

**HOW UNION-ONLY LABOR AGREEMENTS ARE
HARMING WOMEN- AND MINORITY-OWNED
BUSINESSES**

HEARING
BEFORE THE
COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTH CONGRESS
SECOND SESSION

Washington, DC, August 6, 1998

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POSITION PAPER

UNION - ONLY PROJECT LABOR AGREEMENTS

The National Black Chamber of Commerce, Inc. is firmly **against** union – only Project Labor Agreements. Such agreements result in anti-small business activity which is predatory to Black owned businesses and curtail the potential for employment opportunities within urban areas. No company or individual should be forced to sign a union agreement before given the opportunity to participate in our capitalistic system. PLAs are anti-free market, non-competitive and, most of all, discriminatory.

We base our position on the following:

- Labor unions, particularly the construction trades, have been under-representative of the African American population. Discrimination indeed exists in virtually every union hall across this nation. There are cases, such as Gary, IN, and Buffalo, NY where the unions have segregated chapters, i.e. Black carpenters union/white carpenters union.
- Unions have actively opposed programs that provide an inclusionary process for African Americans such as the Revised Philadelphia Plan and affirmative action programs at the government levels. Union money and influence played a major role in convincing the NAACP to either oppose and/or remain neutral on an affirmative action policy from the years 1969 –1990.
- 4 out of 5 American construction workers choose not to join a union. Union-only agreements would, therefore, oppose or usurp the public mandate.
- Union-only contracts increase the cost of construction through higher labor costs and limited competition. Many times they are found to violate competitive bidding laws and cost taxpayers unnecessary inflated prices.
- PLAs would render minimum wage standards invalid. Davis-Bacon standards would intercede and become the “actual minimum wage”.
- PLAs would cause a closed shop hiring practice with no guarantees of equal opportunity.
- Union-only contracts would “jack up” wage standards without proper negotiation and run up the cost of construction to prohibitive levels.

SIGNED:


HARRY C. ALFORD
President & CEO

BABCA

BAY AREA BLACK CONTRACTORS ASSOCIATION

January 22, 1998

John Robinson
Executive Director
Associated Builders and Contractors, Inc.
Golden Gate Chapter

RE: Support for BABCA's Fundraiser

Dear John,

As you are aware, the Bay Area Black Contractors Association has been a strong advocate for Merit Shops in the Oakland/San Francisco Bay Area and we are opposed to Project Labor Agreements (PLAs) being required on Public Work projects. The Unions have been able to utilize U.S. Congressman Ron Dellums' office as an advocacy in their efforts to pressure the Port of Oakland to place a PLA on all of its projects. It has been only due to the united efforts of the AGC, BABCA and your organization that the Port of Oakland has not already adopted a PLA requirement.

Sincerely,



Beth Aaron
Executive Director

enc: 10

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STATEMENT
OF
JIM TALENT (R-MO)
CHAIRMAN
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS
WASHINGTON, D.C.
AUGUST 6, 1998

Our hearing today is about how union-only Project Labor Agreements, or PLAs, hurt women- and minority-owned businesses. I have called today's hearing on union-only PLAs to try to understand why the Clinton Administration is so aggressively pursuing PLAs in the face of such strong opposition from those who are on the front line: the women and minority contracting community.

In a June 5, 1997, Executive Memorandum, President Clinton publicly announced his policy of using union-only labor on Federal contraction projects by implementing PLAs. Under the President's Memorandum, a PLA would mandate that *the union*, in tandem with the Federal Government, would establish the important criteria on Federal construction jobs, including pay and work rules, before the work is even put out to bid. Following the President's lead, Department of Transportation Secretary Slater distributed a memorandum directing department personnel to use PLAs when possible on DOT-funded jobs.

The Administration argues that because PLAs contain anti-discrimination clauses that profess to include union and open shop bidders alike in the contracting process, no discrimination occurs on projects covered by a PLA. But the fact is that when union-only PLAs are put into practice on Federal jobs, their discriminatory effect against women- and minority-owned businesses is so obvious that many of these contractors simply choose not to bid. Consider these facts:

1. The vast majority of women and minority-owned businesses are not unionized and therefore will have no input in the PLA-drafting process.
2. Union representation is forced on minority and women open shop contractors as a price of winning Federal contracts. Consequently, open shop contractors are required to obtain most of their employees from union hiring halls, abandoning their own work force in favor of a "stranger" work force.
3. Minority and women open shop contractors must agree that it and all of its subcontractors will become subject to a union agreement, pay union benefits and follow union work rules and jurisdictional restrictions.

