

**Project Labor Agreement  
(PLA) Study**

**Task Order No. 99-1**

**DRAFT**

*Prepared for*

**Clark County School District**

**June 2000**

---

**RESOLUTION  
MANAGEMENT  
CONSULTANTS INC.**

**SPECIALIZING IN PROGRAM MANAGEMENT  
& DISPUTE RESOLUTION**

# Project Labor Agreements

## Table of Contents

I.	Introduction and Approach .....	1
II.	Definitions and Interpretations.....	3
III.	Background/History.....	6
IV.	Legal Precedence on Use of PLAs .....	8
IV.	Nevada Precedence on Use of PLAs .....	11
V.	Advantages and Disadvantages.....	14
VI.	Evaluation Factors and Findings .....	17
VII.	Summary and Course of Action.....	25

*Attachment 1: List of Personnel Interviewed*

*Attachment 2: Sample of Interview Questions*

*Attachment 3: Reference Documents*

*Attachment 4: CCSD/SNWA Contract Awards*

*Attachment 5: CCSD/SNWA Volume of Work Bid*

*Attachment 6: Union vs. Non-Union Bidders – CCSD Projects*

## **Introduction and Approach to the Study**

The Clark County School District (CCSD) Board of School Trustees and Bond Oversight Committee retained Resolution Management Consultants Inc. (RMC) to provide an objective assessment regarding the use of Project Labor Agreements (PLAs) on CCSD projects. Specifically, RMC was tasked to review the history, advantages, disadvantages, lessons learned, and potential impacts should CCSD elect to enter into PLAs. This report is a culmination of research and interviews on this subject. It is important to note that this is a very controversial subject; consequently, opinions tend to be either very pro or very much against the use of PLAs, with little neutral ground. This was certainly evident through the interview process. It is also important to keep in mind that RMC maintained an unbiased opinion during the course of this study and does not advocate the use or non-use of PLAs. Opinions, generated herein, are formed based on the evaluation of data accumulated. With this in mind, we initiated the study by interviewing a cross-section of personnel associated with PLAs, both local and non-local, union and open-shop contracting. From these interviews and an in-depth review of supporting documents, articles and publications, we generated the following subject areas for analysis which forms the body of this report:

- ◆ Definition and interpretations of PLAs
- ◆ Background/history on the use of PLAs
- ◆ Legal precedence on the use of PLAs
- ◆ Nevada precedence on use of PLAs
- ◆ Advantages and disadvantages of using PLAs
- ◆ Evaluation factors and findings

The body of this report addresses these subject areas in detail. The research phase of our analysis focused on dozens of articles, editorials, and records of PLAs. We emphasized information regarding the use of PLAs in School Districts and the legal precedence of using PLAs on public works projects in the State of Nevada. A list of these documents is provided as Attachment 1. We correlated this information with data gathered

from 22 interviews of union and open-shop contractors, labor organization representatives, Nevada Public Works owners, School Districts using PLAs, and selected members of the CCSD staff. A list of personnel interviewed is provided as Attachment 2. A sample of the questions asked each person interviewed is provided as Attachment 3. Questions varied depending on the background and experience level of the individual interviewed.

We analyzed this information using the following factors to evaluate the applicability of PLAs to CCSD construction.

- ◆ **The need for using PLAs on CCSD projects**
- ◆ **Taxpayer advantage of using PLAs on CCSD projects**
- ◆ **Whether CCSD satisfies the legal requirements of using PLAs**

A summation of our findings and discussion of potential options for a course of action by the Board of School Trustees is provided in the final section.

## **Definitions and Interpretations of PLAs**

The use of PLAs is growing in the construction market, particularly on large public and private projects. The legality of using PLAs on public projects has been challenged in several state courts, including Nevada. In most cases, the courts have upheld the legality of PLAs with certain stipulations (see Section III of this report). PLAs have historically been widely used on airport, casino, highway, and utility distribution projects. The use of PLAs on school construction is relatively new; consequently performance data is non-conclusive regarding advantages.

A PLA is an agreement, on a construction project that the owner (or the owner's representative) signs with the local trade unions, which requires all contractors and sub-contractors working on the project to recognize these trade unions as the bargaining representative of all employees working on this project. A PLA is a special kind of collective bargaining agreement found commonly and exclusively in the construction industry. First, it is a *pre-hire* agreement. Advocates stipulate that this allows contractors to bid on jobs with full knowledge of what their wage costs will be, and assures them a ready supply of skilled employees through the referral systems commonly found in these agreements. Second, a PLA establishes the basic terms and conditions not only for the general contractor *but for all the contractors and subcontractors who will be operating on project site*. The agreement becomes an integral part of the project contract documents and, as such, is binding.

The Supreme Court of the State of Nevada provided the following definition of PLAs in its decision regarding Association of Builders and Contractors (ABC) v. Southern Nevada Water Authority (SNWA) dated June 7, 1999:

An agreement between a construction project owner and a labor union that a contractor must sign in order to perform work on the project. The union is designated the collective bargaining representative for all employees on the project and agrees that no labor strikes or disputes will disrupt the project. The contractor must abide by certain union conditions, such as hiring through union hiring halls and complying with union wage rules.

PLAs require all contractors and subcontractors to agree to the provisions of the PLA as a pre-requisite to performing work on the project. Contractors working on the project agree to hire additional employees above CORE employees (the number of open-shop employees allowed in the PLA) from the union hiring halls. Contractors must also pay union negotiated wages and benefits and abide by the terms of the trade labor agreements. All employees (including open-shop) must pay into the union-affiliated benefit funds. The PLA will also guarantee the labor organizations from striking or disrupting work during the life of the project and will provide sanctions and mechanisms for resolving any disputes. Other provisions which may be included in PLAs include pre-determined overtime provisions, use of apprentices, guarantee of specialty trade requirements, safety, working conditions, and other mandates as required by the owner.

With this general understanding of PLAs in mind, several individuals representing contractors, labor organizations, and public works owners and representatives (Attachment 1) were interviewed to gain their opinions regarding the applicability of PLAs to CCSD construction projects. In virtually all cases, the personnel interviewed were either a strong proponent for, or opponent against, the use of PLAs. We found this same sentiment in the large number of articles we researched. The sentiment of both interviewees and articles is well articulated in the following statements:

**Proponents...**

PLAs facilitate sound project planning for large, complex projects by supplying project owners with predictable labor costs; promoting timely and successful project completion by ensuring an adequate supply of skilled craft personnel for the full term of the project, and promoting labor-management harmony while assuring construction is completed cost effectively and expeditiously...

... *O'Donoghue & O'Donoghue*

**Opponents...**

PLAs discriminate against open-shop employees who don't want to bid on work that will require them to sign a union agreement, hire people from the

union hall, change the way they do business, and pay into union benefits programs and trusts ... *Seattle Daily Journal of Commerce*

In May 1998, The Government Accounting Office (GAO) provided a report on PLAs to the United States House of Representatives. The GAO contended that PLAs are one form of "pre-hire" collective bargaining agreements between contractors, or owners on behalf of contractors and labor unions in the construction industry. PLAs are called pre-hire agreements because they can be negotiated before employees vote on union representation or before the contractor hires any workers. The National Labor Relations Act generally prohibits pre-hire agreements, but an exception in the Act allows the agreements only in the construction industry. This allowance is to accommodate special conditions in the construction industry, such as the short-term nature of employment, unpredictable costs, and a lack of steady supply of skilled labor. Accordingly, PLA agreements are used exclusively for construction projects. According to the Monthly Labor Review, October 1998, the construction industry represents 9.2 percent of the national working population (the largest industry, manufacturing, represents 41 percent; retail/wholesale services represent 30.7 percent).

