[Insert Company Letter Head]

May X, 2016

Ms. Denise DeTitta

U.S. Army Corps of Engineers, Philadelphia District

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In Reply to: Solicitation Number W912BU16B0014 Soliciting Comments on the Potential Use of Project Labor Agreements (PLAs) for the Beachfill Initial Construction project, Manasquan Inlet to Barnegat Inlet, Ocean County, New Jersey.

Dear Ms. Sheaffer:

Thank you for soliciting comments from the contracting community on the U.S. Army Corps of Engineers (USACE) Philadelphia District’s potential use of a project labor agreement (PLA) on the Beachfill Initial Construction Project in Barnegat Inlet in Ocean County, New Jersey.

[Note: Insert information about your company and your interest in responding to the PLA survey here or in appropriate places throughout the letter.

Suggested information: What type of contractor are you? How many employees do you have? Do you build federal projects? Where do you build federal projects? Have you ever built a project for the USACE? Was it without a PLA? Share a bad experience on a PLA project in New Jersey or in the surrounding area. Do you employ veterans or have a connection to the USACE? etc.]

[Insert Company Name] is opposed to government-mandated PLAs because these agreements typically restrict competition, increase costs, cause delays, discriminate against nonunion employees, and place nonunion general contractors and subcontractors at a significant competitive disadvantage. Typical government-mandated PLAs are nothing more than anti-competitive schemes that end open and fair bidding on taxpayer-funded projects.

Following are answers to the questions posed by the USACE in the sources sought notice W912BU-13-PLA-BEACHREHAB

***a).*** ***Should a PLA be executed on the above described Beachfill Initial Construction project from Manasquan Inlet to Barnegat Inlet, Ocean County, New Jersey? What benefits do you believe a PLA could achieve? What other factors should the Corps consider before deciding to include PLA provisions for the Beachfill project?***

[Insert Company Name] urges the USACE Philadelphia District to exercise discretion and refrain from imposing PLA mandates on any federal projects.

The USACE should allow contractors—the only parties with experience in labor-management relations in the construction industry, and the only ones that would be subject to the terms and conditions of a PLA—to decide whether a PLA is appropriate for a particular project. The USACE should expect contractors to voluntarily execute PLAs if they would lower their costs, make them more competitive, and help them achieve economy and efficiency in federal procurement.

It is difficult to make a convincing case that government-mandated PLAs are needed on any USACE project for a variety of compelling reasons. However, here’s one key reason why a PLA mandate is not needed: The Bureau of Labor Statistics’ (BLS) most recent report indicates 86.8 percent of the U.S. private construction industry workforce does not belong to a union.[[1]](#footnote-1) In New Jersey, 81.8 percent of the private construction workforce does not belong to a union.[[2]](#footnote-2)

In today’s construction marketplace, as has been the case for decades, there is a qualified, thriving and skilled alternative to union labor. Quality merit shop contractors and skilled employees can build these projects on time and on budget without a PLA. However, if these projects are subject to a PLA, the USACE can expect less competition, increased costs and potential delays.

In the interest of understanding [Insert Company Name’s] perspective on the controversial PLA issue and putting our comments in the appropriate context, the USACE should know that it is difficult to predict precisely how a PLA will impact the Little Egg Inlet construction project without reviewing the exact content of a PLA. A PLA is a contract, so the various terms and conditions contained within will significantly increase or decrease its anti-competitive and discriminatory effect.

Without knowing the exact timing, process and content of a PLA mandate in the USACE procurement, our response assumes a USACE PLA will contain the following mandatory provisions that are particularly objectionable to nonunion companies and their employees:

