

PRODUCTIVITY ENHANCEMENT

# Project Labor Agreements

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# Executive Summary

Project labor agreements (PLAs) are prehire collective bargaining agreements that establish the terms and conditions of employment on one or more construction projects. PLAs are typically the product of negotiations between a group of unions, usually represented by a building, construction trades' council and the representative of a construction user, most often a construction management firm. Unlike local construction collective bargaining, contractors and contractor associations have little or no role in such negotiations. PLAs require all contractors working on a project to adhere to collectively bargained terms and conditions of employment, whether they are normally union or nonunion contractors. PLAs have undergone considerable evolution over the years. Once used almost exclusively on very large projects that were either extremely isolated or that overwhelmed the capacity of the local construction labor market, PLAs are now used on a variety of private and public projects.

The use of PLAs in the public sector has raised questions about possible conflicts with state or local bidding regulations. As a result, all branches and levels of government have become involved in the controversy, which, in turn, has drawn both media attention and spurred a fair amount of research. However, as our review shows, most of the research is of low quality and little use in determining whether PLAs actually affect bidding behavior, wages, construction costs, etc.

The current report is possibly the broadest ranging and most detailed study of PLAs conducted to date. While prior studies have focused on a particular PLA project and addressed one or two narrowly defined issues, in this study we examine a large number of projects using a variety of techniques, including archival research, interviews, case studies and the statistical analysis of original data.

We ask a number of questions, including the following: What is a PLA? How do PLAs differ? What does prior research tell us about the effects of PLAs on construction projects? How do individuals with experience with PLAs view these agreements? How do PLAs affect the outcomes of construction projects? In what ways can PLAs be used to address the strategic needs of a project?

There are several central findings of this study. Perhaps most important, we find that there is no substantial evidence that PLAs decrease the number of bidders or change the costs of construction projects. Although our findings run contrary to prior research, we believe that most previous studies failed to account for important influences on construction costs. Therefore, effects were falsely attributed to PLAs that actually belonged to unobserved variables.

We arrived at our conclusions on bidding behavior by studying two adjacent school districts in San Jose, California. Both began extensive school construction in 2002. In 2004, one school district

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signed a PLA, while the other did not. While the number of bids per bid opening decreased after the PLA in the former district, they also decreased in the district that did not sign a PLA. The decrease in bids was better predicted by an increasingly busy construction market than the existence of the PLA.

To examine cost effects, we studied 108 school projects in New England. We found that such variables as the building's size, the need for a new boiler, the construction of an auditorium, the construction of library and where the school was located had positive effects on construction costs. There is no evidence that a PLA either raised or lowered the costs of the projects studied.

We argue that if PLAs are cost neutral, then other reasons for using or not using PLAs must be examined. Through interviews and case studies, we found that users favored PLAs to reduce some of the uncertainty inherent in large scale construction projects. Obviously, no one can control the weather, and material shortages are always a concern. But construction users felt a PLA would ensure a steady flow of highly qualified labor. The flow of labor was guaranteed by the nationwide referral systems maintained by unions; the steadiness of the flow was buttressed by no-strike agreements, which are a nearly universal item in PLAs. Construction users told us that PLAs were particularly attractive on large projects that needed to be completed on a tight schedule. PLAs can be used to harmonize hours and holidays across the trades and to modify shifts and work schedules to meet the needs of construction users.

Although we lack good data on safety outcomes, interview evidence suggests that safety inputs are greater on PLA projects. Often PLAs include language establishing labor/management committees that deal specifically with safety and health issues.

PLAs may also be crafted to achieve wider social ends, such as increasing minority employment and participation on projects by minority

business enterprises. As in a case study of the East Side Union High School district in San Jose, PLAs may also be used to create highly developed structures for training and recruiting young workers into the building trades, a critical need in light of the reported looming skills shortage in the industry.

A possible downside of PLAs is their effect on local labor relations. Some interviewees told us that power relations at the bargaining table may be skewed when too much work is covered by PLAs and their accompanying no-strike/no-lockout clauses. With workers protected from job actions, compromises in local bargaining may be harder to affect, leading to unusual settlements and protracted negotiations.

Another problem with PLAs is the general lack of contractor participation in bargaining. This sometimes leads to the needs of an industry not being addressed in an agreement. One complaint of local electrical industry representatives is that most PLAs do not allow them to use their longstanding, bipartite system of dispute resolution.

A possible solution to the problem, and one that is used in many areas, is to develop model PLA language through standing labor/management committees, which can be established as Taft-Hartley trusts and supported through per capita assessments on work. Typically, contractor organizations have high levels of participation on such committees.

Most interviewees agreed that PLAs are not suited to every project in every location. In considering whether to use a PLA, owners usually consider the importance of scheduling, the size of the project, the need for skilled labor, whether there are a sufficient number of union contractors in the major trades needed for the project to support competitive bidding and whether the work is likely to be done by union contractors with or without the PLA. In general, larger and more complex projects, for which scheduling is important, are good candidates for the use of a PLA.

## EXECUTIVE SUMMARY

PLAs are valuable tools for the construction industry because they can be used to create the conditions needed for a superior construction project. More than one hundred PLAs were reviewed for this study. The provisions of those agreements varied widely. The most sophisticated agreements had been crafted to address project specific issues such as local hiring, scheduling, work rules, employment of minorities, or the staffing of projects. We also found many bare bones PLAs that were little more than no strike/no lockout agreements. Based on our review of these agreements, and the findings of this research, we believe that there is great potential, much of it unrealized, for using PLAs to improve construction projects and promote union construction. Realizing this potential will require the education of contractors, construction users, and union officials on how PLAs can be crafted to promote the interests of all parties and provide better construction outcomes.

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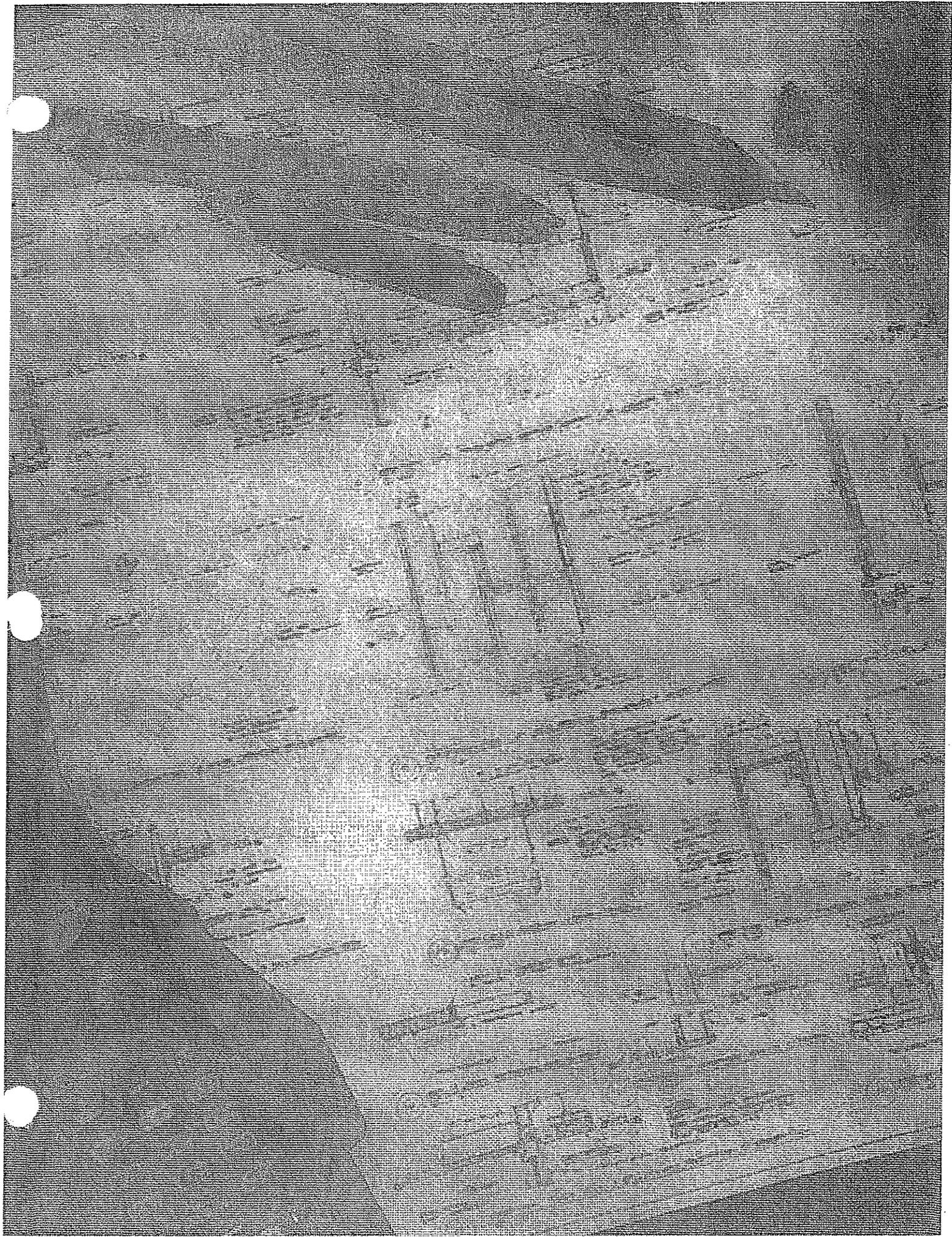
# Project Labor Agreements

