

Cutting Competition in Contracting: The Administration's Pricey Project Labor Agreement Mandate

House Oversight and Accountability Subcommittee on Cybersecurity, Information Technology, and Government Innovation

June 27, 2024

Recap

- Subcommittee Chairwoman Nancy Mace, R-S.C., opened with a strong [statement](#) cutting to the heart of the Biden administration's pro-project labor agreement policy schemes, which lock out more than 90% of the U.S. construction workforce because they are not affiliated with unions
- The [opening statement](#) from Ranking Member Gerry Connolly, D-Va., defended President Joe Biden's PLA policies, as expected. Of note, he conflated government-mandated PLAs and voluntary PLAs when he brought up the PLA controversy on the Silver Line project in his district. The truth is that Phase 1 and 2 were free from government-mandated PLAs, [but some firms opted to voluntarily enter into PLAs](#). The overruns and bad press on both phases had nothing to do with PLAs and concrete cracks on Phase 2 of the Silver Line were similar to issues that were on the [DC Frederick Douglass Bridge](#), which was built with a PLA mandated by the D.C. government. Connolly is either confused, trying to intentionally muddy the waters or was misinformed. He also brought up a PLA required by Mircon on a prefab manufacturing project in Idaho that received CHIPS and Science Act money. ABC knows for a fact Mircon can't find enough contractors or labor to bid on this project because of the PLA in Idaho, where 97% of the construction workforce does not belong to a union.
- Ben Brubeck of Associated Builders and Contractors gave [opening remarks](#) attacking the Biden administration's pro-PLA policies on federal and federally assisted projects, which echo problems outlined in his [written testimony](#).
- Glenn Ledet, executive director of the Louisiana Coastal Restoration Protection Authority, discussed the impact of the Biden PLA rule on federal contracts with respect to U.S. Army Corps of Engineers contracts where Louisiana is a cost-sharing partner covering 35% of project costs. His exceptional [opening remarks](#) and [written testimony](#) explain how PLAs mandated by the USACE as a result of the Biden PLA rule add risk, increase costs, reduce competition from local bidders and harm the local construction workforce and contractor base that the CPRA works with to restore coasts and protect citizens from hurricanes.
- The [opening statement](#) and [written testimony](#) of Aric Dreher of Cianbro, an outstanding ABC member contractor building federal and federally assisted construction projects, described how Biden PLA policies injure his firm and other similar merit shop firms by reducing competition. Cianbro signed an affidavit in support of [ABC's federal lawsuit](#) in Jacksonville, Florida, against this Biden rule.
- The [opening statement](#) and [written testimony](#) of the minority witness, Jacob Snyder of Enerfab, a unionized contractor with very few federal contracts, spoke to positive experiences using voluntary PLAs and union labor. He cited studies supporting Biden's pro-PLA policies pushing union labor and contractors.
- Chairwoman Mace's [Q&A of witnesses](#) discussed the impact of the Biden rule on nonunion workers, contractors, Louisiana's CPRA and small businesses.
- Ranking Member Connolly's [Q&A of witnesses](#) started with a discussion about Associated General Contractors' federal lawsuit against the Biden PLA order—filed earlier this year in Louisiana—which was [dismissed due to standing issues](#). He tried to characterize its failure as legal evidence that PLAs do not injure economy and efficiency in federal contracting because a Trump-appointed judge made that ruling. He did not address [ABC's federal lawsuit](#), which will likely get a decision on the merits of the case, in contrast to the AGC case. He continued a confusing monologue conflating voluntary and government-mandated PLAs with the minority witness, Jacob Snyder, who also cited some studies supporting the use of union labor and voluntary and mandatory PLAs.
- Because the hearing started late due to another hearing in the committee room running long, it was paused while members left the room to vote on the House floor on several unrelated bills.
- [After the break](#), chair Mace submitted into the record coalition letters from [construction industry groups](#), [taxpayer-protection groups](#) and the Independent Electrical Contractors Association opposing Biden's PLA policies.
- House Committee on Oversight and Accountability Chairman James Comer, R-Ky., [Q&A](#) cited the Boston Globe's damning [editorial](#), and asked questions that allowed witnesses to address the problems with government-mandated PLAs, the Biden rule's bogus PLA waiver process, and Louisiana CPRA's experience with reduced bidders on a USACE project where they are a cost-sharing partner.
- Rep. Ayanna Pressly's, D-Mass., [statement](#) discussed how PLAs can be used to facilitate diversity and inclusion in the trades and asked witness Snyder to support this. Of course, no mention was made that such goals can be achieved without a PLA and their anti-competitive terms and conditions. She also entered into the record a study in support of PLAs and diversity.