4. Minority and women contractors are mandated to pay into the unions' pension and health and welfare plans even when they have their own plans, and are required, in some instances, to render double payment for certain employee benefits to comply with union demands.

The fact is that no matter what anti-discriminatory language PLAs might include, PLAs are so burdensome that they chase women- and minority-owned businesses off Federal jobs.

The Clinton Administration has tried to justify their strong advocacy of PLAs by saying that they save taxpayers money, promote labor peace, and achieve a better work product by using more highly-skilled labor. I look forward to the testimony of distinguished witness Nancy McFadden, general counsel to the Department of Labor, who will explain how overburdening small businesses and reducing competition can possibly achieve these ends.

Today's hearing is about giving women- and minority-owned contractors the opportunity to say why PLAs mean bad business for them, the project and the taxpayer. Even I have been surprised by the overwhelming response. I have letters from Hawaii, Washington state, and California, to name a few, where women and minorities have cried foul, and discussed how PLAs will seriously harm their businesses. As one woman business owner wrote, "Contrary to what is being pitched, labor agreements and limiting work to union only companies does nothing to help put local people to work. It is extremely harmful to companies that have employees that choose to be non-union and are being discriminated against for making this choice and will serve to put those companies out of business." Another woman business owner, after discussing the negative impact of PLAs on her company, wrote that she wanted her statement to "read as personal as I could, without getting into too much detail. Sometimes this is difficult when the issue has so much impact on the survival of your company." I could go on for quite awhile reading these telling accounts, but I'm certain that the witnesses in our second panel will be able to express the concerns of the minority- and women-owned business community from first-hand experience.

I will now recognize the ranking member, the distinguished gentlelady from New York, for whatever statement she might wish to make.



Phoenix Construction Services

CA State License # 688023



August 3, 1998

Committee on Small Business
U.S. House of Representatives
2361 Rayburn House Office Building
Washington, DC 20515-6315

Attention: Chairman, Jim Talent (MO)

Dear Mr. Chairman,

I would first like to thank you for the opportunity to bring before you some of my personal experiences in contracting and of the negative effects brought on by the use of Project Labor Agreements, otherwise known as PLA's.

PLA's serve only to diminish the freedom of choice in our working environment. As it stands, should a contractor by its freedom of choice, choose to become union, and agree to be bound by a union agreement, then they have been given their opportunity of choice. Should an employee, by their freedom of choice, choose to become a union member then they have elected that choice, based on their freedom to do so.

PLA's are collective bargaining agreements negotiated between the owner and the labor unions. PLA's are not reflective of the contractors right to choose, they are the total lack of choice all together. Because the owner and labor union are the negotiating parties, the contractor becomes bound by an agreement that will supersede theirs, should the contractor already be union. In the case of an open shop contractor, their choice not to be bound by a union agreement has been taken away.

When a project is locked into a PLA, the hardships it creates are sometimes hard to recover from. My company, Phoenix Construction Services, is a general engineering company. The type of projects Phoenix is involved in are mainly that of railroad construction & maintenance and major landscaping & irrigation. Because Phoenix is a small construction company we generally work in the capacity of a subcontractor.

Phoenix, by choice has elected to remain an open shop contractor. In order to bid on any projects that are under a PLA, we would be required to enter into a Project Agreement with each union trade that feels we are doing work under their trade. A *Project Agreement* is negotiated between the union and the subcontractor and would be inclusive of the PLA for that project only. Example being, on a landscaping project, Phoenix was forced to sign with the Laborers Union to provide workers as well as the Operators Union to operate the equipment.