There are two forms of PLAs, national and local. Local agreements entail direct negotiations between contractors/owners and the local unions for specific projects. National agreements are sponsored by the union organizations, which negotiate and sign the agreements prior to their specific need. They are thus ready for use on a construction project after approval by the sponsoring organization. The advantages of local agreements is that they are negotiated locally and are more tailored to specific project and area requirements. National agreements are more structured, but do ensure the financial backing to pay the fines specified in the PLA for project disruption. Recent PLAs have been negotiated locally, but signed at the national level to ensure labor organization commitment at both the local and national levels.

### **Background/History Regarding the Use of PLAs**

The first use of a PLA on federal and other publicly funded projects dates back to 1938 for the Grand Coulee Dam in Washington State, and the Shasta Dam in California in 1940. A Presidential Memorandum, dated June 5, 1997, encouraged federal agencies to use PLAs on their construction contracts exceeding \$5 million. There are currently 13 federal agencies using PLAs; nine federal agencies have elected not to use PLAs. One of the largest public projects to use PLAs is the Boston Harbor Tunnel/Central Artillery and cleanup projects, which has received national attention. Other notable publicly funded projects are Denver International Airport, Tappen Zee Bridge Project, and the Metropolitan Water District in Southern California. The largest public works projects using PLAs in Nevada are for Southern Nevada Water Authority (SNWA).

The private sector has historically been the largest user of PLAs. Two of the largest projects were the construction of Disney World and the Trans-Alaska Pipeline. Locally, PLAs have been exercised on most casino construction projects including Mandalay Bay, Venetian, Paris, Aladdin, MGM Grand, Stratosphere, Monte Carlo, and the Luxor. In addition, Bechtel Nevada has been using PLAs for both in-house and contracted work on the Nevada Test Site for over 30 years (new agreement written in October 1997).

The use of PLAs for school construction has not been widespread, but is gaining momentum. School Districts currently using PLAs are the New York State area of Hudson Valley, Malden, Massachusetts, Fairbanks, Alaska, and the Los Angeles Unified School District. Research of these district projects revealed the following:

- ♦ The Supreme Court of Alaska found PLAs to be legal and appropriate for the \$20 million High School Renovation Project. This was the largest undertaking by the School District which required flexible scheduling to minimize impact on the school schedule.



- ♦ The Supreme Court of Massachusetts found PLAs for the Malden School District to be legal due to their conclusion that PLAs furthered their bidding goals. The \$100 million school upgrade project, which included 5 new schools and 3 demolitions, was of such size, duration, timing and complexity, it was believed that bidding goals could be better met through PLAs.
  
- ♦ In New York, the Hudson Valley School District has awarded four school construction projects using PLAs. Of those, one project has been completed. District authorities related that work on the completed school was on time and within 99% of budget. They also noted that quality improved because they only had to deal with one contractor (we assume four schools were awarded as a single package). It should be noted that the union official interviewed confirmed that they aggressively campaigned to get PLAs in place and were committed to a successful construction effort.
  
- ♦ The Los Angeles Unified School District awarded PLAs for 11 projects which started sequentially in August 1999. LA Unified established a one-year pilot program to test the use of PLAs for school construction. The school official contacted indicated that it was too soon to assess any data regarding the success or failure of PLAs. He also noted that, politically, it would be difficult for LA Unified to “back out” of PLAs after the test period. It is interesting to note that preference to hiring local high school graduates is a provision of the PLA.

### **Legal Precedence on the Use of PLAs**

In 1993, the U.S. Supreme Court ruled that a public entity can select a contractor based upon the contractor's willingness to enter into a pre-hire agreement if the public entity demonstrates proprietary interests to ensure an efficient project. This decision held that federal law would not preempt a state authority from allowing a PLA requirement.

The United States General Accounting Office conducted a study on PLAs in May 1998, covering the extent of their use and related information. They provided a summary of court decisions in the 1990s involving challenges of PLAs on public-sector construction projects, as follows:

<b>States Where Public-Sector PLAs Were Challenged in Court</b>	<b>Total Cases</b>	<b>PLA Upheld</b>	<b>PLA Defeated</b>
Alaska	3	3	0
California	4	3	1
Illinois	1	1	0
Massachusetts	1	1	0
Minnesota	2	1	1
Nevada	1	1	0
New Jersey	3	0	3
New York	8	5	3
Ohio	2	2	0
<b>TOTALS</b>	<b>25</b>	<b>17</b>	<b>8</b>

Two states, Utah and Montana, have prohibited PLAs on public works. Ohio approved a bill that would ban union-only PLAs on public construction. Some examples of court decisions follow:

- ♦ The California Supreme Court unanimously upheld a PLA covering the \$2.4 billion San Francisco Airport expansion, a 10-year project. It requires all contractors to accept the PLAs terms and use union hiring halls for any new hires beyond the contractor's own CORE work force.
- ♦ Massachusetts recently ruled that PLAs on public works projects do not necessarily violate the state's competitive building laws. They set criteria that must be met to make the PLA valid. The are: (1) a project of such size, duration, timing and complexity that the goals of the competitive bidding statute cannot otherwise be achieved, and (2) the record demonstrates that the awarding authority took a careful, reasoned process to conclude that the adoption of the PLA furthered the statutory goals.
- ♦ The New York court analyzed two separate instances in which a PLA was used. First the New York court determined that the PLA used in a project to refurbish the Tappan Zee Bridge was adopted in conformity with competitive bidding laws because: (1) the PLA did not promote favoritism in that it applied whether the successful bidder was union or non-union and discrimination on the basis of union membership was prohibited; and (2) the size and complexity of the project and due to an earlier labor dispute had been documented prior to the PLA use.
- ♦ The second case held that a PLA used on a project to modernize the Roswell Park Cancer Institute was not adopted in conformity with New York's competitive bidding statutes due to the fact that there was no indication of a discussion of cost savings prior to the approval of the PLA and no indication of any problems with labor unrest.

Discussion regarding the Nevada Supreme Court Decision is provided in Section IV of this report. In general, State Courts have upheld the use of PLAs when the public entity successfully demonstrated and documented the need to use PLAs and not preclude open-shop contractors from bidding projects. Documentation of need was focused primarily on the potential adverse impact to the public sector should a labor disruption occur and the value of a guaranteed work force.

### **Nevada Precedence on the Use of PLAs**

As stated previously in this report, PLAs have been exercised for private construction by casinos and Bechtel Nevada for the past several years. The first public entity to attempt to use PLAs was the Southern Nevada Water Authority (SNWA). In 1993, SNWA awarded a contract to Ralph M. Parsons Company (now Parsons Constructors Inc.) for Program Management of the Capital Improvements Plan, a 30 year plan to develop a reliable and demand-responsive municipal water system to supplement the existing system. In 1995, two Colorado River Commission projects were impacted by labor strikes, potentially causing major disruption to the plan. Consequently, SNWA directed Parsons to enter into formal negotiations with Las Vegas building trade unions in January 1996. The PLA was integrated into the 1999 Facilities phase of the Capital Improvements Plan. The PLA included provisions that:

- ◆ Provisions that prohibited labor disruptions or strikes (\$10,000 penalty per day per shift)
- ◆ Names the national unions as the sole and exclusive bargaining representatives of all craft employees
- ◆ Set uniform work hours and overtime rates
- ◆ Provided access to the projects on the Capital Improvements Plan to both union and non-union contractors
- ◆ Permitted non-union contractors to use up to seven of their core employees selected on a one-to-one basis with employees referred by the union
- ◆ Hiring to be supervised out of the union hall; however, individuals are not required to join a union in order to work
- ◆ Thereby periodic evaluation by SNWA in order to determine whether the anticipated benefit of using a PLA have been realized.