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# Introduction

PLAs are nothing new. McCartin<sup>1</sup> noted that something like a modern PLA was used during WWI when the War Department worked out a compromise between the American Federation of Labor (AFL) and defense contractors who were building cantonments. All workers would be paid union scale in exchange for dropping a demand for a closed shop.

The use of PLAs increased during WWII. Dunlop<sup>2</sup> writes of the stabilization agreement between the Office of Production Management and the Building and Construction Trades Department (BCTD) of the AFL. The agreement provided for uniform overtime rates of time-and-one-half, standard shifts at regular rates and declared that there shall be "no stoppage of work on account of jurisdictional disputes or for any other cause."

Until the 1980s, PLAs were used in both the private and public sectors with little notice. So why have PLAs become so controversial? Why have virtually all branches and levels of government been dragged into the fight over PLAs? We explore these questions in this study. Moreover, we examine the contents of PLAs, present comments from inter-

views with stakeholders concerning PLAs, assess the economics of PLAs and provide details of the strategic use of PLAs from several case studies of actual projects.

■ **Chapter One** of this report defines PLAs, discusses the reasons for the controversy over PLAs and gives an overview of previous PLA research.

■ **Chapter Two** presents and analyzes the contents of PLAs. The results are based on a review of nearly one hundred agreements from all parts of the country.

■ **Chapter Three** discusses the comments of several dozen stakeholders concerning PLAs. Interviews were conducted with, among others, construction users (both public and private), contractors, construction managers and union officials. Interviews were held in southern New England, the southern Midwest and the West.

■ **Chapter Four** examines the economics of PLAs through original research. It presents findings of bidding behavior based on evidence from two adjacent California school districts and research on PLAs and school construction costs in New England.

■ **Chapter Five** presents several case studies of PLAs, including a highway project in Utah, an automobile plant in Texas, an airport terminal in Rhode Island and a set of school projects in California. Chapter five tells how PLAs can be used to address specific needs on a project.

■ The end of this report contains a list of principal findings.

*Using archival sources, interviews and both qualitative and quantitative methods, we try to determine how Project Labor Agreements affect construction costs, scheduling, safety, training and minority employment.*



# I. Background

## What is a PLA?

Project labor agreements are primarily agreements, so we need to know what is being considered and agreed upon and by whom. PLAs are project-specific, collectively-bargained labor agreements regarding wages, benefits, hours of work and other terms and conditions of employment. On the one side of the agreement is a collection of construction unions perhaps under the leadership of a local construction labor council or some other form of multicraft organization. On the other side of the agreement is usually a project or construction manager representing the interests of the construction user. This contrasts with typical collectively bargained labor agreements in construction where separate craft unions bargain with their corresponding contractor associations about wages and working conditions. Traditional collective bargaining has no specific construction project in mind, and no one at the table controls upcoming work. In PLA bargaining, unions bargain as a group with someone who controls upcoming work.

In typical construction collective bargaining, the electricians might look over their shoulders to see the outcome of the plumbers' negotiations, and the laborers are going to keep in mind what the carpenters are getting. But there is no formal structure or binding agreement in traditional, craft-separated collective bargaining to ensure that the various contracts signed in a local area by the various crafts and contractor groups will have similar holidays, similar hours of work, similar drug testing provisions, etc. or even similar contract expiration dates.

A PLA provides the legal structure whereby everyone can (if they so choose) get on the same page regarding all of the issues.

The fact that through the project manager the construction user is on the other side of the table also makes PLAs different. In traditional collective bargaining in construction, contractors are on the other side of the table. Users have something to bargain with that contractors do not have. Users have the work: they have the project under consideration. Individual contractors have to bid to win work. Contractors as a group have a higher prospect of someone in their group winning the project, but if the economy turns sour, chances of getting the job diminish. As long as the project goes forward, the construction user has the work, and on large projects that work could last for years. Through traditional collective bargaining, users bring something of value to the table, something worth bargaining over.

With PLAs, construction users can (and often do) bargain their control of work in exchange for union concessions relative to the existing set of local labor agreements. Rarely do these concessions involve lower wages and benefits. More commonly, in an effort to harmonize the terms and conditions of work across trades, some trades have to make concessions to mirror terms and conditions in another trade's contract. The fact that the user has the work and is willing to provide it in exchange for such concessions may motivate a trade's willingness to compromise on working conditions. Sometimes a user may convince all the trades to make an across-the-board concession in exchange for the job. In one

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case, a bridge contractor signed a PLA with the various relevant trades for long term work on a major bridge reconstruction project in exchange for altering all the unions' overtime provisions, so the project could proceed without overtime pay in off hours to avoid backing up traffic. Under traditional collective bargaining with no specific consideration to a specific project, such a concession would not make much sense to any union and to obtain this concession across all unions would be impossible. A PLA made it happen.

In one sense, all PLAs are across-the-board concessionary contracts because, universally, all PLAs have no-strike clauses in effect through the entire duration of the project. For long-lasting projects, these no-strike clauses are meaningful because inevitably in a two or three year period, one or more traditional union contracts will expire, leading to the possibility of a negotiation stalemate and a strike. PLAs take the user's work off the traditional collective bargaining table and insulate it from strikes. This can be very important to the user who has a vital completion date. So the construction user comes to the PLA bargaining table ready to exchange work for harmonized working conditions, occasional project-tailored terms and conditions, and a guaranteed uninterrupted labor supply through the duration of the project. Only PLAs can get all of this done with multiple craft unions, multiple contractor associations and differing contract expiration dates. In short, PLAs bring new players to the table and thus create the possibility of bargaining to new win-win solutions.

What is in a PLA for unions besides various possible concessions? In a word: work. PLA projects tend to be large and long-lasting. In private sector PLAs, the work is what the unions bargain for, and that is what they get because private sector PLAs typically restrict bidding to union contractors. On public sector work, restricting bidders to union contractors usually violates public procurement rules. Nonunion contractors are allowed to

bid on public PLA jobs. Nonetheless, when working on a covered project, all contractors (including nonunion contractors) agree to abide by the terms of the PLA as well as any provisions of local agreements that are specifically referred to in the PLA or not limited by the PLA. The means of assuring this compliance by all contractors is a letter of assent the PLA requires.

*The following letter of assent comes from a Missouri PLA and is typical:*

*Pursuant to Article II, Section 1, Paragraph 3, of the above-referenced Agreement, the undersigned contractor hereby agrees that it will be bound by and comply with all terms and conditions of said Project Labor Agreement, and any amendment thereto for this Project only.*

*This Letter of Assent will remain in effect for the duration of the Agreement, and any extensions, after which this understanding will automatically terminate, except as provided in Article II, Section 6 [concerning repairs and rework] of the Agreement.*

As a practical matter this means that all contractors usually agree to use union referral mechanisms (e.g. hiring halls), pay union scale, contribute to jointly administered (i.e. union sector) benefit programs and, in general, operate as union contractors while on a project—whether or not they are usually union contractors. Sometimes PLAs have key worker provisions that allow nonunion contractors to use a limited number of key nonunion workers. Occasionally, nonunion

workers are permitted to apply to the project manager for work rather than go through the union hall. But the basic point is this: through PLAs, unions exchange concessions for work. If the PLA cannot deliver at least most of the work, the construction user has nothing to bargain with.