1. Nonunion companies must obtain most or all of their employees from union hiring halls. Often, PLAs prevent contractors from using their existing nonunion workforce. This provision is problematic because firms can’t use most of their trained, productive employees. In some PLAs, a nonunion contractor is permitted to use a small number of its existing nonunion workforce, but they must send these employees to the union hiring hall and hope the union dispatches the same workers back to the PLA jobsite, and/or the PLA requires existing nonunion employees to join a union within eight days of employment on the project.[[3]](#footnote-3) This provides unions with the opportunity to dispatch “salts” with conflicts of interest to nonunion companies. Unfamiliar union workers may be of unknown quality and may delay time- and cost-sensitive construction schedules that add uncertainty to the ability of a contractor to deliver a quality, on-time and on-budget construction product to USACE.
2. Nonunion employees must pay nonrefundable union dues and/or fees and/or join a union to work on a PLA project, even though they have decided to work for a nonunion employer.[[4]](#footnote-4) PLAs require unions to be the exclusive bargaining representative for workers during the life of the project. When agreeing to participate in a PLA project, the decision to agree to union representation is made by the employer rather than the employees.[[5]](#footnote-5) Construction employees often argue that forced unionization and/or representation—even for one project—is an infringement of their workplace rights and runs contrary to their intentional decision not to join a union.
3. PLAs require contractors to follow union work rules, which changes the way they otherwise would assign employees to specific job tasks—requiring contractors to abandon an efficient labor utilization practice called “multiskilling” and instead assign work based on inefficient and archaic union craft jurisdictional boundaries that increase labor costs. Open shop contractors achieve significant labor cost savings through multiskilling, in which workers possess a range of skills that are appropriate for more than one work process and are used flexibly across multiple trades on a project or within an organization. This practice has tremendous labor productivity advantages for contractors, but it is forbidden by typical union work rules and, by extension, PLAs.[[6]](#footnote-6)
4. PLAs require nonunion companies to pay their workers' health and welfare benefits to union trust funds, even though these companies have their own benefits plans. Workers cannot access any of their union benefits accrued during the life of the PLA project unless they decide to leave their nonunion employer, join a union and remain with the union until vested.[[7]](#footnote-7) Because few nonunion employees choose to join a union after working on a PLA project, companies end up paying benefits twice: once to the union plans and once to the existing company plans to ensure employees have direct access to retirement and benefits plans. Nonunion contractors have to factor this double benefit cost into their bid, which needlessly increases costs and puts them at a competitive disadvantage against union contractors that are not saddled with these unnecessary costs. In addition, paying into underfunded and mismanaged union-affiliated multi-employer pension plans may expose merit shop contractors to massive pension withdrawal liabilities. Depending on the health of a union-managed multi-employer pension plan, signing a PLA could bankrupt a contractor or prevent it from qualifying for construction bonds needed to build future projects for the USACE and other clients.[[8]](#footnote-8)
5. PLAs require nonunion companies to obtain apprentices exclusively from union apprenticeship programs. Participants in federal and state-approved nonunion apprenticeship programs and community or employer training programs cannot work on a job covered by a PLA. This means future construction industry workers enrolled in qualified apprenticeship programs could be excluded from working in their own community if these training programs are not run by unions.[[9]](#footnote-9)

This begs the question: Why not eliminate these provisions and therefore eliminate the controversy? The answer: Without these anti-competitive and discriminatory provisions that discourage nonunion contractors from competing for public projects, unions rarely agree to concessions regarding labor peace, work schedules and other provisions that are the cornerstones of the alleged benefits of a PLA. PLA proponents require these provisions because they are crucial to reducing competition and ensuring union contractors have an unfair advantage over nonunion contractors.

Therefore, no project should be considered for a government-mandated PLA.

***b.)*** ***Will the use of a PLA be effective in achieving economy and efficiency? If so, how? What is the estimated relative cost impact, or any other economies or efficiencies derived by the Federal Government, if using a PLA? Will a PLA impact the cost of submitting an offer?***

If USACE were to require a PLA on the Little Egg Inlet project, it would reduce competition, increase costs and create inefficiencies for contractors and procurement officials that could jeopardize the project for numerous reasons.

First, labor costs increase under typical PLAs due to inefficient union work rules and requirements of double payment into union and existing nonunion pension and benefit plans.

Second, a PLA mandate makes submitting a bid more expensive, as contractors unfamiliar with operating under these union contracts are faced with increased legal and administrative costs if they are forced to negotiate a PLA with multiple unions and/or comply with a PLA.

Third, a PLA mandate may limit the ability of the USACE to meet federal and agency-wide small and disadvantaged contracting goals and requirements; the majority of these firms are not unionized and would be disenfranchised by anti-competitive and costly provisions within typical PLAs.