An open-shop contractor, American Asphalt & Grading Co., was the low bidder on a project but was disqualified due to its refusal to sign the PLA during the contract term. American Asphalt & Grading Co. and the Southern Nevada Chapter of the Associated Builders and Contractors filed a lawsuit against SNWA: Associated Builders

and Contractors v. Southern Nevada Water Authority 979 P.2d 224, 161 L.R.R.M (BNA) 2537 (Nev. 1999). The basis for the lawsuit is that Nevada is a right-to-work state. A right-to-work state entitles every person the right to work; unions are prohibited from interfering with that right. The Nevada Statute NRS 613.250 states:

No person shall be denied the opportunity to obtain or retain employment because of non-membership in a labor organization, or that the state, or any subdivision thereof or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of non-membership in a labor organization.

This statute allows for a “dual gate” system on construction projects. The “dual gate” allows workers who choose to continue working during a strike, to gain access to the job site through a second, non-picketed gate.

The SNWA supported the use of PLAs based on 28 documented requirements. The most significant of these issues are:

- ♦ The labor disruptions experienced on Colorado River Commission projects
- ♦ The requirement to meet critical construction deadlines to meet water permit requirements – failure to meet requirements could result in non-availability of water rights
- ♦ The need for support of organized labor to provide specialty craft requirements (i.e., continuous seam welders not available in local area)
- ♦ Construction projects are interdependent (i.e., the success of one project impacts the success of subsequent projects)

The Nevada Supreme Court decision provided on June 7, 1999 following the reasoning of other state high courts, upheld that PLAs did not violate Nevada Statutes

regarding states' competitive bidding, right-to-work, and freedom of association laws. The Supreme Court's unanimous decision was based on the following factors:

- ♦ The PLA must allow union and non-union contractors to bid on projects in accordance with NRS 613.250
- ♦ The PLA must allow non-union contractors to use CORE employees
- ♦ PLA must not mandate non-union employees to join union

Additionally, the court cited that the critical nature of the project and the impact of the loss of potential water rights to Las Vegas warranted the use of PLAs. The court decision stipulated that the PLA decision for public projects must be well-documented, outlining the reasons for using PLAs based on:

- ♦ A history of labor disruptions
- ♦ Project delays would cause detrimental impact to public
- ♦ Savings in public funds

The only other Las Vegas public entity currently using PLAs is the Las Vegas Convention Authority. The Convention Authority entered into a PLA for construction of the addition to the Las Vegas Convention Center, which recently broke ground. The Convention Authority customized the PLA used by SNWA for use on the Convention Center. The primary need identified by the Convention Authority for using PLAs is that construction interruptions would impact revenue generation of the Convention Center, which is already booked in advance. Therefore, meeting the Convention Center opening date was critical. Additionally, the Convention Authority had a history of labor disputes on prior projects. The Convention Authority negotiated and is administering the PLA in-house.

### **Advantages and Disadvantages of Using PLAs**

As stated in the introduction to this report, the subject of PLAs is a very controversial subject; consequently, opinions tend to be very pro or very much against the use of PLAs. Depending on perspective, advantages can be viewed as disadvantages and vice versa based on arguments presented. This section of the report will attempt to capture advantages/disadvantage based on the consensus of personnel interviewed and the numerous reports and articles researched.

Advocates for PLAs maintain that:

- ♦ PLAs standardize conditions and wages are predetermined for all crafts on the project, allowing contractors to bid the work with labor cost as a constant. PLAs eliminate any uncertainty with respect to supply and cost for labor for the life of the project. Note: In Nevada, all public construction projects are under state wage rates. Prevailing wages are typically established by union wages; consequently, union and non-union contractors should be paying their employees the same rates. However, advocates argue that violations of contractors not paying prevailing wages would be eliminated through PLAs.
- ♦ Elimination of all work stoppages for the duration of the project, through a project-long no-strike, no-lockout, commitment with binding procedures to resolve all disputes. This assures productive labor relations.
- ♦ Evaluation, and re-negotiation if necessary, of local conditions to meet the special needs of a project (i.e. shift work, overtime, use of apprentices, etc.).
- ♦ Cost savings for on-time and quality construction are realized based on using a skilled work force. Consequently, less repairs and punchlists are generated. Note: Approximately 75% of construction workers are non-union in Nevada according to the ABC report, *Myths and Facts about PLAS*.
- ♦ Levels the playing field for legitimate contractors (both union and non-union) to bid projects resulting in better contract performance to owner.



- ◆ Level benefits (health and pensions) to all trade employees. Union and some open-shop contractors provide benefit programs to their employees. Some open-shop contractors do not pay benefits, stating that “they pay their employees in cash”. PLAs require all trade employees to enroll in the union benefits program.
- ◆ Uniformly administered safety and health programs reduce lost time accidents.
- ◆ A higher trained work force. Formal apprenticeship and journeyman upgrade training ensures a better qualified work force.
- ◆ PLA grievance and arbitration procedures reduce the potential for lawsuits.

Non-advocates of PLAs identify the following common disadvantages to using PLAs:

- ◆ PLAs limit competition to those contractors willing to agree to: (1) recognize the unions as the representatives for all employees on the job; (2) use the union hiring halls to obtain workers; (3) pay union wages and benefits; and (4) comply with the union’s restrictive work rules, job classifications and arbitration procedures.
- ◆ Reduction in competition for CCSD projects. Several open-shop contractors interviewed indicated that they would not bid CCSD projects if under PLAs. In addition to reasons cited above, open-shop contractors indicated they preferred using a proven work force familiar with the company’s policies and equipment.
- ◆ Less competition would drive up the cost of school construction projects.
- ◆ May impact minority contractors from bidding PLA projects.
- ◆ Nevada prevailing wage rates already level the bidder’s market.
- ◆ Widespread application of PLAs will drive up construction costs on a national scale due to controls imposed by unions.
- ◆ Only 25% of Nevada’s construction workers chose to belong to the union, but would be forced to comply with union wages and benefits. Benefits for non-union employees are terminated at the conclusion of the PLA project. Note: Provisions may be employed in PLA to extend benefits to non-union employees.
- ◆ Non-union and union employees will not work side-by-side. Contractors must hire employees for short-term tasks from the union hall, requiring a minimum of 4 hours pay for a 2 hour task. This creates inefficiencies on the job.

- ♦ Union employees are too restrictive with regard to the tasks they will perform, creating a lack of flexibility on the job. Employees from the union hall are provided in order of seniority. Contractors do not know who they are getting until the employee arrives on the job site. Open-shop contractors contend that the uncertainty of the skill and efficiency of union hall workers affects their ability to bid work accurately.

## **Evaluation Factors and Findings**

At the onset of this report, we indicated that our analysis would focus on three factors:

- ♦ **Need**
- ♦ **Taxpayer Advantage**
- ♦ **Satisfy Legal Requirements**

This section of the report will evaluate these factors which should be considered by the Board of School Trustees in its decision process to use or not use PLAs.

### **Need:**

The rationale for using PLAs, both nationally and within the State of Nevada, has been discussed throughout the text of this report. Through our research, we concluded that projects must be of sufficient size and complexity (multiple and specialty trades) to warrant consideration of using PLAs. Modernization and rehab projects are typically of small size (less than \$5 million) and single trade; therefore, in our opinion, they do not warrant consideration to use PLAs.

