

Why haven't we heard of Project Labor Agreements before?

PLAs are the construction unions' alternative to low-bid contracting. Low-bid contracting is false economy as the initial savings from price-based competition are erased over the long-term because of inferior products and performance leading to additional costs. Low-bid contracting makes flawed assumptions, encourages cost-cutting, promotes fraudulent hiring practices, underperformance, and does little to screen out unscrupulous contractors. It would be irrational for contractors to perform at high levels in price-based competition where cutting costs is the key to achieving the low bid.

Some owners and construction professional firms for ideological reasons or because of dislike prefer not to work with unions. Unfortunately, many owners are not aware of the advantages and benefits of using union construction workers. Union craftpersons deliver; they have unparalleled skills, a commitment to quality, and an exemplary work ethic. Below are the top 10 reasons for using union construction:

1. The Union Construction Industry is the largest trainer and supplier of skilled workers in the construction industry in Michigan.
2. Department of Labor records from 36 states including Michigan show that union programs have enrolled 72 percent of construction apprentices since 1989.
3. Union programs have also enrolled almost three times as many minorities and four times as many women when compared to non-union apprenticeship programs.
4. The Michigan Union Construction Industry participates in the Helmets to Hardhats program, which offers returning veterans career opportunities in the construction trades.
5. Studies found a union workforce to be 17 percent more productive than a non-union workforce. Union labor productivity not only reduces project costs, but also improves the project's schedule, quality and long-term life cycle.
6. Union contractors, in partnership with the building trades unions in Michigan, spend approximately \$25 million per year in apprenticeship training at no cost to taxpayers.
7. Union contractors provide collectively bargained health insurance and pension benefits for their workers and their families that enable their workers to avoid becoming dependent on government as they age.
8. Union contractors and workers in Michigan serve as a strong community partner by contributing their time and resources to many community efforts.
9. Union representatives have a true partnership with contractors in Michigan. They jointly manage apprenticeship programs, health care, pension trusts, safety programs and industry standards.
10. Construction unions, in partnership with union contractors, have established industry-wide drug testing programs.

For further information on Project Labor Agreements, contact Mark Mangione, President, West Michigan Building & Construction Trades Council at 616-837-0222.

For up-to-date download information on PLAs and Responsible Contracting, go to the West Michigan Construction Alliance website at: www.wmconstructionalliance.org.

Are there any other considerations to take into account?

When considering a PLA for a public project, a community benefits study may be advisable for evaluating whether a PLA may be in the best interests of the public. Many benefits have already been listed elsewhere in this publication that may be considered in this study: local workers and local businesses, responsible contracting criteria, certified payroll assuring compliance with prevailing wage laws, the use of registered apprentices, on time and within budget completion, school-to-registered apprenticeships for local students, scholarships, and assurance that all laws and regulations are complied with. Consideration of these and other benefits are important in determining whether a PLA will facilitate economical project delivery and serve the best interests of the public.

Conclusion

PLAs are a useful mechanism in any construction project involving contractors and a range of skilled workers in different trades. The PLA provides a negotiated structure that will maximize efficiency, stability, predictability, and productivity. The purpose of the PLA is to facilitate the completion of the project by getting all the participants to agree to certain ground rules.

In considering its advantages, please keep in mind that under a PLA, construction projects may use many local residents, which many owners view as desirable, ensuring money earned in a community stays in the community. The bottom line on PLAs is simple: they can save the owner and contractor's time and money while providing a quality product using local contractors and local labor. The Trades are team players with contractors and project owners. The region's Michigan Building & Construction Trades Council welcomes the opportunity to show you just how good a job we can do on your construction project. The PLA will benefit all involved: the owner, contractors, the workers, the local businesses and the public.