Fourth, because PLAs discourage competition from qualified contractors, overall bid prices tend to increase when there is less competition from a smaller pool of qualified competitors.

Neither Executive Order 13502 nor the corresponding FAR final rule identifies any factual basis to support the claim that government-mandated PLAs will reduce the costs of construction on large federal projects. However, a number of studies have demonstrated that PLAs increase costs—typically in the range of 12 percent to 18 percent when compared to similar non-PLA projects.[[10]](#footnote-10)

In October 2010, the New Jersey Department of Labor and Workforce Development issued a report that found PLAs on school construction projects in the state were 30.5 percent higher than for all non-PLA projects.[[11]](#footnote-11) The same report found PLA projects tended to have a longer duration than non-PLA projects.” For FY 2008, the average duration of PLA projects was 100 weeks compared with 78 weeks for non-PLA projects.

PLAs on any USACE projects will cause procurement delays and not achieve “efficiency” in federal procurement. All of the PLA procurement options permitted under the FAR final rule create problems that may lead to delays and inefficiencies in the USACE procurement process.

Finally, construction industry attorneys believe federal PLA mandates are illegal and violate a number of laws that govern federal procurement.[[12]](#footnote-12) The USACE Philadelphia District will expose itself to costly litigation and related delays if it mandates or uses a PLA preference on this project.

***c.) Are there any concerns regarding labor-management stability related to this project? Will the use of a PLA produce labor-management stability on this project? Have labor disputes or other labor issues contributed to project delays in the local area? Are you aware of examples of labor-management conflicts in the area which could impact the efficiency of this project, which a PLA could positively impact/resolve?***

Instability between labor and management can lead to strikes and labor unrest, but PLAs are not the only way to deal with this problem. Plus, compelling evidence demonstrates that PLAs aren’t effective at preventing strikes.

In New Jersey, I am not aware of any significant examples of labor unrest, strikes or work stoppages specifically on federal construction projects.

However, a PLA offers no guarantee against strikes. For example, strikes on government-mandated PLA projects in the summer of 2011 halted five local projects in the New York City area[[13]](#footnote-13) and a number of public projects in Indiana.[[14]](#footnote-14) Similar strikes occurred on public PLA projects in the Chicago area in 2010 and on a private PLA project in Chicago in 2006. In 1999, union carpenters working on the union-only San Francisco Airport expansion struck over wages even though their union had signed a PLA. The union electricians, plumbers and painters also went on strike in support of the union carpenters.[[15]](#footnote-15) The strike cost $1 million and the project, already a month behind schedule, lost even more time.[[16]](#footnote-16)

[Insert Company Name] has completed numerous strike-free projects without PLAs; obviously labor stability is not dependent on PLAs, nor does it necessarily flow from such agreements.

Finally, in today’s construction marketplace, many union collective bargaining agreements already contain a promise against strikes, so the alleged need to enter into a PLA to prevent labor unrest may be a moot point. Before deciding whether a PLA is appropriate for USACE work, it is important for USACE officials to become familiar with the collective bargaining agreements of trade unions that may work on this project.

***d.) Will use of a PLA be conducive to ensuring compliance with laws and regulations governing safety and health, equal employment opportunity, labor and employment standards and other relevant matters on this project? Are there instances where these standards have not been met on Federal contracts in the local area? Were PLAs used for those specific contracts?***

It is unclear how a PLA would advance compliance with safety, health, EEOC, labor and employment standards on this project, as federal contractors already are subject to these rules, regulations and penalties. Numerous federal agencies are charged with enforcing and monitoring contractor compliance with labor and employment laws and regulations. If contractors fail to comply with any laws and regulations, it is the responsibility of the appropriate government enforcement agency to find, correct and punish violators.