The use of PLAs for new construction should be considered if the following requirements are met:

1. A history of labor disputes in the area of the work;
2. Whether local collective bargaining agreements with needed crafts are expected to expire during the planned period of the project (s);
3. The general availability of qualified craft workers in the area;
4. The effect of delays in contract performance; and
5. The probable effect of a PLA on competition.

We found the most equitable basis for evaluating need was to compare past performance of CCSD new construction projects with SNWA. Although it can be argued

that SNWA is primarily complex, horizontal construction (piping, pumping facilities, etc.) and CCSD is primarily vertical construction (bricks and mortar), we believe it is a fair basis for comparison due to locale and similarity of bidding climate.

The following information was received from SNWA, which served as the data point for comparing CCSD project performance:

**SNWA Data**

	<u>Pre-PLA</u>	<u>Under PLA</u>
Volume of Work Bid	\$115 M	\$188 M
Number of Contracts Awarded	15	16
Number of Bids Received	4.4	5.8
Dollars Below Engineer's Estimate	14%	23%
Number of Contractors/Subs	100	100 +
Percent of Contractors Union	78	62
Percent of Contractors Non-Union	22	38
Number of Strikes	1	0

SNWA contends that more contractors are bidding projects under PLAs than before PLAs were established, averaging 5.8 bidders per project. We compared this data (see Attachment 4) with new school projects awarded by CCSD over the past 18 months. As the attachment demonstrates, CCSD is averaging 5.75 bidders per project. We, therefore, conclude that the bidding climate is essentially the same for both public entities and that the growth in number of bidders is primarily due to the reduction in competing construction (primarily casinos) experienced over the same time period in Las Vegas.

Additionally, SNWA believes the volume of work, bid and awarded, has increased under PLAs due to the lack of labor disruptions and the positive relationships maintained with labor. We compared the volume of SNWA bids with CCSD new school construction for the same period of time (see Attachment 5 of this report). The volume of work bid by CCSD is slightly greater than the volume by SNWA; therefore, we concluded that the

favorable volume of work for both agencies is again attributed to the favorable bidding climate. We can also assume that favorable labor-relations exist with CCSD.

SNWA contends that the percentage of non-union contractors has increased under PLAs, growing from 22 to 38 percent. Attachment 6 demonstrates the number of non-union vs. union contractors for the last eight CCSD new school bids. The average for non-union contractors is 54 percent. It is important to note that in comparing these statistics that CCSD should expect a higher number of non-union contractors than SNWA due to the nature of the work which is less complex, accordingly requiring less specialty skills which are generally more available from the unions. It is also interesting to note that union contractors were the successful bidders on three of the schools evaluated.

We did not have data available to compare engineer estimates to actual bids received; therefore, a comparison was not made. We did, however, analyze the bid ranges for CCSD projects to evaluate whether there was a close grouping of bids. This serves as an indicator of the health of the bidding climate and whether the taxpayer is receiving value for dollar expenditures. A review of past awards (one high school, one middle school, and five elementary schools) revealed the following:

1. Cimarron Rd./Robindale Rd. High School, awarded October 19, 1999

Five bids were received:

Low Bid: \$33,967,000

Next Low Bid: \$34,646,000

Next Low Bid: \$34,799,000

Next Low Bid: \$34,886,700

High Bid: \$35,185,000

Percentage difference between two lowest bids: 2.0%

Percentage Difference between Lowest Bid and Highest Bid: 3.5%

2. Jack Lund Scholfield Middle School, awarded March 14, 2000

Six bids were received:

Low Bid: \$17,447,700

Next Low Bid: \$17,556,551

Next Low Bid: \$17,597,000

Next Low Bid: \$17,607,000

Next Low Bid: \$17,975,000  
High Bid: \$18,932,000  
Percentage difference between two lowest bids: .62%  
Percentage Difference between Lowest Bid and Highest Bid: 8.5%

3. D'voore & Hal Ober Elementary School awarded August 16, 1999

Six bids were received:  
Low Bid: \$14,150,700  
Next Low Bid: \$14,350,000  
Next Low Bid: \$14,375,300  
Next Low Bid: \$14,462,000  
Next Low Bid: \$14,475,000  
High Bid: \$14,549,000  
Percentage difference between two lowest bids: 1.4%  
Percentage Difference between Lowest Bid and Highest Bid: 2.8%

4. Bass Elementary School awarded February 15, 2000

Five bids were received:  
Low Bid: \$8,165,000  
Next Low Bid: \$8,364,658  
Next Low Bid: \$8,533,000  
Next Low Bid: \$8,897,000  
High Bid: \$9,068,100  
Percentage difference between two lowest bids: 2.4%  
Percentage Difference between Lowest Bid and Highest Bid: 11.1%

5. Tarr Elementary School awarded February 15, 2000

Six bids were received:  
Low Bid: \$8,400,000  
Next Low Bid: \$8,461,682  
Next Low Bid: \$8,509,000  
Next Low Bid: \$8,626,100  
Next Low Bid: \$9,168,100  
High Bid: \$9,737,000  
Percentage difference between two lowest bids: .73%  
Percentage Difference between Lowest Bid and Highest Bid: 15.9%

6. Wolff Elementary School awarded February 15, 2000

Seven bids were received:  
Low Bid: \$11,290,000  
Next Low Bid: \$11,315,855  
Next Low Bid: \$11,568,000

Next Low Bid: \$11,620,000  
Next Low Bid: \$11,927,000  
Next Low Bid: \$12,160,100  
High Bid: \$12,524,000  
Percentage difference between two lowest bids: .23%  
Percentage difference between lowest bid and highest bid: 8.5%

7. Winternheimer-Staton Elementary School awarded February 15, 2000

Five bids were received:  
Low Bid: \$8,160,000  
Next Low Bid: \$8,406,715  
Next Low Bid: \$8,520,000  
Next Low Bid: \$8,974,000  
High Bid: \$8,985,700  
Percentage difference between two lowest bids: 3%  
Percentage Difference between Lowest Bid and Highest Bid: 8.6%

Based on this data, we conclude that CCSD is experiencing a favorable bidding climate and the taxpayer is receiving value for dollars expended.

“Disruptions to work” was the final area evaluated. SNWA authority experienced strikes prior to PLAs; since PLAs have been utilized, they have experienced no major labor disruptions. Based on information gained from our interviews, we could not find evidence that CCSD projects have ever been delayed due to labor disruptions. School projects have been late due to construction issues, primarily off-site approvals but not labor issues. Additionally, SNWA projects are interdependent; therefore, a labor disruption may impact future construction projects. CCSD projects are independent – each project stands alone; consequently, project delays will affect opening of an individual school, but not multiple schools.

Based on our evaluation of Need, we cannot recommend that a need currently exists for CCSD to enter into PLAs for new school construction.

**Taxpayer Advantage:**

In the Government Accounting Office's (GAO) May 1998 report to Congress on Project Labor Agreements, a study was conducted to attempt to determine the financial advantages of using a PLA. The study was inconclusive due to the varying reports from construction agencies. Three analyses were conducted on past projects using PLAs. The first analysis was done in March 1995 by the Associated Builders and Contractors (ABC), East Syracuse, New York, on a construction project for the New York State Dormitory Authority at the Roswell Park Cancer Institute. This unusual comparison was possible because several contracts were awarded before the PLA became effective. The analysis showed that bids were 26 percent higher after the PLA requirement began than before the requirement existed.

