

FYI: AJM

Union Project Labor Agreements: A Good Concept Even Union Contractors Oppose



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As the CEO of an association that represents exclusively union construction firms, one would think that I would automatically and heartily endorse broad-based use of Project Labor Agreements for the benefit of contractors, unions, and end-users. In this regard, you would be seriously in error.

Despite some years of our support for PLAs, our contractors and association no longer see value in them for contractors, unions, or owners.

PLAs have become a vehicle for circumventing union contractors, undermining labor agreements, and "subsidizing" some non-performing local unions and their weak leadership. We can no longer find union contractors willing to support PLAs in our marketplace.

The Broken Promise

From a conceptual standpoint, PLAs as industry-shaping policies have a compelling positive operational and economic rationale. They are presented as engines of opportunity and project stability. The breakdown occurs when the concept moves to policy and into implementation. In this regard, systemic failures have become a fertile breeding ground for disputes, conflict, and contractor liability. >

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Relevance, Responsiveness and Responsibility

Heretofore, industry construction craft practices have been a function of the contractual scope of Union Master Agreements. A hundred years of Construction Master Agreements between unions and employer associations is how labor and management have found their middle ground.

With the PLAs of today, this is often abandoned because the union no longer has to negotiate with the employer; they can go to a third party who will then dictate terms of scope, coverage, and employment. These are most often negotiated directly between local Building Trades organizations and the owner.

As a result, contractors are now required to become signatory to agreements they did not negotiate.

Union Master Agreements are the level playing field. They are the known territory that governs bidding labor costs and assessing contractor risk. They are templates for assembly of a workforce and a production objective.

Most union contractors are not signed to many unions. That is a normal part of the industry. Factors that impact this have always been contractor utilization and preference, decisions based on the craft's ability to perform, their progressive (or lack of) cooperative nature, and their ongoing relevance to the market and industry.

Though some might point to cost as another driving factor, in my opinion there are crafts that could price themselves at minimum wage and never be utilized due to their real or perceived inability to meet market or contractor needs. Now PLAs require contractors to sign with nearly every union regardless of need, operational history, or efficiency.

As the PLAs proliferate, owners and unions rarely take into account the contractor's concerns. These contractors are completely and deliberately omitted from what has become a "deal-cutting" process that often expands coverage beyond existing collective bargaining agreements, obscures or prevents local practices from being used, includes new classifications, and otherwise shows no regard or respect for the union employer.

Bottom line: what they cannot get at the bargaining table with their "employer partners" they can sell to an unknowing, apathetic or under-pressure public/private owner.

Impact on the Union Contractor

Contractors, due to the obligations of many PLAs, are finding that with the multiplicity of bargaining obligations required they cannot utilize their existing workforces; cannot follow decades-long practices; cannot determine what craft rates to use or not use for labor costs; and cannot perform to the time, cost, and production schedules that they have built their businesses upon.

Beyond this, a significant negative impact is being experienced by union contractors due to the proliferation of PLAs and a total lack of responsiveness and responsibility on the part of the unions promoting them. For many it is just a free handout that turns the contractor upside down. Here are some of the specific impacts:

- Many of our members are being forced to use unions that they have no relationship with and no need of utilizing.
- Contractors do not know how to bid projects "apples to apples" from a labor cost standpoint, and so are at undue risk.
- Jurisdictional disputes are much higher in number and nature on PLAs, and contractors are the only ones operationally impacted.
- Local practices are often ignored at the expense of the contractor's efficiency and long-standing history.
- Contractors are being forced to expand coverages and classifications that are not in their existing agreements.
- Contractors report that costs associated with bidding PLA projects often result in an increase in price to the owner of 10-20%.

Subsidizing the Non-Performing

For unions that are progressive, cooperative and responsible, PLAs have little impact. On the other hand, for unions that have been unresponsive to the market, contractors and competition, PLAs have become a welfare program.

PLAs are life support for some unions that have been unable, unwilling or incapable of meeting the market's needs for years. As such, this owner-mandated contractual vehicle requires little effort and no downside, and suddenly jurisdictional disputes between crafts increase exponentially. The contractor, of course, is stuck in the middle, between the owner's vague idea on the content of the PLA or the consequences, and the union's struggles to expand or retain jurisdiction.

A PLA does not require a poorly run or led union to be more efficient, effective, responsive or professional. It only slices up the pie into smaller pieces and then jams them down the throat of the contractor, like it or not.

PLAs have helped "uncompetitive" unions survive on the backs of the good unions

Essential union contractor complaint

The Union Contractor Viewpoint

For something that was supposed to look pretty good to existing union contractors, we have heard nothing but complaints about complications, conflict and cost escalations for our contractor members. We cannot find union contractors willing to support PLAs in our marketplace any longer. This should be taken very seriously. Most have found themselves in the middle of conflicts between crafts, or been forced to use workers from unions with which they did not have relationships. This leads to higher risk, lost production, and a souring of the union-employer relationship.

Solutions: Integrity or Elimination

There must be structural reform of PLAs. Here are the key recommendations that must be enacted:

PLAs cannot contain any variations from the Master Construction Agreements. Anything more or less is a total breach of bargaining integrity. Behind the scenes deal-cutting is unacceptable, and lacks transparency and integrity.

Local practices must be respected in jurisdictional dispute resolution. With the breakdown of the AFL-CIO Building Trades agreements, solid alternatives must be agreed to between the crafts. The answer needs to be based on local practices and local arbitration. Local union leaders need to find methods of

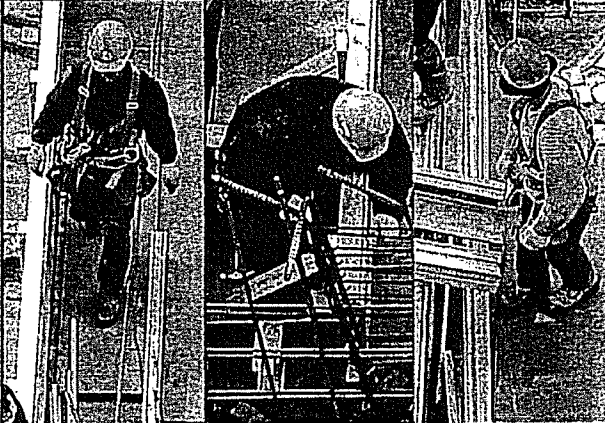
bridging their gaps, not dumping it into some administrative black hole. No longer can contractors and unions refer to ancient documents, decades-old decisions, and irrelevantly distant geographic practices to govern local work.

PLAs do not need to be "one size fits all" with every craft signatory. Perhaps not everyone needs to be included in every PLA. If the work does not warrant it (heavy civil vs. building vs. residential) due to the nature or scope, it should be streamlined to meet the needs of the project, the contractor, and the owner.

Contractors and their associations need to be asked to the table. The arrogant position that the contractor has no stake or voice is idiotic. One hundred percent of the economic risk of every project bid under a PLA is on the contractor, and he or she has a right to protect the interests of their business and the bargaining environment that ensures a level playing field.

In absence of the protections above, union contractors and their associations should oppose PLAs that impact their markets, bargaining agreements, and companies. Owners need to take heed of possible additional costs and complications that they would otherwise not experience with PLAs as they are generally drafted today. ■

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