Regarding compliance with safety laws, the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) fined three construction companies and 14 site contractors a total of $16.6 million following a gas explosion during the construction of the Kleen Energy Plant in Middletown, Conn., that killed six workers and injured 30 people Feb. 7, 2010.[[17]](#footnote-17) The accident occurred while the project was built under a PLA[[18]](#footnote-18) and used union laborers from as far away as Kentucky and California.[[19]](#footnote-19)

There is no compelling or conclusive private or government evidence to support the myth that an all-union workforce, and/or a workforce operating under a PLA, will have a higher rate of compliance with federal safety and health laws and regulations than jobsites not subject to a PLA.[[20]](#footnote-20)

[Insert examples of projects you have built that have successfully complied with these laws in the local area without a PLA. Provide data demonstrating commitment to safety like workers’ comp rate, safety awards, etc.].

***e.) This project will require construction contractors and/or subcontractors employing workers in multiple crafts or trades. Do you foresee any work on this project that may result in both prime contractor and at least one subcontractor, or two or more subcontractors, employing the same trade?***

It is common for prime contractors to staff projects exceeding $25 million in total cost with multiple subcontractors that will employ labor in multiple trades. A PLA fails to offer any specific advantages that a prime contractor already achieves with good management practices and strong contracting language.

Many of the existing merit shop construction employees performing work in New Jersey are competent in more than one trade, which produces efficiencies unique to merit shop contractors. A typical PLA would shackle merit shop contractors with archaic and costly union work rules that would restrict the ability of their employees to engage in cost-efficient multiskilling, in which employees perform tasks across multiple trades.

***f.) Are there concerns by prime contractors on the availability of skilled construction labor? Are there large scale construction projects in the area which could impact availability of skilled labor for this project? What is the anticipated volatility in the labor market for the trades required for the execution of the project?***

A shortage of union and nonunion skilled tradespeople in this area of New Jersey is very unlikely.

The recession’s weak economy resulted in a decreased demand for construction services and pushed the U.S. construction unemployment rate to 27.2 percent in February 2010–the highest level recorded since the federal government began making the data available in 1976.[[21]](#footnote-21) Construction industry economists suspect the U.S. construction unemployment rate, which currently stands at 8.7 percent, does not count the tens of thousands who have left the construction industry to find work in other markets. In New Jersey and in other regions across the country, economists generally predict the current unemployment rate will remain high as a variety of economic factors reduce construction demand.

The pool of available skilled labor for USACE projects will depend on the economy and the current volume of local, state and private construction projects. While there are sure to be other large-scale projects underway at this time, a PLA may exacerbate unlikely shortages of skilled labor by discouraging and discriminating against the area’s existing nonunion construction workforce.

In contrast, a lack of a PLA does not discourage or restrict union members from working on these projects; furthermore, the Davis-Bacon Act requires federal prevailing wage and benefit rates, which are closely linked to union rates, to be paid to all construction workers on federal projects. Both union and nonunion construction employees are attracted to projects subject to federal prevailing wage laws.

[Insert information about local registered apprenticeship programs, craft training programs or local programs that you or the contracting community participates in absent a PLA, that will help develop tomorrow’s workforce but will be barred from working on a PLA project because it is not a union apprenticeship program]

***g.) How will a PLA impact the completion time? Would a PLA benefit a project which contains a unique and compelling mission-critical schedule?***

Industry experts remain unaware of any reliable evidence that government-mandated PLAs help projects stay on schedule. If a PLA would help achieve this benefit, then contractors could make an informed decision to execute a PLA voluntarily.

***h.) Where have PLAs been used on comparable projects undertaken by Federal, State, municipal, or private entities in the geographic area of this project?***

We are not aware of any federal agencies that have mandated a PLA on a project comparable to this USACE project, although the U.S. General Services Administration (GSA) recently experienced procurement delays, litigation, reduced competition and increased costs on some office building projects bound by PLAs. Additionally, NAVFAC mandated a PLA on the $550 million explosives handling wharf #2 (Solicitation No. N4425511R9004) at Naval Base Kitsap-Bangor in Washington.   
  
In contrast, an estimated 708 federal contracts exceeding $25 million in total costs—worth a total of $47.64 billion—were subjected to Executive Order 13502 during President Obama’s first term.[[22]](#footnote-22) Fewer than 15 federal projects, worth an estimated $2.5 billion, were subjected to PLA mandates, PLA preferences or renewed PLAs on ongoing maintenance projects.[[23]](#footnote-23) None of these projects are similar to this one.