There are two players not at the PLA bargaining table—the union contractor and the nonunion contractor, both of whom might end up working on a public PLA project. From the perspective of traditional collective bargaining, PLAs are a topsy-turvy world. Usually the union agrees with the contractor, and then the contractor goes out and finds the work. Under a PLA, the unions, as a group, go out and find the work. Wages and benefits are set. Then, on private jobs, union contractors bid for the project and, on public jobs, all contractors willing to abide by the terms of the PLA bid on the project. Union contractors get a level playing field, but that is all.

The other absent player is the nonunion contractor willing to pay the PLA wage rates and abide by the terms and conditions of the PLA. These participating nonunion contractors stand on the sidelines along with the union contractors until the project is let out for bid. Technically, PLAs are pre-hire agreements because the terms and conditions of work are agreed upon prior to the hiring of workers. But, effectively, PLAs are usually also pre-bid agreements because the terms and conditions are set prior to any bidding on the project.

And, of course, there is one absent non-player—contractors unwilling to bid on the project because of the terms and conditions of the PLA. These, typically nonunion contractors, may not be able to compete with the higher labor productivity called forth by the PLA wages. They may not wish to expose their key workers to union workers. They may not wish to have their non-key workers go through the hiring hall to get work. They may philosophically object to PLAs. They may have other reasons for not participating. In any case, nonunion contractors' nonparticipation may lower

the number of contractors who bid on a PLA project. Alternatively, the presence of a PLA may attract contractors who otherwise might not bid on the project. The effect of PLAs on the number of bidders is an open empirical question that chapter four addresses.

Because PLAs set wages and benefits close to or at the local union rates, PLAs probably encourage contractors to shift towards capital intensive and high skill construction strategies. PLAs may also alter the composition of contractors shifting towards more heavily capitalized firms. Some public entities, restricted in their ability to pre-qualify contractors by public procurement regulations, may be attracted to PLAs, in part, due to the way PLAs probably sort through potential bidders shifting the mix towards more established, capital intensive and skill oriented contractors.

Thus, PLAs are first of all agreements where unions, as a group, bargain for work from construction users in exchange for concessions on strikes and working conditions. Until the PLA is signed, contractors sit on the sideline. Once signed, union contractors know that even their nonunion competitors will have to pay the same wages and benefits. Nonunion contractors may be excluded entirely from private projects but on public works they are still players. Some, however, will withdraw not wanting to agree to the terms of the PLA. Both union and nonunion high-wage/high-skill contractors are likely to be attracted. Whether ultimately PLAs discourage more bidders than they attract is an empirical issue, but some public construction users may be partially attracted to PLAs based on what type of contractor is attracted and what type of contractor is repelled by PLAs.

### **How are today's PLAs different?**

#### **Old-School PLAs**

From the first major use of PLAs to around 1980, PLAs were generally restricted to a particular

and relatively unusual type of construction project—the large, long-lasting, typically complex and often rural construction project. Construction users bringing these projects to market faced three problems. First, if the project was rural (such as a hydroelectric dam located where the water was or a coal-fired power plant located where the coal was), the size of the project was likely to overwhelm the capacity of the local construction industry and labor market. By having a PLA, the construction user could create regular and known wages and working conditions needed to attract workers from far away.

Second, if the project was specialized and complex (such as a nuclear facility), the skill requirements of the job might overwhelm the local labor market even in a non-isolated area. A PLA would provide ready access to distant union workers again by establishing appropriate wages and conditions and by invoking the union system of using skilled traveling workers.

Third, if the project was long-lasting (say three or more years), and schedule and completion were important to the user, a no-strike provision in a PLA would insulate the project from labor/management conflict during the bargaining between local craft unions and their corresponding contractor organizations. Whatever work stoppage or lock-out might occur through the normal operations of collective bargaining would not affect a PLA project. In short, bargaining impasse would not interrupt the PLA project.

So PLAs for many years were a specialized and relatively rare construction contract designed to obtain a ready and qualified supply of labor to large, complex and long-lasting projects.

### **Stop-Loss PLAs**

In the 1980s, PLAs took on a new role. The downturn in construction in the 1980s was very sharp. Price competition (as opposed to quality or scheduling competition) is most intense when an

economy slows and customers are more price-conscious and less concerned about timeliness or even quality. This environment favored nonunion contractors. But in order to keep some of the union sector's biggest and best industrial customers and stop the loss of jobs, PLAs were written that contained wage and benefit concessions. American manufacturers facing severe overseas competition on both price and quality terms needed quality infrastructure built at the lowest price possible. PLAs became a way of delivering quality work at low prices to demanding customers. These PLA-based wage cuts were partially offset by the promise of steady work for an extended period of time during a period when construction work was anything but steady. The PLAs in the 1980s traded lower wages for longer work. Thus, it was possible, in part, because the agreement was with a user who had work to exchange for concessions in wages and conditions.

### **Market-Share PLAs**

In the 1990s, however, the construction economy improved, leading to a decade long boom that has recently slowed but not collapsed. Union workers were working; local union unemployment rates were low, and the attractiveness of trading hourly wages for more assured work faded. But PLAs did not fade. In fact, they proliferated primarily in areas where construction unions were relatively strong but even in areas where union coverage was low. And the new PLAs were often used on more modest projects, such as schools and court houses, and cover renovations as well as new construction.

Two economic conditions (other reasons will be discussed below) converged to lead to the proliferation of PLAs. First, construction labor markets were becoming increasingly tight. Not only was unemployment down, but also apprenticeship training was down. As the nonunion sector proliferated in the 1980s, union apprenticeship programs reduced their enrollments or even in a few

instances shut down. The nonunion sector did not fill the gap, in part, because they were happily harvesting union-trained workers in need of jobs, and because the nonunion sector had not been able to find a viable alternative to collective bargaining to finance apprenticeship training. So construction users were hungry for available and qualified craft construction workers. The Business Roundtable, a group of large construction users, stated in an analysis of skill shortages in construction, "The union sector has always excelled in craft training through the joint labor/management apprenticeship programs... the open shop, as a whole, has not supported formal craft training to the extent necessary."<sup>3</sup>

Second, while the construction economy had recovered and construction union membership was growing, the union share of the construction labor market was either still declining or merely stabilizing, depending on the area. PLAs emerged as a new key instrument for both providing users with an uninterrupted supply of qualified workers and in helping unions to stabilize or expand their share of the construction market.

### But why the controversy?

Old-school PLAs were used with little controversy in both the private and public sectors throughout the postwar period—a period during which much of the construction sector was highly unionized. With strong unions, there was a great desire on the part of construction users and contractors to avoid labor disputes and to gain the best economic deal possible relative to local agreements. The climate changed, however, when union market share dropped and construction users and the nonunion sector became better organized.<sup>4</sup> In the new environment, with large nonunion contractors able to compete for all types of work in virtually every state and with the growing strength of a nonunion contractors' association, Associated Builders and Contractors (ABC), challenges to

### *Two state court cases*

*To give two examples of state court decisions, in the consolidated case of New York State Chapter, Associate General Contractors v New York State Thruway Authority (666 NE 2d 185, 151 LRRM 2891, N.Y. Court of Appeals, March 28, 1996) the New York Court of Appeals upheld the use of a PLA on the renovation of the Tappan Zee Bridge, but overturned the one attached to the construction of dormitories at the Roswell Park Cancer Institute. In Associated Builders and Contractors of Rhode Island v. Department of Administration (787 A2d 1179, 170 LRRM 2054, R.I. Supreme Court, January 4, 2002) the Rhode Island State Supreme Court overturned a PLA for a new sports facility at the University of Rhode Island.*

