



Poughkeepsie City School District

18 S. Perry Street
Poughkeepsie, NY 12601

MEMORANDUM

TO: Dr. Eric Rosser, Superintendent
FROM: William Hogan, Interim Chief Operations Officer
DATE: December 1, 2021
CC: Kate Reid, Counsel
SUBJECT: Project Labor Agreement (PLA) Considerations

The district has been approached by local construction trade unions to consider a Project Labor Agreement (PLA) for future phases of the \$98.8 million capital project. The agreement would pertain to all construction going out-to-bid after an agreement is signed.

To determine whether such an agreement can be considered, an independent 3rd party PLA feasibility study is necessary. The study is required by law prior to a PLA agreement being signed. The PLA study, should it show economic advantages to a PLA, is one consideration in the decision to pursue a PLA agreement. It is not the sole consideration. Following the delivery of the feasibility study in November, staff will ask the Board whether to begin negotiating terms and conditions with the local unions. Should both parties agree on terms, a PLA could be instituted.

What is a PLA?

A project labor agreement requires all contractors, whether they are unionized or not, to subject themselves and their employees to unionization to work on a government-funded construction project. This is accomplished by including a union collective bargaining agreement in a public construction project's bid specifications. To receive a contract, a contractor must sign the PLA agreement and subject its employees to union control.

According to the National Right to Work Legal Defense Foundation, over 80% of contractors are not unionized.

Do PLA's Reduce Costs?

There are both passionate critics and passionate proponents of PLAs. Both sides attempt to discredit the other's positions and studies. The Beacon Hill Institute at Suffolk University conducted studies in Massachusetts, Connecticut, and New York. It concluded that PLA's added 20% to the costs in New York based upon 117 schools (late 1990's early 2000's). However, the Cornell University ILR School performed a study in 2009 discrediting Beacon's Hill's conclusions. In its place, Cornell points to feasibility studies that show estimated savings. While feasibility studies show estimated savings, they are not "actual" documented savings. Given these scenarios

and similar ones from other organizations, it is inconclusive whether PLAs reduce costs and/or translate to lower bids on the project.

Feasibility Studies

Prior to approving a PLA agreement, a feasibility study is required by law to determine whether savings can be identified on the specific project in question. It appears to be common for feasibility studies to conclude there are savings from PLA agreements. However, there appears to be no evidence that the estimated savings translate into lower union bids, as opposed to simply higher profit margins for the reduced number of bidders that may occur under PLAs. Given all the above, I would not totally dismiss the possibility of PLA savings. The problem is that the construction work goes out to bid as either a PLA or not a PLA. This makes it difficult to compare a PLA bid to “what might have been” under a non-PLA bid.

What are Some Common Pros and Cons of PLA Agreements?

Pros:

- Provides uniform wages, benefits, overtime pay, hours, working conditions, and work rules.
- Labor escalation clauses are prohibited for the duration of the Project Labor Agreement.
- Provides contractors with a reliable and uninterrupted supply of qualified workers at predictable costs.
- No strike, lockout, slowdown, or interruption of labor is allowed.
- Dispute resolution methods are agreed upon which may expedite the resolution of matters.
- Projects are easier to manage by placing unions under one PLA contract, rather than dealing with several unions.
- May include provisions for apprenticeship programs, apprenticeship workforce, and goals for under-represented groups.
- Management rights to control/supervise all aspects of the project; and
- Safety requirements and compliance are also covered under PLA's.

Cons

- May inhibit competition- nonunion contractors may choose not to bid because either their members would be required to join a union if the contractor wins the bid, or the contractor would not be able to use its own workers if the PLA required hiring through the union hall.
- Non-union workers must enroll under the union's program to participate in the construction project.

- Non-union companies offering fringe benefits to employees must also pay another portion of fringe benefits directly to the union's trust fund programs.
- Skilled workers enrolled under a non-union apprenticeship program are prohibited from working under PLA projects.
- Longstanding non-union contractor training programs may be hindered by not being allowed to work on PLA projects vs. union apprenticeship programs tied to a specific project.
- Union work condition rules required in PLAs may increase labor costs which are passed to the project.
- Less than 15% of the actual construction workforce is enrolled in union organizations.
- PLAs may not be necessary because of existing prequalification procedures used to screen contractors that bid on public projects; and
- PLA critics argue that the issue is not always that PLAs are detrimental. However, it may be difficult to prove that a PLA improved the project outcome.

Recommendation: Proceed or Not Proceed with a PLA?

There does appear to be some inherent potential benefits of a PLA by standardizing the workforce under one agreement, utilizing apprentice workers, and negotiating concessions. At the local level, there is potential for a more localized workforce and job training apprenticeships. However, it is imperative that the district take measures to protect itself from potential downsides of PLA agreements such as: union work rules that inflate costs, higher costs due to less potential bid competition, and PLA savings that would simply translate into higher profits for the union contractors rather than lower construction bids (can't control). Additionally, with COVID-related supply chain issues, it may be necessary to utilize State contracts and cooperative bids to speed-up the ordering of materials process by several weeks.

In addition to the typical positive elements in a PLA (see Pro's section above) the district should negotiate shift differentials and overtime, flexible start times, Saturday make-up days (no OT), and the right to immediately re-issue bid solicitations (exempt from the PLA) whenever the PLA bids exceed construction cost estimates from the construction management company.

References:

National Right to Work Legal Defense Foundation, <https://www.nrtw.org/what-is-a-project-labor-agreement-and-how-does-it-affect-workers/>

Paul Bachman and David Tuerck [April 2006]. Project Labor Agreements and Public Construction Costs in New York State: Beacon Hill Institute at Suffolk University

Kotler, F. [2009]. Project Labor Agreements in New York State: In the Public Interest. Ithaca, NY: Cornell University, School of Industrial and Labor Relations—Extension Division, Construction Industry Program.