[Insert examples of similar federal projects not built with a PLA by your company.]

Please refer to ABC National’s detailed comments to review federal, state, local and private PLA projects that have experienced cost overruns, delays, safety defects and other problems.

***i.) Will the use of PLAs impact the ability of potential Offerors and subcontractors to meet small business utilization goals?***

The use of PLAs actually may impede the ability of potential offerors and subcontractors to meet federal small, minority and disadvantaged business utilization goals and mandates. Comments submitted to the FAR Council rulemaking on FAR Case 2009-005 by federal contractors building projects exceeding the $25 million threshold indicate that most small contractors are not signatory to a union and would be discouraged from participating on USACE projects subject to PLAs.[[24]](#footnote-24)

The National Black Chamber of Commerce wrote this policy statement[[25]](#footnote-25) in opposition to government-mandated PLAs because PLAs harm minority-owned businesses and serve as a barrier to job creation for minority populations: [[26]](#footnote-26)

“It is the policy of the National Black Chamber of Commerce, Inc. to oppose Project Labor Agreements. This opposition is based on the fact that African American workers are significantly underrepresented in all crafts of construction union shops. This problem has been persistent during the past decades and there appears to be no type of improvement coming within the next ten years.

There have been rouses of diversity pre-apprenticeship training programs during the past twenty years but no increase in diversity at the apprenticeship to journeymen levels. The higher incidence of union labor in the construction industry, the lower African American employment will be realized. This is constant throughout the nation.

Also, and equally important, the higher use of union shops brings a correlated decrease in the amount of Black owned businesses being involved on a worksite.”

The fact that PLAs harm small businesses and weaken the contracting community’s ability to meet federal small and disadvantaged business utilization laws and regulations is one of many reasons why the Small Business & Entrepreneurship Council and the following groups are opposed to government-mandated PLAs: Associated General Contractors, Construction Industry Round Table, Independent Electrical Contractors, National Association of Government Contractors, National Association of Minority Contractors - Philadelphia Chapter, National Association of Women in Construction, National Black Chamber of Commerce, National Federation of Independent Business, National Ready-Mixed Concrete Association, National Utility Contractors Association, U.S. Chamber of Commerce and Women Construction Owners and Executives, USA.

**Conclusion**

[Insert Company Name] appreciates the opportunity to share its perspective on government-mandated PLAs. We believe these anti-competitive and costly agreements have no place on USACE construction projects in New Jersey and other local, state or federal construction projects in the United States. We encourage USACE to proceed with construction projects free from PLA mandates and in the spirit of fair and open competition. Doing so will help USACE provide taxpayers with the best possible construction product at the best possible price.

Sincerely,

X

[Insert Contact Information]