Footnotes

- ¹ The choice of a construction company makes a large difference in the overall, long-term value of construction. Traditionally, and too often commonly, owner contracts are awarded to the lowest bidder in a so-called competitive process. Although an owner may save money initially by obtaining construction services at the lowest price, this process frequently fails to select the best contractor for the job. By choosing the lowest bid, regardless of merit, the owner's initial savings are soon erased by construction delays, cost overruns, change orders and a greater need for maintenance and repairs in the long term because of shoddy workmanship. These outcomes are built into the low-bid contractor selection method that many construction managers employ since it encourages cost-cutting but does not insure quality. By contrast, Responsible Contracting is a contractor selection method that shifts the point of competition among bidders from price to quality standards in addition to price. Under Responsible Contracting, bidders compete based on technical merit, past performance, safety practices, local experience, worker training, *and price*, among other possible factors. Responsible Contracting ensures that the construction of publicly funded projects achieves the best value for taxpayers.
- ² At the Michigan Governor's Interagency Task Force on Employee Misclassification, which was held on March 24, 2009, a number of reports were discussed. The Task Force cited a report issued in December, 2008 by Dale L. Belman and Richard Block of Michigan State University's School of Labor & Industrial Relations. Based on their assessment of random audits by Michigan's unemployment insurance system, they estimate "30% of Michigan employers misclassify employees as self-employed workers or underreport employee payroll." In the construction industry, the MSU report estimated employers misclassify about 19% of the time.
- ³ In a study cited by Michael H. Shuman, author of the book *Going Local*, for every \$100 spent locally, \$73 dollars remain in the local economy as compared to using outsourced labor, which spends \$43 locally.

Project Labor Agreements *A Community Benefit*



West Michigan Building & Construction Trades Council

The purpose of this publication is to show how Project Labor Agreements are a winning opportunity for private and public project owners, contractors, workers, local businesses and taxpayers.



What are Project Labor Agreements?

A Project Labor Agreement (PLA) is a comprehensive negotiated pre-hire contract for public or private-sector construction projects. A PLA generally includes mutually agreed-to work and wage rules for the duration of the project, including deadlines, wages, costs, production incentives, and hiring. Usually PLAs are between a construction manager, general contractor or developer, labor unions, subcontractors, workers, and the customer (owner) who may be in the public or private sector.

PLAs are ideal for high quality construction projects that have a difficult construction schedule that involve multiple trades and where owners desire to address a wide range of local needs. PLAs can make sure that the project is built in part by the community's workers through specific language contained in the agreement. Because local workers can be used on the project, much of the project's payroll stays in the community and contributes to its prosperity. Please keep in mind that PLAs are the best method of construction for owners that may include and assure the following:

1. Local contractors and local workers are used helping to keep money in the community.
2. Responsible contracting criteria is used achieving the best value for taxpayers.¹
3. Michigan's prevailing wage law is complied with through the use of required certified payroll.
4. Registered apprentices are used in compliance with federal and state law.
5. Construction workers will not be misclassified, nor will independent contractors be used on site in violation of state and federal law.²
6. No illegal non-US citizens will work on the project nor will the fraudulent use of the federal government's H2B visa program for immigrant construction workers be allowed.
7. All labor costs are known before the project starts.
8. The project will be completed on time within budget.
9. There will be verification of drug and alcohol (fitness for duty) testing for each employee working on the jobsite.
10. School-to-Registered Apprenticeship students may be used in partnership with local school districts, career and technical education centers and community colleges.
11. A fund can be established through a cents per-man-hour worked for community non-profit use such as scholarships for students who choose a construction-type career.
12. Local, state, and federal laws and regulations are complied with, including worker's compensation, taxes, etc.

How long have Project Labor Agreements been around?

PLAs have been around for over 60 years and have an impressive record. PLAs have been specifically utilized by the federal government to produce the best work for publicly funded construction projects at the lowest cost to owners. Each PLA establishes a unique set of terms and conditions for construction before any employees or contractors are hired.

How do Project Labor Agreements work?

In a Project Labor Agreement, the basic terms and conditions for the parties are clearly established ahead of time that govern work rules, pay rates and dispute resolution processes for every worker on the project. Jurisdictional issues are clearly spelled out so that there are no work assignment disputes arising during the course of the project. The PLA enables construction companies to bid on jobs with full knowledge of employment costs and an assured supply of skilled labor. The terms and conditions set by the agreement apply to every contractor and subcontractor operating on the project site for the duration of the project. These types of agreements aim to provide a pool of highly-trained skilled workers in each segment of construction.

The PLA ensures on-time, on-budget project completion. It takes approximately 30-60 days to draft a PLA.



What are the advantages/benefits of using Project Labor Agreements?