In the second case, the New York Thruway Authority hired a consultant to negotiate a PLA for its 4-year project to refurbish the Tappan Zee Bridge. The consultant found that without a PLA, 19 local collective bargaining agreements with varying provisions would apply to the project and estimated that labor costs under the uniform provisions of the PLA would be over \$6 million less than labor costs under the 19 separate agreements. The savings represented about 13.5 percent of the \$44.7 million estimated total labor costs and about 4.6 percent of the project's total estimated cost of \$130 million. In addition, each of the 19 local agreements would have expired and required renegotiation one or two times during the life of the project. Each expiration represented a potential strike situation.

The third analysis involved the use of a PLA for constructing the National Ignition Facility at DOE's Lawrence Livermore National Laboratory, Livermore, California. A Laboratory official provided documents showing that, in January 1997, the project contractor estimated the PLA would save \$2.6 to \$4.4 million on the \$1.2 billion construction project (approximately 0.4 percent) and concluded that these savings alone justified the PLA. Most of the savings resulted from estimated wage differences from



using the PLA and involved such items as shift differential, overtime pay, use of apprentices, travel and subsistence pay, and holiday pay.

In summary, the first analysis showed bids were 26% higher after PLA agreements; the second showed savings of 13.5 % and the third showed savings of 0.4 %. The GSA report concluded that the cost advantage of using PLAs was inconclusive based on the variance in the studies. Further, the report contended that it would be difficult to compare contractor performance with and without PLAs because it is unlikely that two projects could be found that are “sufficiently similar in cost, size, scope and timing”. Additionally, contractor means and methods, and the potential bias of the studies are factors which must be considered in evaluating cost advantage.

The following factors should also be considered in assessing taxpayer advantage:

1. There is an up-front cost to administer PLAs. Regardless of the scope of PLAs, CCSD must prepare a draft of the proposal and negotiate with the bargaining units. This should be accomplished by a professional labor-relations person, either by a full time in-house employee or by contract. From the taxpayer perspective, the cost to administer the PLA should be out-weighed by projected benefits.
2. CCSD has typically not been involved in labor relations, referring those issues to the State Labor Commission. PLAs will definitely place CCSD in the labor-relations business. Many would contend that CCSD, as stewards of public funds, must be involved in labor relations and have the duty to ensure issues, such as employee benefits and wage rate violations, are properly administered. This is particularly fueled by the backlog of issues facing the Labor Commission due to limited staff capabilities. Again, there is a CCSD cost involved to administer labor relations issues.

Through our discussions and research of school districts currently using PLAs, we found no conclusive data regarding cost saving to school projects. In most cases, the data did not exist or there was no equitable comparison data for non-PLA projects.

However, as stated earlier in this report, the use of PLAs by school districts is relatively new. Consequently, CCSD should continue to evaluate data from other school districts as PLA projects are completed.

The SNWA reports savings to construction projects (see Need); however, we found contributing evidence that savings could be equally attributed to a favorable bidding climate. In reality, the cost advantage or disadvantage of a PLA project cannot be measured due to the fact that there is no comparison with an exact duplicate non-PLA project. Therefore, cost advantages of PLA projects are a source of constant debate. There is no conclusive data that we could find that consistently demonstrated a cost savings for using PLAs

#### **Legal Requirements:**

The requirements of the Nevada Supreme Court Decision, set out in the decision involving SNWA, must be met in order for CCSD to enter into PLAs. Essentially, CCSD must document the need to enter into PLA agreements based on (1) a history of labor disruptions, (2) impact of disruptions on the overall school construction program, and (3) advantage to the taxpayer. There is sufficient national precedence, as discussed within this report, that would allow CCSD to enter into PLAs for large projects. However, based on our analysis, it is uncertain whether CCSD school construction projects would meet the intent of the Nevada Supreme Court Decision. A legal opinion would be required to verify this position.

### **Summary and Course of Action**

Based on our evaluation of the factors indicated in this report, **there appears to be no compelling reason for CCSD to enter into PLAs for school construction at this time.** This is based on the fact that there is no conclusive data to support the immediate requirement for PLAs. Our research determined for every advantage, there is an equitable disadvantage, depending on perspective.

It is important for school officials to recognize that this is an extremely political issue that is gaining national, as well as state, momentum. Consequently, it is not an issue that can be ignored and pushed aside; it is an issue that requires frequent follow-up and updating to ensure that the Clark County taxpayer is receiving the best school construction service available. In this regard, we recommend follow-up analysis of other School District performance, particularly Los Angeles Unified School District, which should be a good source of evaluating PLA advantages for school construction.

Another option is to establish a test program by selecting essentially equivalent schools (we recommend high schools due to the scope and complexity of construction) and awarding one using a PLA and another without a PLA. This would be beneficial in developing a basis for comparison; however, as stated previously in this report, no projects are identical; consequently, there will be flaws in the comparison process. However, the establishment of predetermined measurement parameters and an active measurement of performance against those parameters, will be of value in evaluating advantages to CCSD and the taxpayer. An important point to keep in mind is that the costs for negotiating and administering the PLA must be factored in the comparative analysis. Other factors, such as safety programs, quality of workmanship, construction cost and growth, and owner-contractor relations should also be evaluated.

A second option for consideration, which involves a stronger commitment by CCSD, is to enter into PLAs for large projects. After discussions with CCSD staff, we recommend a project value exceeding \$25 million. This essentially limits PLA projects to

new high schools and multiple school awards. The rationale for this option is that the scope and complexity of these projects are more likely to meet the criteria, evaluated in this proposal (need, taxpayer advantage, and legal requirements). Labor disruptions would undoubtedly have a more significant public impact on this level of project. Again, the need must be well documented (Nevada Supreme Court Decision) and there is an administrative cost for developing, negotiating, and administering PLAs.

Issues which should be considered in setting the course of action for the Clark County School District are summarized as follows:

- ◆ Projecting future health of bidding climate due to competing construction activities in the Las Vegas area
- ◆ CCSD's responsibility to the taxpayer regarding contract employee benefits, working conditions, and prevailing wage violations
- ◆ Potential increased political pressure from public officials
- ◆ Projected changes to the construction projects, involving scope and complexity, which could impact the evaluation factors

It is important again to note that this firm made every attempt to remain unbiased regarding our evaluation of this complex and volatile issue. Our evaluation and recommendations are primarily based on analysis of factors which have historically and legally supported the use of Project Labor Agreements. There is no right or wrong approach to this issue; therefore, the Board of School Trustees must set a course of action that is believed to be in the best interest of the Clark County taxpayer and satisfy the future needs of the school construction program.