cc: Ben Brubeck, ABC National

1. *See* www.bls.gov “*Union Membership, Coverage, Density, and Employment Among Private Construction Workers, 1973-2015”* (May 24, 2016). http://unionstats.gsu.edu/Private-Construction.htm [↑](#footnote-ref-1)
2. The *Union Membership and Coverage Database,* available at www**.**unionstats.com, is an online data resource providing private and public sector labor union membership, coverage and density estimates compiled from the Current Population Survey (CPS), a monthly household survey, using BLS methods. The database,constructed by Barry Hirsch (Andrew Young School of Policy Studies, Georgia State University) and David Macpherson (Department of Economics, Trinity University), is updated annually. The most recent data lists the union membership of the private construction workforce. There is no data on construction union membership at the local, city or county level. [↑](#footnote-ref-2)
3. See www.TheTruthAboutPLAs.com, [*Project Labor Agreement Basics: What is a PLA?*](http://www.thetruthaboutplas.com/2009/04/24/project-labor-agreement-basics-what-is-a-pla/)4/24/09. [↑](#footnote-ref-3)
4. The legality of clauses in typical PLAs that require compulsory union membership and payment of union dues and fees to unions by workers in order to work on a PLA project depend on the state’s Right to Work law status. See www.TheTruthAboutPLAs.com, [*Understanding PLAs in Right to Work States*](http://www.thetruthaboutplas.com/2009/07/20/understanding-plas-in-right-to-work-states-2/), 7/20/09. [↑](#footnote-ref-4)
5. Workers normally are permitted to choose union representation through a card check process or a federally supervised private ballot election. PLAs are called pre-hire agreements because they can be negotiated before the contractor hires any workers or employees vote on union representation. The [National Labor Relations Act](http://www.nlrb.gov/about_us/overview/national_labor_relations_act.aspx) generally prohibits pre-hire agreements, but an exception in the act allows for these agreements only in the construction industry. In short, PLAs strip away the opportunity for construction workers to choose a federally supervised private ballot election or a card check process when deciding whether union representation is right for them. [↑](#footnote-ref-5)
6. See www.TheTruthAboutPLAs.com, [*Understanding the Merit Shop Contractor Cost Advantage*](http://www.thetruthaboutplas.com/2010/05/17/understanding-the-merit-shop-contractor-cost-advantage/). 5/17/10. [↑](#footnote-ref-6)
7. An October 2009 report by Dr. John R. McGowan, *The Discriminatory Impact of Union Fringe Benefit Requirements on Nonunion Workers Under Government-Mandated Project Labor Agreements*, finds that employees of nonunion contractors that are forced to perform under government-mandated PLAs suffer a reduction in their take-home pay that is conservatively estimated at 20 percent. PLAs force employers to pay employee benefits into union-managed funds, but employees will never see the benefits of the employer contributions unless they join a union and become vested in these plans. Employers that offer their own benefits, including health and pension plans, often continue to pay for existing programs as well as into union programs under a PLA. The McGowan report found that nonunion contractors are forced to pay in excess of 25 percent in benefit costs above and beyond existing prevailing wage laws as a result of “double payment” of benefit costs.

   See www.TheTruthAboutPLAs.com, [*New Report Finds PLA Pension Requirements Steal From Employee Paychecks, Harm Employers and Taxpayer*](http://thetruthaboutplas.com/2009/10/24/new-report-finds-pla-pension-requirements-steal-from-employee-paychecks-harm-employers-and-taxpayers/)*s*. 10/24/09. [↑](#footnote-ref-7)
8. See www.TheTruthAboutPLAs.com, [*The Dismal Future of Construction Industry Multi-Employer Pension Plans*](http://thetruthaboutplas.com/2012/04/23/the-dismal-future-of-construction-industry-multiemployer-pension-plans/).4/23/12. [↑](#footnote-ref-8)
9. See [www.thetruthaboutplas.com/tag/training-apprenticeship](http://www.thetruthaboutplas.com/tag/training-apprenticeship). [↑](#footnote-ref-9)
10. Please refer to detailed comments submitted by ABC National that includes a summary of studies and additional data indicating that PLAs increase the cost of construction. [↑](#footnote-ref-10)
11. See Annual New Jersey Department of Labor And Workforce Development report, [*Use of Project Labor Agreements in Public Works Building Projects in Fiscal Year 2008*](http://lwd.dol.state.nj.us/labor/forms_pdfs/legal/2010/PLAReportOct2010.pdf)*,* 10/1/10. [↑](#footnote-ref-11)
12. For a detailed explanation, please review ABC National’s comments and examples of recent and successful bid protests and legal challenges to PLA mandates during the Obama administration. [↑](#footnote-ref-12)
13. See [www.TheTruthAboutPLAs.com](http://www.TheTruthAboutPLAs.com), [*Another PLA Myth Busted: PLAs Fail to Prevent Strikes on NYC Projects*](http://thetruthaboutplas.com/2011/08/02/another-pla-myth-busted-plas-fail-to-prevent-strikes-on-nyc-projects/)*,* 8/2/11 [↑](#footnote-ref-13)
14. [*Work resumes at Crown Point sportsplex despite labor strike*](http://www.nwitimes.com/news/local/lake/crown-point/article_2e416255-1d88-5da2-af70-96474ad37075.html#ixzz1QD3EHe5w), NW Times.com, 6/22/11. [↑](#footnote-ref-14)
15. *Carpenters at Airport Protest Against Union Leadership*, San Francisco Chronicle, 5/21/99; see also *Arbitrator Orders California Carpenters To End Wildcat Strike, Return to Work*, Daily Labor Report, 6/23/99. [↑](#footnote-ref-15)
16. *Carpenters at Airport Protest Against Union Leadership*, San Francisco Chronicle, 5/21/99. [↑](#footnote-ref-16)
17. *Kleen Energy’s fatal deal.* CNN Money. 9/10/10.