When bidding the above mention project Phoenix knew what their work force was capable of, and bid accordingly. My estimators and management know the capabilities of each of my employees, and have the opportunity, when not under a Project Agreement, of utilizing those who are multi-trade. Our work force has worked together and knows what they are responsible for. Unfortunately because I was forced to use union laborers, I was unable to use all of my own employees. The laborers union allowed me to keep only three of my own work force, all of whom had to become union members, a cost Phoenix bore because it was not the choice of the employee to become a union member. Because each union trade is specialized I was also forced to sign a Project Agreement with the Operators Union to operate the equipment. Again I was only allowed to use some of my own work force and they also had to become union members, again, an added cost to Phoenix.

Because of the union's involvement, Phoenix did not have complete control of the project, but bares all the liability. Every morning we did not know if the same employees would be sent out to the project or if anyone would show up at all. The only ones we could count on were our own. Many of the workers sent out to our project were not qualified to perform the skilled work required of our irrigation people, although we were assured they would be. This ended up costing us time and money. All projects have the threat of liquidated damages should you not complete your project on time. Each time someone did not show up or the person sent out did not have the required skills we lost time. So each hour lost, is money lost.

As I stated, many in our work force are multi-trade. Unfortunately again I was unable to utilize this benefit due to the union's involvement. Laborers are only allowed to perform labor that fits within their trade. So to perform the portion of my project that required the use of equipment I had to pull people from the Operators Union. Again not knowing their skills or how much work they would perform in a day, the job of keeping a handle on my cost for fear of cost overruns and threat of running out of time was always greater. And again all the liability was on Phoenix not the union.

Because Phoenix is a small business, every person must perform 100%. Our employees enjoy the opportunity to use their abilities in a more productive way. This is not possible with the use of the union. If on the project at any given time the operator is not needed, they are unable to get off their equipment to help the laborers. And the laborers, although qualified to operate the equipment, are not allowed to do so. So the use of additional manpower is required, without the benefit of utilizing it more effectively, as well as the greater cost of lost man-hours.

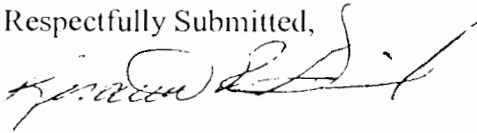
The loss that a company never recovers from is the loss of good employees. Small businesses can not afford to always have multiple projects in which to move employees to. Because of the PLA and the requirement of the unions allowing the use of only a small percentage of regular employees, the employer is forced to layoff its regular work force, and run the risk of losing them altogether. Having a strong work force that interacts and performs well together takes time to build. Small businesses do not have the time to continue to rebuild and restructure our companies. Their employees build the vital part of a company's reputation. Phoenix takes pride in each of our employees and works hard to build a strong foundation in which each is a part of.

For the employees who worked the project and were forced to become union members a choice must now be made. They must either, 1) quit Phoenix and stay with the union in order to qualify for the benefits paid on their behalf, or 2) withdraw from the union and lose the monies paid. Project Agreements are on projects that usually never last for more than a few months, not enough time for the employee to benefit from the monies taken from their paychecks.

Of great concern for many subcontractors is the ability to secure Project Agreement. Many unions will only agree to allow a subcontractor to have, at the most, three Project Agreements. Should they want to secure work on any other union project they will then have to sign and be bound by the master agreement. For Phoenix, the Laborers and Operators Union has told me that I will not be given another Project Agreement. Phoenix is not the only company facing this dilemma. Eventually all subcontractors who refuse to sign the masters agreement will be eliminated from the opportunities to participate at all.

Our country was built on our freedom of choice. To force us to be bound by a PLA will take away our right to choose. (For the open shop contractor, who chose not to be bound by a union agreement, as well as the union contractor who chose to negotiate their own agreement, only to be bound by one they had no choice in.). PLA's will serve only to reduce the opportunities of many and eventually eliminate all but a selective few. I urge you to strongly oppose the use of PLA's in federal contracting.

Respectfully Submitted,



Rosario Ramirez Girard

President

California State Legislative Chair, Women Construction Owners and Executives, USA



Latin Builders Association, Inc.