## PLA STUDY INTERVIEWS

	Name of Person Interviewed	Title	Company Represented
<b>Contracting</b>	Tom Fallon	President	Pace Contracting
	Gil Grove	President	Grove Construction
	Greg Paulk	President	New-Com, Inc.
	Frank Martin	President	Martin & Harris
	Steven A. Shoup	Chief Engineer	Granite Construction Co.
<b>Labor Organizations</b>	Robert Nard	Business Representative	Southern Nevada Building & Construction Trades Council, AFL-CIO
	Don Rose	Manager	Foundation for Fair Contracting
	Edward Sachetti, Jr.	Western States Construction Market Representative	Laborers-Employers Cooperation and Education Trust
	James E. Sala	Director of Organizing	Southern California-Nevada Regional Council of Carpenters
	Jack Schaefer	President	Nevada Contractors Association
	Dallas Coonrod	Executive Director	Associated Builders & Contractor of Southern Nevada
<b>Public Works Owners/Rep.s</b>	David A. Donnely	Deputy General Manager Engineering/Operations	Southern Nevada Water Authority
	Mark L. Johnson	Manager of Labor Relations	Parsons Constructors Inc.
	Doug Selby	Assistant City Manager	City of Las Vegas
	Dennis R. Haney, Esq.	Partner	Haney, Woloson & Mullins
	Thomas A. Smith	Vice President / Facilities	Las Vegas Convention/Visitors Authority
	Samual B. Lyon	Labor Relations Manager	Bechtel Nevada
<b>School Districts</b>	Fred Smith	Director of Construction	Clark County School District
	M.J. Stevenson	Deputy Director of Maintenance & Operations	Los Angeles Unified School District
	John Wolner	Pres., Center Labor Council	Hudson Valley School District
	Chuck McQuerry	Coordinator, New Construction	Clark County School District
	Mikell Dale	Coordinator, Rehab and Modernization	Clark County School District

**INTERVIEW QUESTIONS**  
**Project Labor Agreements**

1. What is a Project Labor Agreement (PLA), in your terms?

2. What effect will PLAs have on:

a. Union vs. non-union labor

b. Contractor dispute resolution

c. Construction bid cost

d. Change order costs

e. Quality of construction

f. On-time completion of construction

g. Contract complexity

h. Trained vs. untrained trades (unskilled/untrained trades on CCSD jobs)

i. Safety practices

3. Will PLAs have an effect on using local versus non-local labor?


4. Will PLAs effect the bidder's market?


5. What effect will PLAs have on non-union labor (benefit packages on non-union labor)?


6. What are the legal ramifications, from your perspective, of using PLAs in the state of Nevada?




7. What effect will PLAs have on small businesses?


8. Do you believe CCSD should enter into PLAs? Why?


9. Are you pro-union labor? ☐ Yes ☐ No

10. Name: \_\_\_\_\_

11. Company/Organization Representing: \_\_\_\_\_

## **PLA STUDY - REFERENCES**

- Survey of Cases Regarding Project Labor Agreements*** O'Donoghue & O'Donoghue, Washington, DC; October 1999
- Myths & Facts About Project Labor Agreements (PLA's)*** Southern Nevada Building & Construction Trades Council, Las Vegas, NV
- The Benefits to Public Agencies Utilizing Project Agreements for Public Works Projects*** Los Angeles/Orange Counties Building & Construction Trades Council, Los Angeles, CA, June 1999
- Project Labor Agreements: Positions of Rep. Reitz, Sen. Watson, Rep. Schakowsky (Support)*** Illinois AFL-CIO, September 1999
- San Francisco Superior Court Upholds Airport's Project Labor Agreement*** San Francisco International Airport, Airport News Press Release, September 13, 1996
- California Supreme Court OK's Project Labor Agreement*** ENR, August 30, 1999
- Pennsylvania Court Upholds PLA for County Convention Center Project*** Legal News, Bureau of National Affairs, Inc., Washington, D.C., August 1999, Vol. 45, No. 2242
- Project Labor Agreement for School Construction*** Southern California – Nevada Regional Council of Carpenters, November 15, 1999
- Project Stabilization Agreement for Los Angeles Unified School District Proposition BB Bond (PSA Exec. Summary)*** LAUSD, September 1999
- Project Labor Agreements: The Extent of Their Use and Related Information*** United States General Accounting Office, Report to Congressional Requesters, May 1998
- Summary of Current PLAs on Federal Agency Projects*** U.S. GAO, June 1998
- Report to the Colorado River Commission on Colorado River Commission Power Delivery Project Labor Agreement*** Parson's Constructors, Inc., Pasadena, CA, March 24, 1997
- Public Sector Project Labor Agreements: An Objective Review*** 10 page article forwarded from Foundation for Fair Contracting
- Assoc. Builders and Contractors, Inc., Golden Gate Chapter, et al., Plaintiffs and Appellants, v. San Francisco Airports Commission, Defendant and Respondent; San Mateo County Building and Construction Trades Council, AFL-CIO, S066747*** Supreme Court of California, August 16, 1999

***Government-Mandated Project Labor Agreements in Construction: A force to obtain union monopoly on Government-financed projects*** H.R. Northrup, Prof. Emeritus of Management, The Wharton School, University of Pennsylvania, January 11, 2000

***Project Labor Agreements: The State of the Law*** O'Donoghue & O'Donoghue, Washington, DC, November 1999

***Why Project Labor Agreements Are Bad Public Policy: Myths & Facts About PLA's*** Associated Builders & Contractors of Southern Nevada 1999

***Project Stabilization Agreement for Los Angeles Unified School District Proposition BB bond*** LAUSD, September 1999

***Report: How do labor and management view collective bargaining?*** Monthly Labor Review Online, October 1998, Vol. 121, No. 10

***Union Discipline and Employee Rights*** Rossie Alston, Jr., National Right to Work Legal Defense Foundation, Inc.

***Big Labor's Massive Political Machine: Ever wonder how much union dues cash Big Labor dumps into political campaigns?*** National Institute for Labor Relations Research, September 9, 1997

***Re: Project Labor Agreements*** [www.ci.kennnewick.wa.us/att/ooptions/kellypla.htm](http://www.ci.kennnewick.wa.us/att/ooptions/kellypla.htm), opinions of William L. Cameron, City Attorney

***Project Labor Agreements Will Cost Taxpayers Billions*** Employment Policy Foundation, April 2, 1998

***Union Project and Labor Agreements are They Permissible on Public Construction Projects in Connecticut?*** Steven B. Kaplan, Esq., Michelson, Kane, Royster & Bargar, P.C., Construction Corner.Com

***Davis-Bacon and Project Labor Agreements: Inflating Costs of Federal Construction (Exec. Summary)*** Employment Policy Foundation

***Project Labor Agreements: Restricting the free enterprise system and your ability to conduct business*** Steven J. Schulz, San Antonio Construction News, February 2000

***PLA pushes up Big Dig costs with no corresponding benefit*** Gregory F. Beeman, Exec. Dir. Of Associated Builders and Contractors, Mass. Chapter, Boston Herald, February 19, 2000

***Trends in the differences between union and nonunion workers in pay using the Employment Cost Index*** Albert Schwenk, Compensation and Working Conditions Online, September 1996, Vol. 1, No. 2

***Union affiliation of employed wage and salary workers by occupation and industry***  
Labor Force Statistics from the Current Population Survey, BLS  
<http://stats.bls.gov/news.release/union2.t03.htm>

***Recent Court Decisions Further Use of Project Labor Agreements on Public Projects***  
News from the Hill, Winter/Spring 2000 Hill International

***Sound Transit gets in the middle of hot debate on PLAs*** Ragan Willis, Staff Reporter,  
Seattle Daily Journal of Commerce, March 31, 1999

***Major legislative fight: Union-only deals in construction*** ABC of Wisconsin,  
Legislative Update

***Labor pact will make RTA costs jump***, Kathleen b. Garrity, The Seattle Times, May 20,  
1999

***California Court of Appeals hold that Water District could include "project labor agreement" in solicitation because it was not subject to State competitive bidding statute.*** Construction Law Review, August 1995

***Sponsor Statement for HB 209 Pre-Hire Project Labor Agreements***  
[www.akrepublicans.org/spsthb209042897.htm](http://www.akrepublicans.org/spsthb209042897.htm)

***Senate Bill No. 245: The Transportation Department may enter into project labor agreements*** [www.house.state.mo.us/bills99/bills99/SB245.htm](http://www.house.state.mo.us/bills99/bills99/SB245.htm)