*In the former case, the court held that New York law does not prohibit nor absolutely permit PLAs but does require that there be an adequate reason to apply a PLA to a project and further requires that sufficient analysis be done to determine whether a PLA advances the purposes of the state's competitive bidding statute. For the Tappan Zee Bridge, the Thruway Authority had determined that the need for quick completion and labor peace supported the use of a PLA. The authority also found that it would save over \$6 million by using a project agreement (as opposed to operating under local contracts). However, in the dormitory case, the state agency had already begun the project without a PLA. Later, it attached one to the project without doing any serious analysis of*

*the benefits. The court voided that PLA stating that the agency had failed to "consider the goals of the competitive bidding statute."*

*The facts of the Rhode Island case are somewhat similar to those of the New York dormitory case. The University of Rhode Island had already begun construction of a \$73 million basketball and ice hockey facility. Work on the project involved 34 separate bid packages. Six bids had been awarded with no mention of a PLA. But in the fall of 2000, more than one year into the project, a PLA was signed. Immediately thereafter, fourteen additional packages went out to bid requiring adherence to the new agreement. The Rhode Island Supreme Court found that the PLA violated state law. The court wrote (170 FRRM at 2060):*

*[We] are of the opinion that an awarding authority may include a PLA as a bid specification in a public contract, but the awarding authority may do so only after it has established that (1) the size and complexity of the project are such that a PLA supports the goals and objectives of the state purchases act, and (2) the record demonstrates that the awarding authority has conducted an objective, reasoned study using reviewable criteria in determining that the adoption of a PLA helps achieve the goals of the state purchases act.*

*Since the sports facilities were nearly complete, the court let the project go forward and did not award any damages to the plaintiffs.*

PLAs became more common. In the past decade, all branches and levels of government have been

dragged into the PLA debate.<sup>5</sup> It is probably not an exaggeration to say that ABC has challenged nearly every large public sector PLA that has been proposed during the past ten or twelve years.

However, not all challenges have resulted in the outcome sought by PLA opponents. A watershed event was the 1993 United States Supreme Court decision in the so-called Boston Harbor case.<sup>6</sup> Although the case dealt with the narrow question of whether local public sector PLAs should be preempted by the National Labor Relations Act, the unanimous court decision allowing a Massachusetts water resources board to go ahead with its PLA bolstered the efforts of proponents to seek agreements on a wide range of public projects.

Viewing market-share PLAs as a threat to their members' market position, the ABC and its state affiliates have mounted intensive national and local campaigns to oppose the use of PLAs. This effort has included numerous court cases, media campaigns and lobbying efforts.<sup>7</sup> Most of the legal action since Boston Harbor has concerned bidding statutes and ordinances and if PLAs, since they place conditions on successful bidders and arguably limit the number of bidders, violate either the letter or the spirit of such laws. Court decisions have been mixed.<sup>8</sup> In a number of cases, state courts have refused to overturn PLAs, while in other cases they have found that a particular PLA did violate a bidding statute.

The situation at the federal level, however, is different. One of President George W. Bush's first actions in office was to reverse altogether a Clinton administration's policy encouraging PLAs. On February 21, 2001, the President issued Executive Order 13208 prohibiting the federal government or a construction manager acting on its behalf from placing in its bid specifications any language that denotes the following:

(a) Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organiza-

tions on the same or related projects

(b) Otherwise discriminate against bidders, offerors, contractors or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or related construction projects

The President amended the order on April 6, 2001 to exempt agreements that had already been entered into. And Executive Order 13208 allows successful bidders to enter into PLAs voluntarily, but it prohibits the mandatory acceptance of a PLA as a condition of bidding. The result is that PLAs are not currently being applied to most federally funded projects. This has not, however, slowed their use in the private sector nor on public projects that use only state or local funds. It is not possible to determine precisely how many PLAs are in effect at any time, nor how many are public sector and how many are private sector. However, based on findings in previous research, it is likely that at least three-quarters of PLAs are private sector.<sup>9</sup> Therefore, Executive Order 13208 may have only a small effect on the overall use of such agreements. Nevertheless, market-share PLAs are controversial because they involve a struggle between union contractors, high-wage nonunion contractors and low-wage nonunion contractors over market share in the public sector.

### **What do we know about the effects of PLAs?**

The controversy over PLAs has spurred research on the effects of PLAs on a variety of issues, including the number of bidders on a project, labor costs and final bid price. Unfortunately, much of the research is of low quality and has originated from organizations or individuals with a clear prior position. This research typically relies on anecdotes and spurious comparisons. For example, ABC's Union Only Project Agreements: The

Public Record of Poor Performance discusses eighteen projects on which there were cost overruns. Of these, six are described as union only projects but are not PLAs. No attempt is made to compare a sample of PLA and non-PLA projects.<sup>10</sup>

Some of the research, however, is a bit more sophisticated. Two important topics that have been examined by researchers are the effects of PLAs on the number of bidders on a project and the ultimate effect of a PLA on project cost.

### **PLAs and bidding**

The research on bidding can be divided into three categories: studies that compare the number of bidders on PLA and non-PLA projects, those that look at the union/nonunion mix of contractors on PLA projects and those, based on survey research, that gauge the likelihood of nonunion contractors bidding on PLA projects.

The Empire State Chapter of ABC, in studying construction at the Roswell Park Cancer Institute in New York concluded that packages put out to bid without a PLA stipulation received 21% more bids than projects with a PLA attached.<sup>11</sup> Andrews, the General Accounting Office (GAO); and Opfer, Son and Gambatese all examined participation by nonunion contractors on PLAs.<sup>12</sup> Andrews studied the Boston Harbor project and found that nonunion participation was lower than reported by the construction manager. He also found that less than half of the nonunion contractors were supplying construction services, with the remainder involved in material supply or professional services. A study of a project run by the South Nevada Water Authority, Opfer, Son and Gambatese concluded that between 16% and 33% of contractors were nonunion and one percent to 27% of the volume work was done by nonunion contractors. The authors interviewed representatives of two nonunion firms that had worked on the SNWA project but indicated that they would not work on

PLA projects again. Among the problems cited by the firms were jurisdictional disputes among unions, poor performance by union workers and obligations to support union sector benefits funds. The GAO's study found that 86 of 286 contracts on the Idaho National Engineering Laboratory were awarded to nonunion contractors, despite eight of eleven nonunion contractors telling the GAO that they would not bid on the project because of the PLA provisions.

All of the studies cited above have problems. For example, the ABC study failed to account for differences in the types work covered and not covered by PLAs at the Roswell facility, and Andrews's sample is much too small to produce valid, statistically significant results. However, a more important question is the relationship between the number of bidders and project cost. In two studies in New York State, Carr found that project costs fall between 3.2% and 3.8% for each additional bidder.<sup>13</sup> However, Carr's statistics show that his model accounts for only 11% of the variance in project costs, suggesting that a number of possibly critical variables are not included in his analysis. If important variables are excluded, effects may incorrectly be attributed to the number of bidders that when, in fact, other causes are at play.

### **PLAs affect on bid price**

One stream of research simply looks at the direct effects of PLAs on bid price regardless of the number of bidders. Research conducted by the Beacon Hill Institute (BHI) at Suffolk University in Boston has been widely reported. In 2003, BHI conducted two studies of school construction projects in the Boston area. In 2004, it replicated its research in Connecticut. In all of the studies, BHI reported substantial cost premiums associated with PLAs. In the original Boston study, the researchers found that PLAs increased school construction costs by 17.3% or about \$31.74 per square foot. A follow-up study on a larger sample pegged the esti-

mate at 14% or \$18.83 per square foot. The Connecticut study estimated that PLAs added about thirty dollars per square foot to costs.<sup>14</sup>

More detail resides in later sections; however, in brief, the BHI team did an insufficient job at controlling for variables that affect construction costs. Hence, much of what was attributed of the presence of a PLA is actually explained by other variables, such as project location (e.g. the inner city) and building amenities (heating systems, swimming pools, etc.).