August 26, 1998

ISFF 04 1998

The Honorable Nydia Velazquez
House Small Business Committee
B-343 Rayburn House Office Building
Washington, DC 20515

Dear Congresswoman Velazquez:

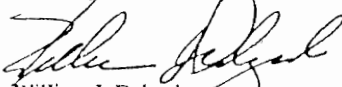
Recently, The Small Business Committee Held a hearing focusing on project labor agreements (PLAs) and their impact on women- and minority-owned construction companies. We would like to take this opportunity to present our views on the use of PLAs in projects funded by the federal government.

The Latin Builders Association maintains that publicly financed projects should be open to competition among all qualified firms, without regard to labor policy. The Bureau of Labor Statistics has determined that more than 80% of the construction workforce is nonunion. This percentage is even larger among minority-owned firms. By requiring PLAs on federal construction projects, the government is effectively discriminating against our member companies who predominately operate as open-shop contractors. Unless these companies replace their employees, they will not be able to effectively and efficiently perform work on these types of projects.

A recent example in the Miami Airport Project highlights these concerns. In this project, the Miami-Dade County Board of County Commissioners decided against moving forward with PLAs because they did not believe a PLA would save money and it could possibly be illegal.

In summary, we believe PLAs make it more difficult for minority-owned contractors to compete for federally funded constructions projects. In addition, they effectively work against the goals of increasing the number of projects awarded to minority-owned businesses by placing roadblocks in our way. Therefore, the Latin Builders Association encourages you to oppose any initiative that endorses the use of PLAs on federally funded projects.

Sincerely,



William J. Delgado
President



UNITED STATES PAN ASIAN AMERICAN CHAMBER OF COMMERCE

1329 18th Street NW Washington, DC 20036
Tel (202) 296-5221 Fax (202) 296-5225

The Honorable James M. Talent
Chairman, Committee on Small Business
U.S. House of Representatives
2361 Rayburn House Office Building
Washington, Dc 20515

August 3, 1998

Dear Chairman Talent:

Federally mandated Project Labor Agreements are bad for business, especially small businesses which constitute most of our membership. They impose undue restrictions on our ability to compete, increase the cost of doing business, reduce employee benefits, interferes with the free negotiation process between employee and employer. They are patently unfair to small businesses who do not have the resources to comply with yet another government mandate.

For all of the above reasons, we are opposed to federally mandated Project Labor Agreements.

Sincerely,

U.S. Pan Asian American Chamber of Commerce

Susan Au Allen
President

USPAACC is a national, non-profit organization representing professional Asian Americans. Its primary objective is to help its members achieve their goals through a wide variety of educational, information, and advocacy programs.

AACA AMERICAN ASIAN
CONTRACTORS ASSOCIATION
亞裔建築協會

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August 3, 1998

To whom it may concern,

The American Asian Contractors Association (AACA) is made up of about 400 general construction contractors and specialty contractors in the San Francisco Bay area. Most of our members are open shop, as is typical of minority-owned construction companies in California.

The AACA has filed a lawsuit challenging the San Francisco Airport Commission's decision to impose a pre-hire Project Labor Agreement on the \$2.4 billion expansion of the San Francisco International Airport. We are challenging this PLA because the conditions included in the PLA prevent most of our companies from bidding on the airport renovation.

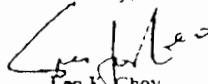
The AACA objects to the following conditions in the San Francisco Airport PLA:

- Restrictive union work rules.
- Pay wage scales higher than prevailing wage rates.
- Hiring exclusively from the union hiring hall.
- Payment of benefits to union trust funds.
- Use of union grievance procedures.
- Limits on use of current employees.
- Required use of union apprentices.
- Employees forced to pay union dues, fees, and assessments.

Most member companies in the AACA are not signatory to a union. To adopt these conditions would mean totally changing the way that our members operate our businesses.

The ultimate effect of the San Francisco Airport PLA is clear. The first \$350 million of the airport renovation had been performed without a PLA. Once PLA was implemented, minority business enterprise prime contract participation dropped 91.9% and subcontract participation dropped 34.4%. This PLA has been a disaster for minority-owned businesses such as those in the American Asian Contractors Association.

Sincerely,


Leo K. Choy
President

NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS



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TESTIMONY OF
PHYLLIS HILL SLATER,
OWNER & FOUNDER, HILL SLATER, INC.