***PLAs Promote Profit*** Engineering News-Record (ENR), October 25, 1999

***A Labor Day for All*** ENR, September 6, 1999

***Thumbs-Up for Nevada Project Pact*** ENR, June 21, 1999

***Project Labor Agreements OK'd in Massachusetts*** ENR, September 6, 1999

***A Brief Analysis of President Clinton's Policy Directing the Use of Project Labor Agreements*** Sheila C. Stark, Piper & Marbury, LLP, February 1, 1998 (ABC Builders & Contractors)

***Newburgh project earns the union label: Teachers local insists on a Project Labor Agreement for high school construction*** New York Teacher, April 21, 1999

***LA Unified School PLA*** [www.agc-ca.org/open\\_shop/project\\_labor\\_agreements/LA\\_Unified\\_School\\_PLA.html](http://www.agc-ca.org/open_shop/project_labor_agreements/LA_Unified_School_PLA.html)

***South Florida Presents Case Against PLAs*** AGC of America, January 30, 1998

***Cal. Supreme Court to Decide if Projects Must be Union*** Mark R. Thierman, The Virtual Law Firm, February 18, 1998

***San Diego Chapter Files Lawsuit Against Two PLAs*** AGC of America “Human Resource and Labor News”, March 23, 1998

***PLA Found Constitutional in Alaska*** AGC National Human Resource and Labor News, April 17, 1998

***Public Agency Negotiated Project Labor Agreements: Showdown in the Supreme Court*** Douglas R. Hart, AGC-CA, Legal Briefs, Issue 98-6

***The Port of Oakland’s Board of Commissioners – Precedent Setting PLA***  
[www.transportnews.com/Articles/934468994](http://www.transportnews.com/Articles/934468994)

***AGC California: Project Labor Agreement White Paper***  
<http://agc-ca.org/tricounty/Newsletter/whitepaper.htm>

***Executive Order No. 5-95: Public Works Project Labor Agreements***  
[www.phila.gov/phils/Docs/Inventor/graphics/excorders/95-05.htm](http://www.phila.gov/phils/Docs/Inventor/graphics/excorders/95-05.htm)

***WSR 97-07-025: Executive Order, Office of the Governor (EO 96-08) Project Labor Agreements*** <http://slc.leg.wa.gov/wsr/1997/01/97-01-025.htm>

***A Detailed Policy and Legal Analysis of Public Owner Project Labor Agreements***  
Charles E. Murphy, Robert P. Casey, Murphy, Smith & Polk, Chicago, IL (AGC of America) November, 1994

***Project Labor Agreements: What, When, Why, and Legality*** Hayes C. Stover, Delia A. Bouwers, Construction Law & Business/Winter 2000

<http://epf.org/b970917.htm> ***Issue Backgrounder, Clinton’s Project Labor Agreement Memorandum Inflates the Costs of Federal Construction***, Sep 17, 1997

<http://www.pipcrmar.com/article19.html> ***Piper & Marbury LLP, A Brief Analysis of President Clinton’s Policy Directing the Use of Project Labor Agreements***, by Sheila C. Stark, Feb 12, 1998

<http://agc-ca.org/tricounty/Newsletter/whitepaper.htm> ***AGC California, Project Labor Agreement White Paper***, Jul 10, 1998

<http://www.agc-ca.org/99/services/IndustrialRelations/IR-North/PLA/PLA-toc.htm> ***Government Mandated Labor Agreements (formerly referred to as “Project Labor Agreements”), The Hidden Costs of Government Mandated Labor Agreements, An AGC Position Paper***

<http://www.transportnews.com/Articles/934468994> Article on Port of Oakland's Board Commissioners vote to adopt a Project Labor Agreement

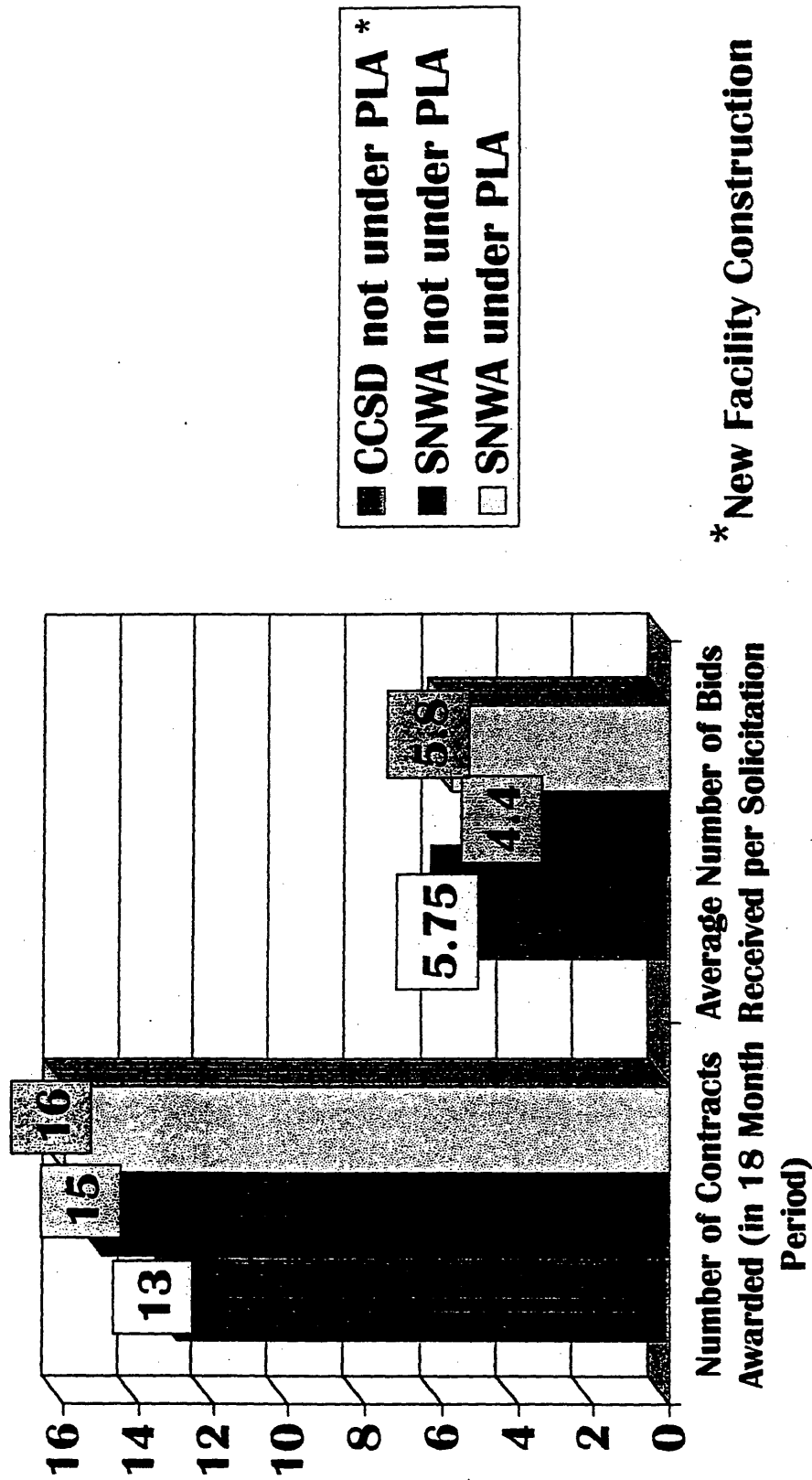
<http://www.nysut.org/dept/nvt/98-99/990421projectlabor.html> *New York Teacher, Newburgh project earns the union label, Teachers local insists on a Project Labor Agreement for high school construction.*

