

# **THE ACADEMY OF ELECTRICAL CONTRACTING**

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**PAST, PRESENT, AND FUTURE OF PLAs**

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Somewhere between a “Dark Cloud” and the “Silver Lining” lie the various opinions of the value and need for a Project Labor Agreement (PLA). From the first PLA for the Grand Coulee Dam in 1938 to the small classroom addition at a local high school, PLAs have been part of the construction industry for many years. There are varying points of view and a variety of factors that play a part in the determination of their value and purpose. These variables fluctuate from project to project and place to place. It is a complex alignment of factors that determines what a PLA means to contractors, customers, and to the community. The purpose of this paper is to shed some light on this complicated but important subject.

According to Dr. Peter Phillips professor at the University of Utah, PLAs can be categorized into three distinct types: Classic, Concessionary, and Win-win.

- **Classic PLAs** are generally used on large, long-lasting, complex projects either located in rural areas where labor is scarce, or in urban areas where scheduling and completion of the project are crucial. A PLA was used on the Interstate 15 highway expansion in Salt Lake City prior to the 2000 Olympics because scheduling was critical. University of California’s Lawrence Berkeley National Laboratory saw the value of technical skills available through PLAs. The Shasta Dam (1940) and the Delta Utah power plant (1980) are examples of rural projects that needed to ensure the availability of manpower through a PLA.
- **Concessionary PLAs** are contracts with wage or benefit concessions relative to local Collective Bargaining Agreements (CBAs). They are used to hold large customers in the organized sector of the market, especially in times of economic crisis and de-unionization. Though they still exist, these agreements are much less common today than before the 1980s. They are one source of tension between traditional bargaining and new PLA bargaining.
- **Win-win PLAs** are innovative tools that seek to exploit the possibilities of win-win bargaining when a new entity is at the table... *owners*. Wage concessions are not common and no-strike provisions are of secondary importance. Other concessions, however, can be critical, such as scheduling in the case of a bridge owner who does not want to build during rush hour traffic. This type of specificity usually cannot be addressed at the

traditional bargaining table because, as a rule, contractors generally have construction in mind rather than the particularities of a specific project. Other non-concessionary issues can also be very important in Win-win PLAs: training, local hire provisions, pre-apprenticeships tied to local schools, and social justice issues can be important elements in the case of a local community. For private work, availability of a skilled workforce, safety, and workers compensation carve-outs can be important considerations for owners and general contractors.

Interestingly, about half of all PLAs occur in only three states—New York, California, and Massachusetts. These states have large metropolitan areas where union density is generally higher than in other regions.

At first glance, there appears to be a relationship between union density and the value, need, and frequency of PLAs. However, this is not a direct correlation; rather, it appears to be more like a bell curve. Where there is little union activity, such as in a “Right to Work” state, there seems to be little or no PLA activity; similarly, where there is high union activity the need for a PLA also appears to diminish. The real value and use of PLAs appears to be in the middle of the curve where there is an intermediate amount of union density.

The nature of PLAs can differ not only based on their purpose (Classic, Concessionary, Win-win) but also on their “strength.” Strength is a function of many factors, but can be generally measured by looking at what unions get and what they give up relative to the local CBAs. For example, the length of a given PLA can be as short as a few months or can last 50 years. They can be for a single building, a building complex, or a lengthy building program. A PLA can be tied to a project or to an owner. PLAs can include “Core Employee” or Call-out provisions. They can include provisions for non-union, or concessions for wages, benefits, or harmonization of the trades. (Harmonization provides for all the trades involved with the PLA to have uniform overtime, shift, and other working conditions.) Local hire, training, bonding, licensing, and zoning also vary. So, to measure a given PLA’s “strength,” consider also the extent of the give-and-take of the agreement relative to the locality’s CBA.

Now, let’s get to the meat of the issue.

*Do PLAs change outcomes?* Yes, they do.

*Is it always for the good?* That depends on who you are and your opinion.

Looking at some of the issues and answering some pertinent questions will help to understand the real value of participating in a PLA.

- *Do PLAs reduce and/or change the bidders on a project?* Dr. Phillip's study of East Side Union High School District suggests that the number of bidders does not go down significantly after a PLA as been put into place; however, the number of *union contractors winning the bid does go up significantly*. The study also shows that the gap between the lowest and second lowest bid does not widen – it may actually narrow. In the case of prevailing wage jobs, the main *theoretical* reasons given for why PLAs might raise costs are twofold: PLAs may restrict the number of bidders (disproved above); and PLAs may restrict cheating (more likely). More bidding and cheating studies are needed to fully address this issue.
- *Do PLAs cost more money?* The now infamous and (I would add) disproved Beacon Hill study suggested a substantial increase in school construction costs (i.e. about 25%) on prevailing wage jobs tied to PLAs compared to prevailing wage jobs without PLAs. Dr Phillips' study however, debunks these results by revealing a poor collection of data on their part. Improved data collection indicates that there is no meaningful effect of PLAs on costs for prevailing wage projects. I would also add that if indeed the bidding costs went up on prevailing wage projects, the most likely cause would be through the inability of contractors to cheat (by *not* paying the prevailing wage) due to the additional scrutiny afforded by the PLA.
- *Why do some nonunion contractors not bid on PLA projects?* They may be deterred because they believe that they are paying double into pension trust funds. That may or may not be the case – on some prevailing wage jobs this may be true with or without the PLA. So, the deterrent could simply be a prevailing wage issue – not the PLA itself. A San Jose study suggests that there is some decline in nonunion bidding but there are still a substantial number of nonunion firms that bid at both the general contractor and sub-contractor levels.

