

August 7, 2024

To: Mayor and Members of City Council

From: Sheryl M.M. Long, City Manager **202401826**

Subject: Response to Councilmember Motion: Pros and Cons on Project Labor Agreements (PLAs) for City Construction Projects

Ref. Document #202401150

At its session on April 24, 2024, the City Council referred for review and report:

MOTION, submitted by Councilmembers Johnson, Walsh, Owens and Jeffreys, WE MOVE that the Administration produces a report within ninety (90) days on the pros and cons of Project Labor Agreement (PLAs). This report should include potential impacts on worker wages, labor availability, project costs, project efficiency, worker safety, workforce diversity, the bidding process, and any other relevant information. It should also include the historic context of any other similar policies implemented or studied by the City. (STATEMENT ATTACHED)

Introduction

As defined by the US Department of Labor, Project Labor Agreements are pre-hire collective bargaining agreements with one or more labor organizations that establish the terms and conditions of employment for a specific construction project. These agreements, negotiated between construction unions and employers, include provisions such as binding clauses for all contractors and subcontractors, no-strike and no-lockout clauses, and established grievance and arbitration procedures. PLAs also determine the wages and benefits for all project workers and require contractors to source labor through a union hiring hall responsible for providing skilled workers. PLAs can include goals for hiring local community members, equity plans, strategies for recruiting workers from underserved communities, and mandates for small business participation.

Additional Context on PLAs

PLAs often mandate or encourage union participation. A "signatory" contractor is one that has signed an agreement with a labor union, outlining employment terms such as wages, hours, benefits, and other workplace rules. Being a signatory means that a contractor has agreed to work under the terms of a union agreement, which can impact their hiring practices, subcontracting policies, and overall project management. As signatory contractors to the associated union, their project labor agreements impose strict rules on subcontracting:

- Under a project labor agreement (PLA), they cannot subcontract work that falls under the jurisdiction covered by the PLA to any non-signatory contractor.
- Subcontractors become subject to the terms and provisions of the PLA.

Union Membership in Construction Industry

According to the Union Membership and Coverage Database and a 2023 report published by Allied Construction Industries and the University of Cincinnati's Economics Center, the union membership rate for the construction industry in Cincinnati's MSA is estimated to be about 10.5%.

Advantages:

- **Standardized Wages and Benefits:** PLAs ensure uniform wages, benefits, and working conditions across all contractors and subcontractors.
- **Labor Peace and Stability:** PLAs typically include no-strike clauses, reducing the risk of labor disputes and work stoppages.
- **Skilled Workforce:** PLAs often require the use of union labor, ensuring a pool of skilled and trained workers.
- **Timely Project Completion:** Reduced likelihood of delays due to labor disputes can lead to on-time project completion.
- **Safety Standards:** PLAs often include stringent safety standards and training programs.
- **Enhanced Cooperation:** Facilitates better coordination and cooperation among contractors, unions, and the project owner.
- **Local Hiring Requirements:** Can include provisions for hiring local workers, promoting local employment.
- **Apprenticeship Programs:** Supports training and apprenticeship programs, fostering the development of future skilled workers.

Disadvantages:

- **Limited Competition:** Restricts bidding to unionized contractors, potentially reducing the pool of bidders and increasing project costs.
- **Exclusion of Non-Union Workers:** Non-union contractors and workers may be excluded, limiting opportunities for some local businesses.
- **Administrative Complexity:** Implementing and managing PLAs can add administrative burdens and complexity to the project.
- **Potential for Increased Disputes:** While PLAs aim to reduce disputes, differences in interpretation of PLA terms can still lead to conflicts.
- **Reduced Flexibility:** PLAs may limit flexibility in hiring practices and workforce management.
- **Impact on Small Businesses:** Small, non-union businesses may find it difficult to compete or participate in PLA-covered projects.

Outreach:

The Department of Economic Inclusion conducted a survey with city-certified businesses and union partners to gauge the knowledge level and opinions on PLAs. The survey consisted of 10 impartial questions of which 4 were yes or no answers, 5 questions provided the opportunity for written answers, and one question asked the participant to leave any additional thoughts or comments. DEI's intention was to gather feedback on PLAs through a diversity and inclusion perspective for both small businesses and members of the workforce. In total, DEI received responses from 45 individuals. A summary of the findings can be provided upon request.

PLA's Impact on Cost

There is minimal city procurement data supporting the increased costs that PLAs might impose on projects, primarily due to the lack of recent projects utilizing PLAs.

Conclusion

Many city-certified SBEs, MBEs, and WBEs are not union-affiliated. Thus, requiring prime contractors to meet all PLA criteria may inadvertently exclude non-signatory subcontractors, regardless of their certification status.

Since the establishment of the Department of Economic Inclusion in 2015, the City has worked diligently to lower the barriers to prime contract and subcontract participation on City contracts historically faced by minority-owned and women-owned businesses. There is an affirmative legislative finding in Chapter 324 of the Municipal Code that “it is in the best interest of the city to adopt measures to eliminate barriers that prohibit full and fair participation of MBEs and WBEs in city contracts.” (CMC § 324-5(4)) However, without a thorough analysis on a project-by-project basis, a broad blanket approach to PLAs may unintentionally replace old barriers with new ones.

Potential Project Labor Agreement (PLA) requirements conflict significantly with both the stated legislative purpose and the specific provisions of the MBE/WBE Program, which was designed to remedy existing disparities in city contracting with minority-owned and women-owned firms. While both PLAs and the MBE/WBE Program serve important purposes, PLAs cannot be broadly applied to construction projects without substantially undermining the MBE/WBE Program. They also have the potential to reverse much of the economic inclusion progress made in the past nine years. A case-by-case approach to determine whether a project is suitable for a PLA, coupled with increased education and outreach, is advisable.

cc: Natasha S. Hampton, Assistant City Manager
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