1. Labor costs are known before the project starts.
2. Local skilled labor can be used.
3. There will be no work stoppages, no strikes, and no lockouts.
4. There will be a guaranteed supply of highly-skilled craft workers.
5. The project will be completed on time within budget.
6. There exist potential cost savings.
7. Local, state, and federal laws and regulations are complied with, including worker's compensation, taxes, etc.

Owners and contractors are guaranteed a pool of highly trained, skilled labor who agree to the terms of the agreement. PLAs ensure that there will be no surprise cost overruns and the completed project will be of the highest quality, thus leading to lower costs and maintenance over the lifetime of the project. A PLA fosters positive communication channels to address and resolve workers' concerns, safety issues, and disputes, thereby creating continuity and stability of the work force at the job site.

Are there any additional indirect benefits for the public sector regarding a PLA?

Yes. In consideration of agreeing to a PLA with the region's Building & Construction Trades Council, the Council may agree to a major financial contribution as a community benefit through a cents-per-man hour worked on the construction project that would be spelled out in the PLA. A scholarship program for local high school students interested in construction careers is but one example.

Who constructs the PLA agreement?

Most PLAs are drafted by the private or public owner or the construction manager retained by the private or public owner. By representing labor, the region's Michigan Building & Construction Trades Council is signatory to a PLA.



Are Project Labor Agreements legal?

Yes. PLAs are expressly authorized by Section 8(f) of the National Labor Relations Act, 29 U.S.C. Section 158(f). The validity of PLAs was established under federal law in the 1993 Supreme Court case, *Boston Harbor*. The U.S. Supreme Court ruled unanimously in its decision that both private and public owners can decide when a construction project should use a PLA. Additionally, the court ruled that such conditions simply require contractors to make a choice; they may alter their mode of operation to secure the business opportunity at hand, or seek business from purchasers whose perceived needs do not include a project labor agreement.

What are the steps necessary in securing public PLAs?

1. Secure the necessary construction funding.
2. Complete engineering and architectural plans for the project.
3. General contractors/construction managers and the Trades develop preliminary agreements.
4. Public owners must pass an authorizing resolution for PLAs.
5. General contractors/construction managers and the Trades finalize all labor agreements.

Can non-union contractors or subcontractors bid on projects with PLAs?

Yes. Non-union contractors can bid on the projects as long as they agree to abide by the wages, benefits and other conditions specified in the PLA contract. Regardless of how the PLA is constructed, non-union workers do not have to join or be part of a union to participate. Courts have repeatedly upheld PLAs on this point. A PLA is like any other legitimate contract agreement. It's an agreement uniformly imposed by a project owner or construction manager on all bidders to ensure the successful completion of the work. No contractor is excluded from the bidding process unless it excludes itself.

Do PLAs bring value to the community beyond the efficient building of the project?

Yes. Project owners can design their PLA to address a wide range of local needs. PLAs can make sure that many qualified local construction workers are used assuring that part of the projects payroll stays in the community and contributes to its prosperity.³ Also, PLAs can initiate community outreach efforts such as enrolling minorities and women in pre-apprenticeship programs. Schools may have additional opportunities to use qualified students who are enrolled in building trades or construction-type programs to participate in a Michigan School-to-Registered Apprenticeship program. These programs are a first step on the path to a lifetime career in the construction industry.

Are PLAs more expensive?

No. In fact, they frequently save money on public projects where all workers, union and non-union, must be paid prevailing wage in compliance with state and federal law. PLAs create a level playing field for contractors by standardizing all labor conditions. Much evidence suggests that in the long run, using highly skilled workers with clear-cut rules in Project Labor Agreements will save money.

Are there any labor problems during construction?

There should be no labor problems on a PLA because they have mandatory no strike, no walkout, and no work slowdown provisions. In the rare case where a labor dispute arises during construction, a labor-management oversight committee identified in the PLA will resolve any dispute quickly.

Are PLAs discriminatory?

No. Federal and state law mandates non-discriminatory hiring practices regarding union or non-union workers, i.e., there shall be no discrimination against any employee or applicant for employment because of his or her membership or non-membership in a union or based upon race, creed, color, sex, age or national origin of such employee or applicant. Specific hiring procedures are identified in the PLA.