

A photograph of a classical building facade featuring several large, fluted columns and a decorative entablature. The sky is visible in the background, showing some light clouds. The image is used as a background for the title slide.

Project Labor Agreements for Local Public Works Projects

Public Works Officers Institute
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Project Labor Agreements: Definitions

- ❖ PLAs are negotiated contracts pertaining to construction workforce and labor relations
 - Specifically permitted for use in the construction industry by Section 8(f) of the National Labor Relations Act.
- ❖ Basic bargain in PLAs on public projects:
 - Public entity gets assurance of labor peace
 - Participating unions get broad application of terms of collective bargaining agreements



Project Labor Agreements: Types of Projects

❖ PLAs are often negotiated for:

- Particular large publicly-funded projects
- Categories of publicly-funded projects
- Private projects receiving public support or needing discretionary approvals



Project Labor Agreements: Legality

- ❖ The legality of use of PLAs on major projects is well-established under federal law.
 - NLRA preemption claims: *Building & Const. Trades Council v. Assoc. Builders & Contractors of Mass./R.I., Inc. (Boston Harbor)*, 507 U.S. 218 (1993)
 - Other claims (equal protection, first amendment, etc.): *Assoc. Builders & Contractors, Inc., Golden Gate Chapter et al. v. San Francisco Airports Commission*, 21 Cal. 4th 352 (1999)
 - Law is less clear on PLAs applicable to multiple projects, but see: *Rancho Santiago*



Basic Terms of the PLA

- ❖ Every PLA contains the following key provisions:
 1. An agreement by unions not to strike or take other collective action against the project or contractors working on it;
 2. Requirements that any contractor working on the project (*whether or not it is signatory to a collective bargaining agreement*) abide by terms of the relevant trade's collective bargaining agreement in performance of project work;



Basic Terms of the PLA cont.

3. Union hiring hall is the primary source of labor for the project
4. Dispute resolution systems for quickly resolving any jurisdictional disputes between unions; and
5. Technical provisions regarding coverage, enforcement, etc.



Negotiation Topics

❖ Three major areas on which public entities generally wish to negotiate:

- **Cost Control**

- Manageable scope and exclusions
- Ensuring competitive bidding environment
- Legitimate opportunity for participation by non-union contractors
- Core workers

- **Targeted Hiring**

- Local/disadvantaged workers
- Apprenticeship access
- Pair with pipeline improvements

- **Targeted Contracting**

- Small/Local Businesses
- DBEs, Section 3, etc.
- Overlap with cost-control deal points



PLAs: Negotiation Mechanics

- ❖ Standard language vs. negotiated language
- ❖ Public entity's negotiating team
 - Staff, consultants, legal
 - Construction industry expertise
 - Input from governing bodies
- ❖ Stakeholder input



Selecting a Consultant

❖ Add capacity to your organization

- Free up your team to focus on making your city a great place to live, work, and play
- Help your team add value to the citizens through the PLA
- Knowledge of Unions
- Understand contractors and contractor associations and be able to align values of the city with your contractor partners – not just with the union partners

❖ Track record of success in workforce development and local hire

- Doesn't need to be in your geographic location, but they must understand the fundamentals
- Need to actually value workers and strategic outcomes of the program



Some Terms

❖ Some terms I will use:

- In-Process Test – monitor production inputs (concrete testing)
- Functional Test – from time-to-time test check quality (weld testing)
- Effective Indicators – measuring the outputs not activity
- Pairing Indicators – alignment of multiple indicators
- Quality Indicators – assessing the value added of a step in the process



Help You Improve the Way Your Citizens: Live, Work, & Play

- ❖ Free-up your staff to focus on their core skillsets
- ❖ Help your staff add their insights into the negotiation process
- ❖ Help simplify the PLA through cheat sheet
- ❖ PLA is the foundation – good PLA administrative provides
 - Quality Assurance (success metrics)
 - The frame (administrative definitions)
 - Walls (synergizing relationships with staff, contractor associations, and unions)
 - Exterior (meeting the goals of PLA as set by your council)



PLA Value to Your City - Not Just Local Hire

- ❖ Part of your succession plans
- ❖ Bring the value of unions to your city
 - Better skilled workers at scale – through unions training centers
- ❖ Help you add bidders not limit bidders
- ❖ Help your small businesses succeed through programmatic Small Business Supportive Services



Free-up and Teach-up Your Team

❖ Understand Union POLITICS

- Critical to negotiations and goal achievement
- What are the pressures from the international and locals' membership?

❖ Understand fundamentally how construction unions work and be able to help you better understand them

- How do hiring hall lists work?
- What do the collective bargaining agreements allow you to do?
- How are some trades different – this is where local understanding is paramount



The Third Party – Contractors (arguably the most important to success outcomes)

- ❖ Understand contractors and contractor associations and be able to align values of the city with your contractor partners – not just with the union partners
 - What are the contractors long-term and short-term risks?
 - Help you develop a mentor/protégé program for local small and disadvantaged businesses
- ❖ The Contract (secret sauce)
 - Help you draft contract language the helps you implement your larger goals
 - BUT YOU CAN'T BE AFRAID TO USE THEM



Consultant Local Hire Capacity

- ❖ How to leverage their skills and connections to help you achieve your goals
 - Relationships with unions
 - Relationships with contractor associations
- ❖ Understand how to achieve broader community goals
- ❖ How to test the efficacy of your program



Why is Local Hire Wanted?

- ❖ Crime? Unemployment? Income Disparity?
- ❖ How to leverage other similar programs throughout your community to achieve multiple success
 - For Example: Help you bridge the divide between your local hire goals and your HUD funded programs Section 3 goals
- ❖ If you're a small city: how to leverage the local hire goals of your neighbors – especially lower average income neighboring cities



Is Your Local Hire Program Working?

- ❖ Help you make decisions at the lowest possible step in the value chain through “In-process functional tests”
- ❖ Quality of partner assessments
 - Pre-Apprenticeship Programs: Do the new apprentices have the requisite soft skills? Basic hard skills? MC3 certification is not enough
 - Do the pre-apprenticeship programs achieve positive outcomes for your hardest to serve populations?
 - Contractors: Are resident workers utilized in meaningful ways? Not all of them should be flaggers or doing site clean-up.
 - Understand how to use effective paired quality indicators to assess the ongoing output of your PLA program
 - Local hire utilization
 - Small Business Utilization
 - Project Costs
 - Project Quality



Summary

- ❖ Public entities can shape a PLA that advances various public purposes
- ❖ While PLAs may look similar, in reality small language changes mean a lot
- ❖ PLAs are neither good nor bad; but there are better PLAs and worse PLAs
- ❖ Ensuring that a PLA advances your public purposes requires sustained effort during both negotiation and administration





Thank you! Questions?

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