



## Government Mandated Project Labor Agreements (PLAs)

### Overview

On Feb. 17, 2001, President George W. Bush issued Executive Order 13202, which maintained government neutrality in federal contracting and prohibited the government from requiring contractors to adhere to a project labor agreement (PLA) as a condition of winning federal or federally funded construction contracts. Between 2001 and 2008, this executive order protected \$147.1 billion worth of federal construction and hundreds of billions of dollars worth of federally-assisted construction spending from government mandated PLAs.

On Feb. 6, 2009, President Obama issued Executive Order 13502, which repealed Executive Order 13202. Executive Order 13502 encourages government agencies to require PLAs on federal projects costing more than \$25 million.

### What is a PLA?

Anti-competitive PLAs are special interest kickback schemes that end open, fair and competitive bidding on construction projects.

A PLA is a contract typically requiring that a construction contract be awarded only to contractors and subcontractors that agree to: recognize unions as the representatives of their employees on that job; use the union hiring hall to obtain workers; obtain apprentices exclusively through union apprenticeship programs; pay fringe benefits into union managed benefit and pension programs and obey the unions restrictive and inefficient work rules, job classifications and arbitration procedures.

Contracts subject to PLAs are special interest set-asides designed to funnel work to unionized contractors and their unionized workforces, which represent just 14.5 percent of the U.S. private construction workforce according to 2009 Bureau of Labor Statistics data. Merit shop contractors, their employees and many communities strongly oppose PLAs because they discourage competition from merit shop contractors.

PLA opponents argue that PLAs harm a merit shop contractors' existing nonunion workforce. Nonunion employees would be forced to pay union dues; they would not benefit from employer contributions into union pension plans unless they were to join a union; and they may be denied employment altogether under union hall hiring requirements in typical PLAs

An October 2009 report by Dr. John R. McGowan found that employees of nonunion contractors forced to perform under government-mandated PLAs suffer a reduction in their take-home pay that is conservatively estimated at 20 percent.

The McGowan report found that had President Obama's pro-PLA Executive Order 13502 applied to applicable federal contracts in 2008, additional costs incurred by employers related to wasteful PLA pension requirements likely would have ranged from \$230 million to \$767 million per year. Lost wages for nonunion construction workers would have ranged from \$184 million to more than \$613 million, depending on the assumptions made for companies executing contracts via PLAs. In total, the move to PLAs would cost nonunion employees and their employers \$414 million to more than \$1.38 billion annually.

In addition, according to a September 2009 study by The Beacon Hill Institute (BHI), PLAs significantly increase construction costs on federal projects without corresponding benefits for taxpayers or construction owners. The study found that if President Obama's Executive Order 13502 were in effect in 2008, federal construction costs would have increased an additional \$1.6 billion to \$2.6 billion.

BHI used the results of three previous studies measuring the cost effect PLAs have on school construction projects in Massachusetts, Connecticut and New York—which determined PLAs add 12 percent to 18 percent to construction costs—to estimate the effect Obama's executive order would have had on federal construction projects initiated in 2008.

### **The Free Enterprise Alliance Supports**

- The *Government Neutrality in Contracting Act*, (S. 90), introduced by Sen. David Vitter (R-LA), and H.R. 983 introduced by Rep. John Sullivan (R-OK), would codify into law language from Executive Order 13202. On January 6, 2009, S.90 was referred to the Committee on Homeland Security and Governmental Affairs and on February 24, 2009, H.R. 983 was referred to the Subcommittee on Government Management, Organization, and Procurement.
- Legislative or executive measures to preserve full and open competition on public construction contracts in the spirit of Executive Orders 13202.
- Federal construction contracts awarded based on sound, credible criteria such as quality of work, experience, and cost—not a company's affiliation with unions.

### **The Free Enterprise Alliance Opposes**

- Government mandated PLAs on federal and federally-assisted construction projects. These agreements discourage merit shop contractors from bidding on projects paid for by their own tax dollars and drive up federal construction costs.