    <http://money.cnn.com/2010/09/09/news/companies/kleen_energy_explosion_full.fortune/index.htm> [↑](#footnote-ref-17)
18. *As Day Went On, It Got Worse: Kleen Plant Director Shaken By Lost Lives*. Hartford Courant. 2/14/10.

    <http://articles.courant.com/2010-02-14/news/hc-commentarycorvo0214.artfeb14_1_kleen-energy-power-plant-project-labor-agreement> [↑](#footnote-ref-18)
19. *Workers pushed hard to get Kleen Energy job done.* Middletown Press. 2/02/10. <http://www.middletownpress.com/articles/2010/02/10/news/doc4b721b2e0801f508365733.txt> [↑](#footnote-ref-19)
20. Please refer to ABC National’s comments for additional examples of PLA projects that failed to comply with these important federal standards and laws. [↑](#footnote-ref-20)
21. U.S. Bureau of Labor Statistics, *Industries at a Glance: Construction: NAICS 23*  <http://www.bls.gov/iag/tgs/iag23.htm>, accessed 11/15/12. [↑](#footnote-ref-21)
22. This link at [usaspending.gov](http://www.usaspending.gov/search?form_fields=%7b%22amt_low%22%3A%2225000000%22%2C%22amt_high%22%3A%22500000000000000%22%2C%22pop_country%22%3A%22UNITED+STATES%22%2C%22fyear%22%3A%5b%222009%22%2C%222010%22%2C%222011%22%2C%222012%22%5d%2C%22psc_cat%22%3A%5b%22Y%22%5d%7d) lists all federal construction contracts exceeding $25 million in total costs performed in the United States during the Obama administration. Accessed 11/21/12. [↑](#footnote-ref-22)
23. The OMB is supposed to collect quarterly reports from federal agencies documenting the use of government-mandated PLAs. See OMB’s 7/10/09 Memo, [M-09-22, *Memorandum for the Heads of Executive Departments and Agencies: Implementation of the President's Executive Order on Project Labor Agreements (PLAs)*.](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-22.pdf) However, ABC National has found OMB records to be incomplete and have privately tracked the use of PLA mandates and preferences, which are available upon request. [↑](#footnote-ref-23)
24. These comments uniformly confirm that federal general contractors have subcontracted much of the work on such projects to small business subcontractors. See, for example, the comments of Jeff Wenaas, President of Hensel Phelps Construction, a prime contractor who has performed more than $6 billion in construction contracts on federal projects with costs exceeding $25 million. Hensel Phelps has subcontracted more than $3.5 billion of that amount to small businesses, the majority of whom are non-union. Wenaas’ comments can be viewed at <http://www.regulations.gov/search/Regs/home.html#docketDetail?R=FAR-2009-0024>. These percentages are typical of the testimony of many other ABC members, which can be reviewed at regulations.gov (Docket ID: FAR-2009-0024) and at [ABC Member Survey Supplement to Main Comments](http://www.abc.org/files/Legal/Comments/ABC%20Comments_FAR_PLA%20NPRM_Regulatory%20Flexibility%20Comments_081309.pdf) at [www.abc.org/plastudies](http://www.abc.org/plastudies). [↑](#footnote-ref-24)
25. [NBCC Policy Statement on Project Labor Agreements](http://www.thetruthaboutplas.com/wp-content/uploads/2009/07/nbcc-on-plas-packet1.pdf). 1/26/01. [↑](#footnote-ref-25)
26. For more comments from the National Black Chamber of Commerce on PLAs see <http://www.thetruthaboutplas.com/2009/07/23/thetruthaboutplascom-to-speak-at-nbcc-legislative-conference/> [↑](#footnote-ref-26)