pension plans must be vested in 5 years - - - and many are **100%** vested from day one!



PLAs Are Opposed by Both Union and Merit Contractors

Merit contractors oppose PLAs because they and their workers are eliminated from working on these projects - UNLESS they wish to sign agreements turning over tens of thousands of dollars to union bosses.

UNION CONTRACTORS OPPOSE PLAs BECAUSE:

- Union contractors are already signatory to collective bargaining agreements, and a PLA requires them to sign a second agreement which may contain costly conditions that have been negotiated out of previous agreements.
- PLAs increase costs by forcing union contractors to employ workers from all crafts that may claim jurisdiction on that project.
- PLAs force union contractors to enter into labor agreements with crafts they do not use.
- Collective bargaining agreements negotiated by public officials undermine local bargaining, and often include anticompetitive clauses - such as the Buffalo Airport PLA, which required the hiring of non-working Operating Engineers, wasting a quarter million dollars.
- Project Labor Agreements are traditionally used to make it easy for out-of-town union contractors to bid projects - taking work from local firms.



PLAs Are Opposed by Chambers of Commerce and Businesses Other Than Construction

PLAs are opposed by Chambers of Commerce, manufacturing firms, and other businesses because:

1. PLAs are ***BAD PUBLIC POLICY*** and waste tax dollars.
2. PLAs make it ***EASIER FOR NON-LOCAL, OUT OF STATE BUSINESSES*** to bid and win projects. Even if they hire some local union workers, the profits leave the local area and fabrication work is likely done out of state.
3. Materials and equipment used on public projects are installed by companies licensed or franchised by manufacturers. Many of these installers are merit contractors who are excluded from PLA work, and many products are thereby excluded as well. This raises costs and lowers quality, and hurts local business.

The Boston Harbor Project Is Proof that PLAs Do Not Work

The Boston Harbor Project has a reputation for fraud, corruption, construction cost overruns, terrible safety conditions, and an anti-worker "apartheid" contract which has excluded minorities, women, and merit shop contractors. It was reported that the PLA allowed for substantial cost savings. However, the "cost savings" reported are due to the fact that large parts of the project were eliminated and the original multi-year project had been projected to have a 7% inflation rate. The project costs are actually significantly above estimates.

"Prevailing Wages" Require All Bidders to Pay Union Rates

New York State Labor Law requires that all contractors on public work pay the union wages and benefits. However, many building trade unions report only their highest rates for the taxpayer to pay, while negotiating lower rates on private work. Federal courts have already ruled that this fraudulent reporting may nullify New York state prevailing wage laws. Under project labor agreements, however, *fringe benefits (up to \$30/hour) are stolen from merit and minority workers* who are not long-term union members, and will never meet the union requirements to receive their benefits.

There Is No Public Benefit from a PLA on Public Work



Competitive bidding laws were passed to guarantee that all *public contracts be awarded to the lowest responsible bidder*. Open competition keeps costs down, discourages corruption, and discourages strikes and labor problems. Open competition has virtually eliminated labor strife over the last two decades. Advocates of project labor agreements threaten labor disruption as a means of illegally extorting these agreements. **THAT IS WRONG! AN EDUCATED PUBLIC OPPOSES PROJECT LABOR AGREEMENTS.**

If PLAs were really as good as union leaders pretend, then they could be a voluntary option on public work.