### **PLAs and human resource outcomes: compensation, strikes, safety and minority employment**

Two studies examine the impact of PLAs on wages. In the GAO paper on the INEL project, researchers found that wages on the project were 17% to 21% higher than the Davis-Bacon prevailing wage rates for the area. In a 1997 article, Lyons argued that the executive memorandum issued by President Clinton to encourage the use of PLAs on federal construction projects would raise federal construction costs between 2.3% and 7.2%.<sup>15</sup> In the GAO piece, however, most of the difference was accounted for by the travel allowances included in the agreement, and the critical problem with Lyons's calculation is that he used the national average construction wage as a proxy for the Davis-Bacon rate.

Several studies have addressed the complaint by nonunion contractors that PLAs force them to pay into the union sector benefits funds while maintaining their own pension and health care plans.<sup>16</sup> Lund and Oswald point out, however, that this argument may be more theoretical than actual, since many nonunion workers lack any benefit coverage.<sup>17</sup> Either their employers do not offer coverage, or the short tenure of nonunion workers precludes their participation in benefits' programs. It is also the case that participation would be gov-

erned by the PLA and could vary from agreement to agreement (see, for example, the Toyota agreement discussed in Chapter Five).

A central feature of PLAs is the inclusion of a no-strike/no-lockout clause. In research done by Johnston-Dodds in California, 26 of 59 reviewed PLAs contained blanket no-strike provisions, while the remaining 33 allowed strikes only in the event of contractor delinquency in payments to joint funds.<sup>18</sup> PLA proponents champion such provisions as an important element in raising certainty on construction projects.

Opponents discount such provisions on several grounds. First, they note that no-strike provisions have been violated (though proponents counter that dispute settlement procedures have been highly effective in quickly resolving problems). Second, PLA opponents point to the generally low strike rates in construction today. And, finally, they note that such disruptions are rare on nonunion worksites.

Available research on safety is, for most part, restricted to two case studies: work done by Dunlop on the Boston Harbor project and Opfer, Son and Gambatese's work on the SNWA project.<sup>19</sup> Dunlop found that lost time incident rate on the Boston Harbor Project was 4.1 while the national average for heavy construction was 6.2. Further, the lost workday incident rate was 134.7 for Boston Harbor versus a national heavy construction rate of 150.4. Opfer, Son and Gambatese, however, found contrary evidence when examining the SNWA project.

Finally, the research on minority (including female) employment is also sketchy and primarily anecdotal. PLAs have been opposed by a number of minority contractor associations. However, membership in such associations is likely dominated by nonunion firms. In addition, ABC argues that the emphasis placed on minority employment by PLA proponents is designed to "deflect criticism of unionized construction emanating from minority and women's groups."<sup>20</sup> Johnston-Dodds provides perhaps the most interesting description of a

minority employment program in her description of the Port of Oakland, California PLA.<sup>21</sup> The agreement included a small/local business utilization program and a local hiring program, which provided for set-asides and targets for minority contractor and worker participation. The PLA also called for a social justice committee to oversee implementation of the minority hiring provisions. The social justice components of the PLA were supported by a contribution of up to \$1.15 per hour for all work done under the PLA. Although some difficulties were mentioned in meeting some of the PLA's goals, the report does not contain an analysis of the overall effectiveness of the program.

### Conclusions

A PLA is an agreement between a multicraft set of labor unions and a construction user represented by the project manager or some other agent qualified to sign a labor agreement. Bringing new parties to the table—a user who controls work and a combination of unions who can collectively harmonize their local labor agreements—creates new bargaining possibilities, and new win-win solutions become possible. PLAs fall into three historical categories.

Old School PLAs were dominant from WWII to around 1980. They were large, long-lasting, often technical or rural projects that needed to draw workers from long distances and proceed uninterrupted by strikes in an environment with widespread unionization. PLAs set the wages, conditions, traveling arrangements and no-strike clauses that made these goals possible.

Stop-Loss PLAs emerged in the 1980s in response to stagnation in the construction labor market and loss of work to the nonunion sector. These concessionary PLAs granted primarily to large industrial owners discounted local union wages and benefits to preserve work. Neither PLA was particularly controversial for its time except for

those union members who objected to the concessions embedded in Stop-Loss PLAs.

Modern Market-Share PLAs are applied to a wide range of private and public projects attracting owners based on new win-win possibilities associated with a new bargaining table. Market-Share PLAs are controversial because these contracts serve as weapons in the struggle between union and some nonunion contractors (those who cannot or will not compete for PLA work) over market share.

While most PLAs are on private work, the controversy over PLAs is focused on public work: if a private owner wishes to sign a PLA, there is no public policy that would stop the owner doing so. Consequently, the debate is over whether PLAs are good for the public sector. Thus far, most of the debate has been on whether PLAs raise public construction costs. Analytically, this is a delicate argument to make because most Market-Share PLAs exist where unions are strong and public works require prevailing wages and those wages (and benefits) tend to correspond to the wages and benefits required by PLAs. So the argument must be that PLAs restrict bidders, thus reducing competition and raising prices. The problem with this argument is one need only about half a dozen bidders to get the full effect of bidding competition on prices. Furthermore, research to date only looks at whether nonunion contractors are discouraged and not whether union or high wage nonunion contractors are attracted by PLAs. In short, we do not know whether or to what extent PLAs discourage bidding. Nonetheless, some research has argued that PLAs raise total costs on prevailing wage jobs by around 15%. This is not only a surprising result because it cannot be derived from increased wages, but also because labor costs as a percent of total costs typically is around 30% in construction.

Readers should not be dismayed at the preliminary, incomplete, and often inadequate results of research on PLAs. This field of research is young,

and from the heat of current controversy there may yet emerge information. Some of the problems with prior work simply reflect the inherent difficulties with this type of research (e.g. getting adequate data, comparing very different projects). In other cases, results are compromised by low quality research, including poor statistical modeling. Perhaps the most disheartening weakness is that some studies simply attempt to support a previously held position, with findings merely leading to a foregone conclusion. Nonetheless, this research literature will mature, become more sophisticated and solve some of its methodological problems, and thoughtful conclusions will drive out preconceived notions. This study is an attempt to contribute to that maturation process.

## 2. The Content of PLAs

Before analyzing the effects of PLAs, the contents require explanation. There are two model agreements adopted by the AFL-CIO's Building and Construction Trades department and approximately one hundred actual PLAs covering projects in 17 states.

Two categories of PLA provisions are clearly designed to promote cost savings on projects. The first category primarily includes compensation concessions on wages, benefits, premium pay and pay for time not worked (e.g. breaks). The second type of provision seeks to contain cost by enhancing productivity by relaxing work rules, minimizing crew sizes and restricting the introduction of new technology, among other things.

### Cost containment provisions

#### Wages

Direct wage concessions in PLAs are rare. Most PLAs simply incorporate the wage schedules from local collective bargaining agreements. These are usually called Schedule A agreements, with Schedule A being the first contract appendix. However, a PLA occasionally will call for a trades' more favorable wage schedule to be used (e.g. residential rates on a commercial project). Less common is a separate wage schedule with different pay rates and different timings for pay increases.

Though rare, across-the-board wage concessions are possible and were more common during the recession of the early 1990s. A PLA for a building project at a private college in Rhode Island, for example, stated that "All employees covered by this agreement shall be classified in accordance with

work performed and paid at the rate of eighty percent (80%) of the base hourly wage rates for those classifications..."

A more common concession is a wage freeze for the life of a project. A Connecticut PLA read, "The wage rates will be frozen as of September 1, 1998 for the remainder of the project. Fringe benefits shall not be frozen during this period."

#### Premium pay

PLAs often limit the types of premium pay available on a project. A New Jersey PLA allowed for reporting and call back pay but otherwise held "there shall be no premiums, bonuses, hazardous duty, high time or other special payments of any kind." Similarly, overtime may be limited. A Connecticut PLA called for time-and-one-half to be paid after "ten hours worked in a day or forty hours worked in a week." Area agreements required premium pay after eight hours of work.

#### Benefits

We discovered two approaches in PLAs to limiting benefits' costs. Most common, PLAs restrict the payments required of contractors to those funds that directly benefit employees. An Oregon agreement stated that "The employer shall pay only fringe benefit funds for employees (such as pension, health and welfare, vacation, apprenticeship and the like) that have been legally negotiated and established by the applicable collective bargaining agreement... This expressly excludes any and all Industry Promotion Funds, Contract Administration Funds, Contractor-Union Management Funds, Craft of

Industry Alliance of Associations.”