[http://www.abceasttn.org/newsletters/lettervol2\\_99/labormgmt.html](http://www.abceasttn.org/newsletters/lettervol2_99/labormgmt.html) Short article by ABC Builders and Contractors

<http://www.phila.gov/phils/Docs/Inventor/graphics/exccorders/95-05.htm> *Philadelphia Information Locator Services, Executive Order No. 5-95, Public Works Project Labor Agreements*

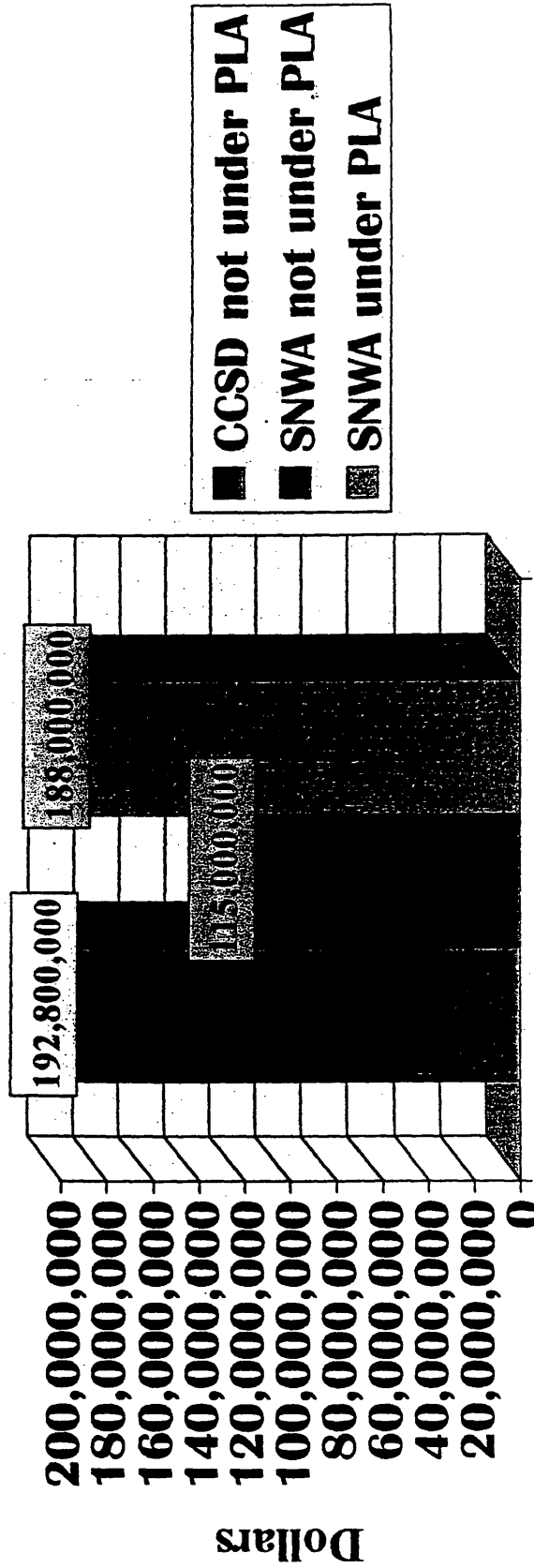
# CCSD/SNWA Contract Awards

## Total Contracts Awarded and Bids Received



# CCSD/SNWA

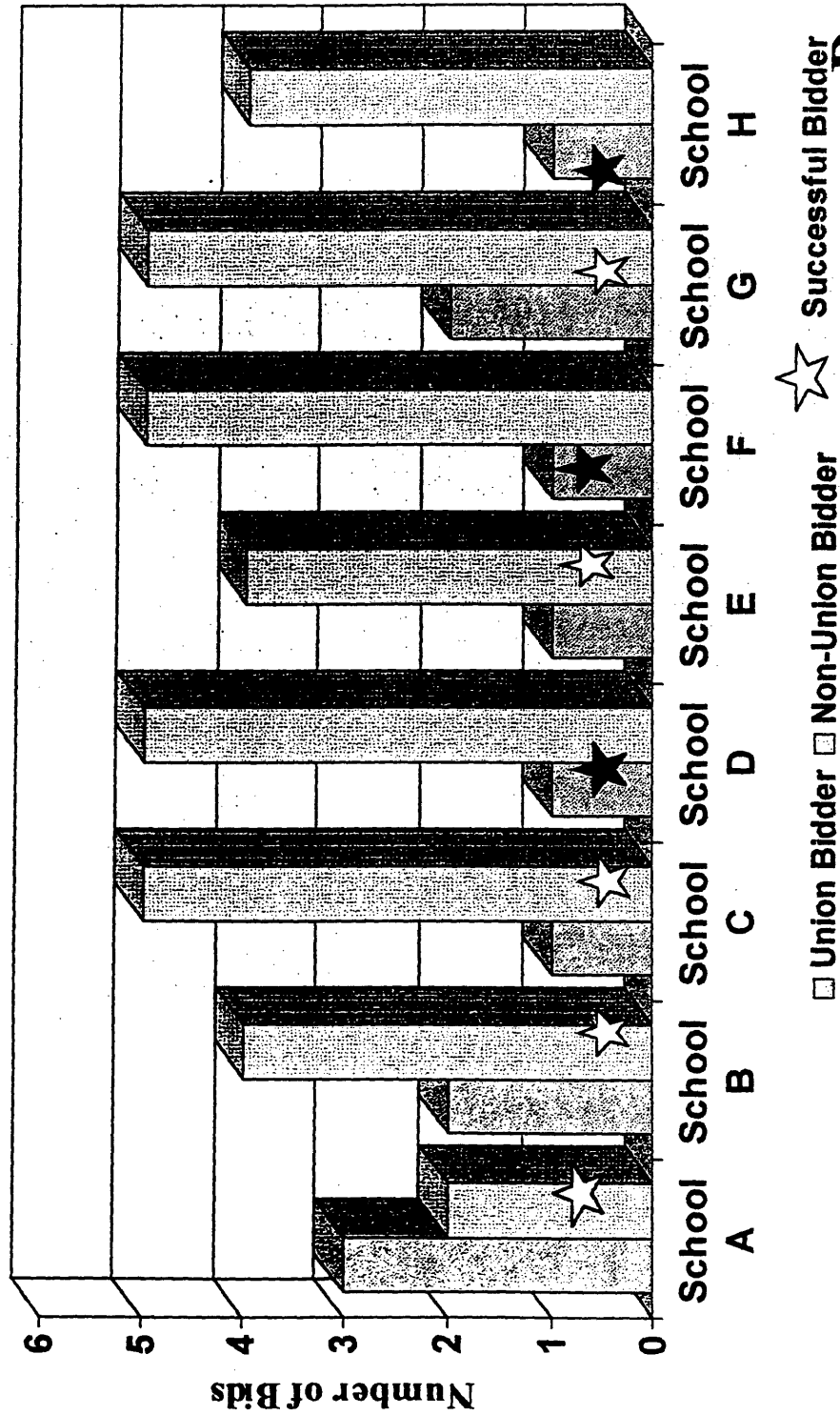
## Volume of Work Bid





# Union vs. Non-Union Bidders

## CCSD Projects



**RESOLUTION  
MANAGEMENT  
CONSULTANTS INC.**