On behalf of
THE NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS
Before the
U.S. HOUSE COMMITTEE ON SMALL BUSINESS
ON PROJECT LABOR AGREEMENTS

August 6, 1998



Good morning Mr. Chairman and members of the committee. Thank you for the opportunity to appear before you today to discuss Project Labor Agreements and their impact on women and minority owned businesses.

My name is Phyllis Hill Slater and I am the owner and President of Hill Slater, Inc., an engineering and architectural support systems firm located in Great Neck, Long Island. Since 1984, Hill Slater, Inc. has provided construction management, inspection of construction services, professional design, drafting AUTO CAD services, feasibility studies and reports, energy conservation studies, specification writing, estimating, and surveying services.

In addition, I am the Immediate Past President of the National Association of Women Business Owners (NAWBO). NAWBO represents this country's 8 million women business owners and advocates on their behalf from our city halls to international forums. The National Foundation for Women Business Owners (NFWBO), a sister organization, tells us what our community looks like with its ongoing, groundbreaking research. NFWBO's statistics are quoted by the business and mainstream media, as well as government officials. The National Women Business Owners Corporation (NWBOC), another sister organization, pioneers technology, access, certification, and education initiatives to enhance competition by women suppliers in the government and corporate markets. NWBOC has established the first national certification program and created a national database of women-owned businesses for procurement opportunities with the Federal Government and the private sector.

Today, I want to discuss Project Labor Agreements and how they impact small business owners and specifically women and minority-owned businesses.

The National Association of Women Business Owners' membership is very concerned about the proposed use of Project Labor Agreements for construction projects. Today, PLA's are targeting construction projects at the federal level. Next, will they target the service industry or manufacturing industry? Then, when will PLA's target the state level? So much for free enterprise.

Project Labor Agreements basically mandate who businesses can hire and not hire. This takes all the rights away from employers and employees to choose whether to be unionized or not. This is in effect saying to free enterprise "we as the government are now telling you that you must be a union shop or you can't do business with Uncle Sam." Project Labor Agreements say "we don't care whether you have been successful in providing quality work in construction at competitive prices, the government wants you to trash your plan and use theirs no matter what the cost, whether you want to or not." This sounds a little like socialism to me.

The agreement that Project Labor Agreements provide:

- * Cost Saving: It has been my experience as a construction owner that union wages set the standard and are always higher than non union, especially with all the added insurances and union fees.

* Efficiency/timeliness and quality of work: If you are competing in business, and plan on staying in business, you have to be efficient, on time, and produce quality work. Project Labor Agreements say there is only one standard, the union standard.

Project Labor Agreements demand that all contractors working on the project must sign the collective bargaining agreement negotiated between the owner and the labor unions. The alternative is to not sign the agreement, but to agree to abide by its terms regarding wages and benefits. This is not choice at all. The effect is to preclude competitive participation by open shop contractors. Whatever happened to the term, "competition is good for the soul and good for small business?"

Considering the negative impact of Project Labor Agreements, one must conclude that they are not good business for small business in general, and particularly for women and minorities in business.

This Congress has instructed the National Women's Business Council to complete an analysis of women entrepreneurs participation in federal procurement. This analysis is supposed to determine why women entrepreneurs receive so few federal contracts — just 1.7% — far below the five percent women-owned business goal established under the Federal Acquisition Streamlining Act of 1994. Why should the National Women's Business Council spend the dollars to complete an analysis? Sounds to me like the analysis will be done with Project Labor Agreements.

NAWBO finds it ironic that Secretary Slater would direct any agency and its contracting officers to seriously consider the use of Project Labor Agreements when it awards any contract for construction of a federally-run facility as he states in his memorandum dated April 22, 1998. The question of the day is this: Why on earth would anyone even put a statement like that in writing knowing that this administration is behind the eight ball in government contracting for women owned businesses. This administration should be doing everything possible to increase the 1.7% contracting percentages for women owned businesses, instead of building road blocks.

NAWBO urges you to strongly oppose any imposition of Project Labor Agreements in federal contracting. The impact on women and minorities trying to complete in federal procurement would be devastating.