A clause in a New England PLA limited premium contributions (for most trades) to the straight time rate, regardless of whether work was being performed at straight time or premium rates.

**Pay for time not worked**

A clause from a New York PLA stating, “There will be no rest periods, organized coffee breaks or other non-working time established during working hours” is typical. Some PLAs specifically allow workers to bring beverage containers to their workplace for brief individual pauses. Except for lunch breaks, pay for time not worked is often limited by PLAs.

**Work rules**

PLAs generally include broad proscriptions on practices that would, in any way limit productivity. Consider the following two sections from an Indiana PLA:

*Section 1: There shall be no limit on production by workers nor restrictions on the full use of tools and equipment. There shall be no restriction, other than may be required by safety regulations, on the number of employees assigned to any crew or to any service.*

*Section 7: The Union will not impose conditions which limit or restrict production or limit or restrict the joint or individual working efforts of employees. The Construction Contractor may utilize any method or technique of construction, and there shall be no limitation or restriction regardless of source or location of machinery, precast tools, or other labor-saving devices, nor shall there be any limitation upon choice of materials and design.*

**Provisions effecting scheduling**

As the interview portion of this research reveals, one of the primary reasons that construction users agree to PLAs is their effect on scheduling. It is particularly significant when a project has a tight deadline, such as completion before the start of a school year or sports’ season. Nearly all PLAs include in the preamble some mention of the need for timely completion. This mention may be general or very specific.

As well, PLAs usually reconcile the often disparate work schedules of the trades. PLAs specify standard start, quit and break times, and most PLAs note a uniform set of holidays. The following language is from a Minnesota PLA and addresses a number of scheduling issues.

*Article VIII*

*Hours of Work, Overtime, Shifts and Holidays*

*8.1 The regular forty (40) hour work week will start on Monday and conclude on Friday. Eight (8) consecutive hours, exclusive of a one-half (1/2) hour lunch period, between 7:00 a.m. and 5:00 p.m. shall normally constitute a work day. The starting time of the Work may be changed within these hours by the Employer upon notification to the Union to take advantage of daylight hours, weather conditions, shift, or traffic conditions. It is understood that all work performed in excess of eight (8) hours per day shall be considered overtime. Starting time may be adjusted up to one (1) hour prior to 7:00 a.m. with mutual consent of the Union and Employer.*

*8.2 At the scheduled starting time, all employees will be at the place where they pick up*

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their tools or receive instructions from their foreman. They shall remain at their place of work under the supervision of the Employer until the scheduled quitting time. There shall be no practices that result in starting work late in the morning or after lunch or in stopping work early at lunch time or prior to the scheduled quitting time. Coffee breaks will be limited to ten (10) minutes and shall be taken in close proximity to the Employee's Work Station. The parties are in accord that the intent of the Agreement is a "fair day's work for a fair day's pay" and Work should be managed in such a manner to enable the Employer to maintain and increase efficiency consistent with fair labor standards.

8.3 When employees leave the Work on their own accord at other than normal quitting time, it is their responsibility to notify the Employer. Employees will be paid only for actual hours worked.

8.4 The Employer shall determine the recording devices, checking systems, brassing or other methods of keeping time records on the Work.

8.5 An effort will be made to keep overtime work to a minimum but when such is judged necessary it will be worked at the direction and discretion of the Employer.

8.6 All overtime to be paid at time and one-half except on Sunday and Holidays which will be paid as specified in Local Union

### Bargaining Agreements

8.7 All employees shall be paid for actual time worked. The Employer shall have sole responsibility to determine availability of work due to weather conditions.

8.8 Shift work may be performed at the option of the Employer. In the event the second or third shift of any regular work day shall extend into a holiday, employees shall be paid at regular shift rates. Shift work shall be paid as specified in local collective bargaining agreements. When so elected by the Employer, multiple shifts of a temporary basis, shall be worked the number of consecutive days required by the Local Union Bargaining Agreement.

8.9 Uniform holidays for the Agreement are as follows: New Year's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, the Friday after Thanksgiving, Christmas Eve Day and Christmas Day. If any of these holidays fall on a Saturday or Sunday, the preceding day, Friday, or the following day, Monday, shall be considered to be a legal holiday. A holiday shall be a 24-hour period commencing with the established starting time of the day shift on the date of the holiday.

8.10 When work is to be performed in controlled areas, the Employer may elect to have the employees take two (2) one-half hour breaks instead of two (2) ten minute coffee breaks and a one-half hour lunch period.

### ***No-strike/no-lockout and dispute settlement provisions***

Perhaps most importantly, PLAs insulate work on a project from disruptions that might occur because of labor relations issues or grievances.

Some no-strike/no-lockout provisions are very broad and preclude all types of actions. Others provide a narrow exception that allows striking if a contractor is delinquent in its payments to benefits funds. The BCTD model PLA allows for disciplinary action—including ineligibility for rehire for ninety days—for any individual who violates the no-strike provision.

To ensure that disruptions do not occur or are dealt with swiftly, PLAs often contain several types of dispute settlement mechanisms. First, many PLAs, following the BCTD model, have a three step grievance procedure ending in binding, neutral third-party arbitration. This procedure handles typical complaints of contract violations. Second, PLAs often have some method of resolving jurisdictional disputes. Most PLAs simply refer matters to the BCTD's plan for the settlement of jurisdictional disputes in the construction industry. Some, however, contain their own procedures for resolving such disputes, particularly for cases where a non-BCTD union or employer who does not agree to use the plan is involved. Clear language in the scope of work provision and requirements for pre-bid or pre-job conferences are also ways of avoiding jurisdictional problems.

Many PLAs also have expedited procedures to handle job actions if they do occur. Typically, an arbitration hearing is held quickly with an immediate finding as to whether a job action has taken place. If one has, injunctions are authorized and penalties may be handed out to the offending individuals, unions or employers.

### ***Safety, training and minority employment***

All of the PLAs reviewed for this research mention the need to adhere to safe work practices. In some cases, these are fairly brief statements calling

for adherence to contractor's safety rules and OSHA or state safety regulations. Drug testing policies are also a nearly universal item.

It is not uncommon, however, for safety clauses to be much more highly-developed and include, among other things, labor/management committees and mandatory testing on safety protocols. Rather than being included in the PLA itself, a project safety plan is often a separate document altogether.

Since PLAs typically cover large projects that last for several years, they provide excellent opportunities for training initiatives. Changes in the journeyman/apprentice ratio, the inclusion of pre-apprenticeship programs and even programs to set aside a portion of worksite for training are possibilities. An Indiana PLA, for example, stated that apprentices and non-journeymen may be "up to forty percent (40%) of a craft's workforce...unless the local collective bargaining agreement establishes a higher percentage."

A New York PLA provides a good example of a pre-apprenticeship program. In this case, pre-apprentice opportunities were provided to "students of the City of Buffalo's Vocational High Schools." The PLA stated that students "shall perform 'hands-on' work in the following trades: carpentry/drywall, taping, interior finishes/painting, electrical, plumbing, communication and low voltage cabling, masonry, HVAC, finish carpentry work and fire protection.

An extraordinary training program was part of the PLA for British Columbia's Island Highway. The centerpiece of the effort was the Hindoo Creek project, a section of highway built by trainees. As reported by Cohen and Braid, "Time spent on the job was strictly on actual production. 'I wasn't just pushing barrels around from one side of a training yard to another,' one trainee explained, 'I was doing real work.'" <sup>22</sup>

The Hindoo Creek project was part of an effort to recruit women and minorities into construction.

Targets and local hiring initiatives are also means of increasing minority participation under PLAs. A Connecticut PLA, for example, required that local residents be given first hiring preference, followed by those in neighboring communities. A New Jersey PLA stated that "up to 50% of the apprentices placed on this project shall be first year, minority, women or economically disadvantaged apprentices as shall be 60% of the of the apprentice equivalents..."

### Critical miscellaneous provisions

Several other distinctive aspects of PLAs deserve mention. The Scope of Agreement provisions are highly detailed in PLAs. In order to avoid conflicts over what work the PLA covers and does not cover, the PLA project must be well defined. The following is an example from the Boston Harbor project.