- Rep. Eric Burlison, R-Mo., [Q&A](#) focused on how the Biden PLA rule pushes workers and contractors toward unionization, increases costs and reduces competition, and how the PLA rule's exception process is a "joke" and designed in bad faith. Burlison also discussed how PLA mandates interfere with a worker's freedom to choose not to join a union. He also asked about the [Fair and Open Competition Act](#) (H.R. 1209/S. 537) and the Higgins CRA measure—legislative solutions to combat the Biden administration's pro-PLA policies.
- Rep. Paul Gosar's, R-Ariz., [Q&A](#) discussed the added costs to taxpayers due to the final rule, the lack of experienced contractors able to deliver services to the federal government, and the pro-PLA posture of the Biden administration pushing recipients of CHIPS and Science Act money to mandate PLAs on pre-fab projects. Witnesses discussed projects bid with and without PLAs, which demonstrated increased costs, reduced competition and other negative impacts. Witnesses discussed extortion of private developers into mandating PLAs.
- Rep. Glenn Grothman's, R-Wisc., [Q&A](#) pointed out the disdain of the Biden administration for nonunion workers and contractors. Grothman asked questions about inefficient union work rules and benefits of merit shop multiskilling, provisions in PLAs that reduce competition and increase costs for nonunion firms, the lack of PLA mandates under the Obama administration policy, studies on the increased costs of PLAs and the skilled labor shortage, and the Inflation Reduction Act's weaponization of the Internal Revenue Service to push private developers seeking enhanced tax credits for clean energy tax credits to mandate PLAs to receive immunity from new penalties for noncompliance with prevailing wage and government-registered apprenticeship programs in the statute.
- Rep. Fitzgerald, R-Wisc., [Q&A](#) asked questions about government-mandated PLAs vs. voluntary PLAs, higher costs of PLA mandates on school construction and affordable housing, fewer projects/jobs from added PLA costs and the impact of the Biden administration's policies pushing PLAs on federally assisted construction projects in relation to state laws that restrict government-mandated PLAs on state projects that may have federal money on them.
- Rep. Clay Higgins's, R-La., [Q&A](#) discussed the rule's requirement to use union labor, even in states with low union density, and how the final rule undermines the spirit of state law and will result in fewer local workers and firms winning contracts because they do not belong to a union. He discussed how this rule opposes freedom of association and undermines the choice whether or not to join a union. He asked questions about the impact of the rule on the CPRA projects with the USACE, which revealed that the first project bid out under this policy only received one bid and may be delayed or rebid.
- Rep. Virginia Foxx's, R-S.C., [Q&A](#) discussed problematic terms in PLAs that require contributions to union wage and benefits plans, which can result in wage theft of 34% of nonunion employees' compensation, double benefits costs for nonunion employers and contractors' exposure to multiemployer pension plan liabilities. She asked about the impact of the PLA final rule on the Louisiana CPRA's projects and the state's budget and delays that put public safety at risk. She argued for protecting workers who choose not to join unions.
- Rep. Rick W. Allen's, R-Ga., [Q&A](#) discussed the impact of the final rule on right-to-work laws, Georgia's business environment, the lack of skilled labor available through unions, competition, failed and uneven PLA negotiations between unions and contractors and ABC's pending litigation.

Full video and written testimony available on House COA website:

<https://oversight.house.gov/hearing/cutting-competition-in-contracting-the-administrations-pricey-project-labor-agreement-mandate/>

Fox News [pre-coverage of the hearing](#), as well as more than two dozen media hits following the hearing.

ABC's [news release](#) on the hearing and [Twitter/X post](#).

U.S. House Committee on Oversight and Accountability social media posts of interest:

- Chairwoman Mace [opening](#)
- COA chairman Comer's [Q&A](#)
- Rep. Grothman's Q&A and [analysis on the final rule](#)
- House Committee on Oversight and Accountability [hearing wrap up](#).