Looking into the future of PLAs can be, at best an educated guess, and at worst, a stab in the dark. Nonetheless, let's do it.

*Will PLAs become more common?*

- Classic PLAs will continue steadily with particular large, long-lasting, isolated or complex projects, especially in unionized areas. Their value has proven itself over and over since the Grand Coulee Dam project started in 1938. There appears to be no reason why these PLAs won't continue in this realm. The need and value of Classic PLAs seems to be apparent to everyone involved in this segment of the construction industry.
- Concessionary PLAs will come and go with deep business cycle downturns or in areas with the infusion of more non-union construction with medium to high union density. As union density declines, the need and value of concessions in PLAs increase.
- There will be a prevalence of win-win PLAs in areas where unions have intermediate strength (i.e. in the East Bay area of Northern California— but not in Sacramento where strength is too low, nor San Francisco where strength is too high).

For the remainder of this paper I would like to concentrate on Win-win PLAs. As mentioned earlier, training, safety, local hire provisions, pre-apprenticeships tied to local schools, and social justice issues are important elements for a local community.

To school board members, the idea that some of their current students in high school would, in the near future, be working on a school building project, means something special to those who value the meaning and purpose of education and training. School boards in general recognize that not every high school student is destined to go on to university studies. From their perspective it is also important to know that the apprentice training provided is paid by contractors and not the student (apprentice or pre-apprentice programs), or the community. Contractors participating in PLAs spend millions of dollars annually for classroom and on-the-job training. To a school board member, the fact that the worker is being paid while he learns is "icing on the cake."

Local community leaders look positively on the stability offered by providing local employment opportunities, and generally support local hire provisions often

included in Win-win PLAs. This not only lowers unemployment but also recycles the money paid to workers who live in the area. The money paid goes to those that tend to purchase from local merchants and pay taxes locally. These and many other local hire benefits can be very attractive to community leaders.

Public sector construction appears to have the demographic make-up of the workforce as a major point of concern. Minority employment and local hire provisions incorporated into a PLA provide community leaders with substantial reasoning for promoting their use.

Some PLAs have a social justice element as part of their provisions, providing a needed benefit to some communities. A special social justice trust, developed and paid for by the contractors, is set up to provide a vehicle through which funding of special social efforts in the community can be channeled. While the issues may vary from community to community, the need for social justice projects seems to be considered necessary in many large metropolitan cities. PLAs provide the mechanism for such a trust to be developed and utilized to the community's benefit.

Construction in the private sector has safety as a common thread of concern that can and should be addressed in a PLA. Studies have shown that projects utilizing PLAs are simply safer workplaces. That safety translates into lower construction costs.

PLAs will play a role in the institutional evolution of construction unions towards fewer individual entities. This may not be the driving force behind such a progression but it will be a significant factor. Trends indicate that there will be more Wall-to-Wall PLAs by one union or an ad hoc grouping of unions. This is already occurring. PLAs also play a role in enhancing building trades' councils relative to local unions. The idea of the collective force being greater than the sum of its parts is a natural progression if the parties involved are informed, aware, and willing to change. It is important that the organized electrical construction industry is ready for that change.

As with all complicated issues, there are opponents to PLAs. They quickly cite many problem projects, including Boston's Central Artery/Tunnel Project ("The Big Dig"), as examples of how PLAs are causative factors on these troubled projects. It doesn't take a lot of research to see the fallacy of such a statement. One only has to look at the very troubled Oakland Bay Bridge in California that is not under a PLA to see that "The Big

Dig" PLA was not necessarily a part of the overall problems. When these analogies are used they tend to appeal to the cynical nature of us all. To many, "Project Labor Agreements" and "Union Monopoly" are one in the same, as they appeal to those that have a predetermined notion of what these catch phrases mean. For a tunnel or a bridge it is easy to find many factors that can have an unforeseen negative influence on the final cost. One simplifies too much if one says the negatives arise solely from the PLA or its enforcement.

Utah and Montana have successfully banned the use of PLAs. Ohio tried, but that effort was stopped at the state Supreme Court. President George W. Bush issued an executive order to ban PLAs on federally funded projects. These efforts are just the beginning of what is sure to be a long and lengthy debate and confrontation.

Whether or not PLAs, in fact, increase (theoretically due to a lower number of bidders) or actually reduce costs, is a discussion inflaming a variety of opinions and attitudes. As you read newspaper and magazine articles, editorial comments and the like, you will find much more rhetoric than facts. What you will read very little coverage of is the fact that the prevailing opinion of customers, contractors, and community leaders who have actually experienced using a PLA appears to be much more positive than negative; and that these individuals believe any increase in price (if such is the case) is more than off-set by the quality and timeliness of the project.

In summary: timely completion within budget; training; worksite safety; diversity in the workforce; local hire provisions; and minority employment are important factors to both the public and private sector of the construction industry. PLAs can and should play an important role in the evolutionary progress of the organized electrical construction industry.

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