The Management Rights clause in nearly all

PLAs includes the rights to "hire, promote, transfer, layoff or discharge for just cause." The latter part of the provision bears special notice, since many local agreements in the construction industry do not include a just cause provision. However, these are typical in PLAs and balance with the dispute settlement procedures as a means of resolving just cause issues.

PLAs generally require all contractors on a project to use the referral system that is specified in the PLA or those included in local agreements. Some PLA referral mechanisms allow nonunion contractors to bring some of their own workers onto a project. These are called core personnel, key man or drag along provisions. For example, a western New York State PLA provides an illustration. It read, "In addition, the Contractor may hire, per craft, five (5) journeypersons referred by the affected trade or craft and may the hire one (1) core employee as a journeyperson who has been regularly employed by that Contractor for a reasonable time."

*Such Project is generally described as the construction of the following:*

- 1) *Primary, secondary and residual wastewater treatment facilities on Deer Island*
- 2) *Head works on Nut Island*
- 3) *A tunnel under Boston Harbor from Nut Island to Deer Island*
- 4) *An outflow tunnel eastward in the Atlantic Ocean from Deer Island, including the installation of diffusers*
- 5) *Related facilities, which include, as necessary the following:*
  - a. *Site preparation, demolition and/or rehabilitation of facilities now located on the site*
  - b. *Designated materials and personnel loading and unloading and staging sites dedicated to the Project*
  - c. *Transportation systems in and around the Harbor for personnel and materials*
  - d. *Installation of materials necessary for the Authority's Deer Island facilities, not otherwise undertaken by public or private utility organizations, in the town of Winthrop*
- 6) *The interim and permanent sludge treatment plants at BSRA*
- 7) *New construction/rehabilitation work for the Authority's current operating facilities on Deer Island and Nut Island awarded after the effective date of this agreement*

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Finally, the term of agreement or duration clause is critical. Such clauses are much more complex in PLAs than in local agreements. Rather than the typical three or four year termination dates, PLAs must have detailed language concerning a

project's completion. Without such language, disputes may arise as whether subsequent work is covered by the PLA. The following illustration comes from a Nevada PLA and shows the detail of such clauses:

### ARTICLE XVIII DURATION OF AGREEMENT

*The Project Labor Agreement shall be effective on the date approved by the [owner], the Union and the General Contractor and shall continue until final acceptance, as defined in Section 1(b) of this Article, of the Project construction work described in Article II hereof.*

#### *Section 1:*

*(a) Turnover. Construction of any phase, portion, section or segment of the Project shall be deemed complete when such phase, portion, section or segment has been turned over to the Owner by the Contractor and the Owner has accepted such phase, portion, section or segment. As areas and systems of the Project are inspected and construction tested and/or approved by the Construction Manager and accepted by the Owner or third parties with approval of the Owner, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed by the Construction Manager or Owner to engage in repairs or modifications required by its contract(s) with the Owner or Construction Manager.*

*(b) Notice. Notice of each final acceptance received by the General Contractor and/or Contractor will be provided to the Union with a description of what portion, segment, etc. has been accepted. Final acceptance may be subject to a 'punch list', and in such case, the Agreement will continue to apply to each such item on the list until it is completed to the satisfaction of the Owner and Notice of Acceptance is given by the Owner to the General Contractor and/or Contractor.*

*(c) Termination. Final Termination of all obligations, rights and liabilities and disagreements shall occur upon receipt by the Union of a notice from the General Contractor or the Owner saying that no work remains within the scope of the Agreement for the General Contractor or its successor.*

*(d) Releases/Waivers. Any and all releases and/or waivers shall be provided to the Owner.*

## A PLA checklist

The following table provides a comprehensive checklist of items for negotiators of PLAs. However, the list should not be a substitute for the important needs on a specific project. As chapter five states, the strength of PLAs is the ability to address these

needs. The initial questions negotiators should ask are: What are the important issues on this project (e.g. cost, scheduling, safety, etc.)? How can the PLA be structured to handle these issues?

Table 1: A PLA Item Checklist

### 1. Purpose

- If there is a specific date by which the project must be completed, is it included?
- Is the need for harmonization of hours and the stabilization of wages mentioned?
- Is the need for the maintenance of labor peace mentioned along with a dedication to the mutual resolution of disputes?
- Does the clause contain a no-strike/no-lockout statement?

### 2. Scope of agreement

- Is it clear that the PLA is intended only to cover construction work?
- Is work that is not included clearly stated?
- Are the various projects and geographic parameters of the site well defined?
- Does language address site preparation and/or dedicated off-site work?
- Does the clause clearly state that all contractors, of whatever tier, must accept and be bound by the agreement through a letter of assent?
- Does the agreement clearly state that the property owner's employees are not covered and the PLA does not create joint-employer status?
- Is there a supremacy clause stating that the PLA supersedes all other agreements?

### 3. Union recognition

- Are the signatory unions recognized as the sole and exclusive representatives of all craft employees?

### 4. Management's rights

- Is management specifically given the right to hire, promote, transfer, lay off or discharge employees subject only to the provisions of the Agreement?
- Is just cause protection granted?
- Are restrictions of output, crew size or the introduction of technology prohibited?

### 5. Referral of employees

- Do signatories agree to use the referral procedures maintained by the unions?
- Is there a provision for unions that do not have an established referral system?
- Is there a non-discrimination clause in the agreement?
- Is there a period (e.g. 48 hours) after which contractors may seek labor from other sources if the

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union is unable to fulfill a request?

- Is there language relating to the appointment of foremen?
- Does the agreement allow for testing or evaluation for those who require special skills?
- Is there a "key man" or core personnel provision?
- Is there a clause that prohibits the union from reassigning project employees to another site?
- Is there a provision for the reemployment of individuals who quit or are terminated for cause (e.g. ineligibility to return to the site for 90 days)?

### 6. Apprentices and trainees

- Is there language about the employment of apprentices?
- Does the PLA allow for a uniform journeyman/apprentice ratio?
- Are helpers, trainees, or other subjourneymen allowed on the project?
- Is the ratio of these other trainees defined?
- Are apprentice or trainee wages defined in the PLA?
- Does the PLA establish any special program for the recruitment or training of apprentices or other trainees (such as minority or female targeting, a school-to-work program, etc.)?

### 7. Wages and benefits

- Does the PLA contain any direct concessions on wages?
- Does the PLA contain any direct concession on overtime pay?
- Does the PLA limit forms premium pay such as travel time, high time, etc?
- Does the agreement limit the joint funds to which contractors must contribute?
- Does the agreement limit amounts to be contributed to straight time wages?

### 8. Work rules

- These are unique to each project, but may include such matters as rules on the use of equipment, smoking, absenteeism, etc. Often this section is used as a residual category for items that do not fit easily into other sections.

### 9. Work stoppages and lockouts

- Is there strong language prohibiting strikes and lockouts, as well as other types of job actions (e.g. slowdowns)?
- Is striking allowed over certain matters, such as delinquency in payments to joint funds?
- If striking is allowed, is it limited in any way (e.g. must not be accompanied by picketing, handbilling, etc.)?
- Is notice required for striking?
- Is there a procedure for determining if a proscribed job action has occurred and for enforcing the no-strike/no-lockout clause?

### 10. Grievances and arbitration

- Does the agreement contain a grievance and arbitration procedure?
- Are arbitrators named in the PLA?

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- If not, is the source of arbitrators (e.g. AAA, FMCS) defined?
- Does the agreement define the types of disputes or grievance that are subject to the procedure?
- Are exceptions made to the grievance/arbitration procedure for industries that have their own settlement procedures?
- Is the procedure, including the number of steps and individuals involved, clearly defined?
- Is the employer allowed access to the grievance procedure?
- Are limits to the arbitrator's authority defined?

### 11. Jurisdictional disputes

- Does the PLA reference the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry?
- Is a provision made for parties that are not stipulated to the Plan?
- Are pre-job conferences required to work out jurisdictional issues?

### 12. Union security

- Is there a requirement to join the appropriate union within the statutorily defined period of time?
- Is there a maintenance of membership provision?
- Is an exception made if the project is in a "right-to-work" state?

### 13. Union representation

- Is provision made for access to the project by union officials?
- Are the rules for union access defined?
- Are rules governing stewards defined?

### 14. Hours of work

- Is the workday defined?
- Are hours of work standardized across crafts?
- Are break times defined?
- Are any statements about overtime or overtime distribution included?
- Are there provisions for shift work and/or flex time?
- Are uniform holidays specified?
- Are rules concerning the celebration of holidays that fall on weekend defined?
- Is there a provision for make-up time?

### 15. Subcontracting

- Is subcontracting restricted to those willing to sign a letter of assent?

### 16. Safety and health

- Are any special safety programs or safety committees specified in the agreement?
- Are employees required to receive special safety training or be certified in particular safety procedures?
- Is a drug and alcohol abuse monitoring or prevention program specified?
- Is immediate dismissal allowed for safety violations?

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### 17. Saving clause

- Does the clause preserve the contract if any particular provision is voided by a court of law?
- Does the clause require the parties to negotiate a substitute agreement for any provision voided under law?

### 18. Term of agreement

- Are the start and end dates of the project clearly defined?
- Is there a provision for rework or a contractor's subsequent involvement with the project?

# 3. Interviews

It was essential to hear from individuals with experience with PLAs. The research team interviewed approximately forty people who shared a variety of thoughts. It spoke with both public and private construction users, contractors, contractor association representatives, labor union officials and two labor/management committee executive directors.

Interviews were conducted in southern New England, the northern Midwest, and the West (mainly California). To comply with rules for research including human subjects, the names of the interviewees are not revealed. Below we discuss positive and negative comments about PLAs, suggestions for when a PLA should or should not be used and ideas for improving PLAs.

## Positive comments

Favorable comments about PLAs came mainly through questions about how PLAs affect costs, scheduling, safety, training and minority employment.

## Scheduling

Interviewees seemed most convinced that the greatest benefit of a PLA was in assuring timely completion of a project. Foremost, PLAs nearly guarantee a steady flow of qualified labor. A New England contractors' association representative (who was generally ambivalent about PLAs) said, "If a nonunion con-

tractor needs labor, he will have to put an ad in the paper and hope he gets people to apply. But the unions have a national network of referral and hiring halls, and a contractor can nearly always get qualified labor."

Similarly, the construction manager for an Ivy League university stated:

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*"Anything above five to eight million dollars we will go to a project labor agreement because we find it a more effective management tool... Basically it's the labor pool, the supply of labor, the quality of the workmanship. In my experience we have had some jobs that had both union and nonunion contractors on them and from the point of view of the lump sum delivery of the job it was tough to manage. So from an owner's perspective it's a more effective management tool."*

*The construction manager of an Ivy League university*

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*In my experience, on our union (i.e. PLA) jobs we have never missed an opening date, and it is all driven by the academic schedule... We need to deliver this building by May 2006, and I get a better level of assurance building with a PLA.*

The manager also noted that scheduling depended not only on getting qualified workers, but on keeping them working. Hence, the dispute settlement provisions of PLAs are also important. He added, "The only [job] action we had

where we had a problem was on an open shop job. Generally PLAs will protect us from that type of action.”

The director of a hospital in the Midwest also noted the advantages of getting a quality workforce and being free from work disruptions:

*Having an IMPACT agreement [i.e. a PLA] gave us peace-of-mind throughout all phases of the project. A new facility was a dream of our volunteers, board members and staff for many years. The planning phase was lengthy and thorough. Once we entered the construction phase, time was a crucial issue. The IMPACT agreement assured us of the full cooperation of the building trades. There were no work stoppages, and job harmony made for a project completed in a timely manner.*

In the West, a public sector owner also commented on the scheduling advantages of a PLA, while noting the cost advantages of assuring quality:

*With the PLA, we finish on time, no interruptions or delays associated with disputes. It isn't just the dollar figure. When I put up a building, I stand back and take pride in it. When I see*

“The PLA saves us money on the final cost, which matters more than the bid price.”

A Western public sector construction user

*lousy work, I get angry. It isn't a question of it costing us five dollars an hour more. My community wants their school buildings put up properly, and they want them to last and not to have to come back and fix things because somebody was not properly trained. The PLA saves us money on the final cost, which matters more than the bid price.*

Adding some detail to concerns about scheduling, a public sector construction user in New England talked about assuring a proper flow of

work on a project:

*Delays in the project are what cause some of the most significant issues because it put trades out of schedule. They may have to go to another job. Then when you throw them off, you throw off the others...So in order to have the right order and to have people in the different trades, when they look across, say 'we know they do good work. If somebody is falling a little bit behind, let's work with them. Let's figure out a way we can move on,*

*and let's resolve any issues.' That aspect of PLAs was very appealing to the building committee.*

### Training and minority employment

Several interviewees remarked that PLAs enhanced training and fostered minority participation in the trades. A Boston area union official told us:

*We have made provisions for intake of certain people from*

*communities into our programs to give them a direct access. It could be a project where the school committee says, 'any chance our young people might have a shot of getting into the training programs?' and we will write something in...One thing we talk about in the PLA is getting the kids and actually putting them in our training program, so in three or four or five years they're actually a journey person, as opposed to just throwing them on the job site for a few months, and then they're gone, and*

“The biggest advantage is knowing that once a job starts it's going to stay working. It's not going to be affected by these external things that, for example, could affect you in local negotiations.”

“You can't have delays [on school projects], and one of the things that PLAs give you is the ability to get the workforce.”

The thoughts of two New England union officials

*they don't learn anything... We give them more of a committed career path as opposed to just giving them a part-time job for the summer.*

*[On one project] there was an agreement in order to take in minority, women, disadvantaged kids into the industry, the building trades set up a pre-apprentice program... They put 200 or 300 kids through the program every year. It's a six month program, so they do two a year. Those kids are then moved into the apprentice program if they want... The six month program is really to give them a sense of what construction is as a career. But those that want to pursue it, they go into the apprentice programs, and they're off and running from there.*

A New Haven area union official added:

*[The city] had done a lot of projects without PLAs, but the PLA projects invariably came in on time and on budget and, two, they demonstrated, as contrasted with the non-PLA jobs, a clear superiority in numbers in terms of [city] residents and minorities... and they still came in few cents per square foot cheaper than the other jobs.*

For the larger cities, it's important to them that they get local residents and minorities and women, and we demonstrate to them the successful programs that we've implemented within PLAs in other areas. The state projects, and even a lot of the local projects, it's important for them to understand that the PLA is the only way you can really guarantee a local workforce. In the public sector any person can bid, and the successful bidder can bring his workforce from wherever he so chooses, and we've seen people coming in from Arkansas, Texas and Maine. The PLA doesn't prevent anyone from bidding the project. All it says is that the successful low bidder is going to employ local building trades people. And we've done things in those agreements to give local residents a first off the bench hiring preference. We guaranteed one com-

munity ten apprentices into the trades during the building project.

### Safety

Even some of the skeptics we interviewed said that PLA covered jobs were marked by a heavy emphasis on safety. Some, like the following interviewee, linked safety performance to the labor/management committees found in many PLAs:

*Under the PLAs, more so than absent a PLA, there is usually more emphasis on safety and more so, there is more emphasis on joint participation around safety. On almost all the agreements, we insist there be a joint safety committee formed for this project so that on a regular basis, once a month, the agents get together with the stewards and contractor and talk about safety related issues. Now, on the private side, something like this is very demanded, and it is starting to come more and more from the owners, even if we had [started] it initially. On the public side it's asked for less often by the construction manager, but we think it is an advantage.*

A contractor's representative stated: "A contractor can't say 'I can't afford to buy a harness' or lanyard or whatever on a PLA project. The costs are built into the bid process, since they are required on the PLA."

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*"Under the PLAs, more so than absent a PLA, there is usually more emphasis on safety, and more so, there is more emphasis on joint participation around safety."*

### Costs

Since concessions on compensation are rare in today's PLAs, few interviewees made mention of direct cost savings. Rather, savings were implied through better scheduling, higher quality, etc. One interviewee, a union official, commented:

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A Boston area labor official