

February 15, 2022

The Honorable Joseph R. Biden Jr.
The White House
1600 Pennsylvania Ave
Washington, DC 20500

Dear President Biden:

The diverse coalition of undersigned associations and organizations representing the interests of tens of thousands of companies and millions of skilled employees in the U.S. construction industry—building the foundation of America’s economy—strongly oppose your administration’s efforts to encourage and require controversial government-mandated project labor agreements on federal and federally assisted construction contracts funded by taxpayers.

We applaud the administration’s leadership to improve and build new roads, bridges, schools, affordable housing and communications, water, energy and transportation systems in response to the urgent need of public and private investment in order to keep America competitive in a global economy. However, Executive Order 14063¹, which requires PLAs on federal construction contracts exceeding \$35 million, and other policies encouraging PLAs on federally assisted projects via grant programs administered by federal agencies for state and local governments will undermine taxpayer investment in public works projects financed by the Infrastructure Investments and Jobs Act of 2021 and additional bipartisan legislation passed by Congress and signed into law free from language requiring or encouraging the use of PLAs.

The administration’s flawed rationale justifying pro-PLA policies³ ignores marketplace realities and broad opposition to government-mandated PLAs within the construction industry. The truth is government-mandated PLAs needlessly increase costs for taxpayers. These jobsite-specific collective bargaining agreements unique to the construction industry unfairly limit competition by some of America’s best contractors. Ultimately, they exclude almost 9 out of 10 of the construction industry’s workforce from the middle-class jobs and benefits created by government investment in infrastructure, affordable housing and clean energy projects.

When mandated by government agencies, PLAs can supersede and interfere with existing collective bargaining agreements contractors have already negotiated with various unions and prevent firms from using labor from certain unions, which is why some union organizations and contracting groups oppose government-mandated PLAs⁴.

In addition, typical terms within Signed Feb. 4, 2022

² Federal dollars distributed to state and local governments via multiple grant programs administered by the departments of Treasury, Transportation, Agriculture and Interior encourage state and local applicants to mandate PLAs on water, sewer and, offshore wind, energy and infrastructure projects.

³ White House Fact Sheet: President Biden Signs Executive Order to Boost Quality of Federal Construction Projects, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/03/fact-sheet-president-biden-signs-executive-order-to-boost-quality-of-federal-construction-projects/>

⁴ Union Leaders and Contractors Oppose Government-Mandated Project Labor Agreements Today, March 1, 2021, <https://tinyurl.com/yc727s58>

⁵ See bls.gov Union Members Summary Jan. 20, 2022, <https://www.bls.gov/news.release/union2.nr0.htm>

For example, a PLA typically requires companies to agree to recognize unions as the representatives of their employees on that job, use the union hiring hall to obtain most or all construction labor, exclusively hire apprentices from union programs, follow union work rules and pay into union benefit and multiemployer pension plans. This forces employers whose workers have freely made the choice not to join a union to pay “double benefits” into their existing employee benefit plans and union plans and places these qualified firms at a significant competitive disadvantage. In addition, research suggests that the few nonunion employees permitted to work on a PLA jobsite lose 34% of wages and benefits unless they pay union dues and/or join a union and meet benefits plan vesting schedules. In short, these anti-competitive provisions in typical PLAs promote wage theft, eliminate employee choice and make it extremely difficult for many nonunion, and typically small, minority- and women-owned firms to win public works contracts subject to anti-competitive PLAs.

The administration’s broad assertion that businesses not affiliated with unions are unable to deliver safe, on-time, on-budget government construction projects while obeying federal labor laws and paying high wages to employees is unfounded. For example, federal government data indicates that the approximately 2,000 large-scale federal construction contracts procured from FY 2009 to FY 2021 subject to President Obama’s Executive Order 13526 PLA policy,⁷ at least 50% of contracts were awarded to prime contractors not signatory to unions. In addition, federal agency contracting officers chose to require PLAs on just 12 large-scale federal construction contracts out of more than 2,000 opportunities. There were no reports of widespread cost overruns, delays, labor unrest or quality construction on non-PLA projects, indicating that PLA mandates are not needed to ensure economy and efficiency in government contracting.⁸

However, government-mandated PLAs on federal and federally assisted projects during this time period have resulted in reduced competition, increased costs, delays, local hiring outcomes and litigation. In addition, multiple studies of hundreds of taxpayer-funded affordable housing and school construction projects found that government PLA mandates increase the cost of construction by 12% to 20% compared to similar non-PLA projects already subjected to state prevailing wage regulations.¹²

In short, hardworking taxpayers are getting less and paying more when PLAs are encouraged or mandated by the government on federal and federally assisted construction projects. In addition, PLA

workers, reduce competition from experienced contractors, undermine the Biden administration's ability to meet its infrastructure, affordable housing and energy agenda without strong participation from businesses and construction workers directly harmed by anti-competitive and costly pro-PLA policies.

Our coalition asks you to promote inclusive, win-win policies that welcome all of America's construction industry to compete to rebuild our nation's infrastructure, increase accountability and reduce waste and favoritism in the procurement of federal and federally assisted construction projects. Ensuring fair and open competition on taxpayer-funded construction projects will ultimately result in savings to taxpayers, more opportunities for all qualified small, minority and women-owned businesses in the construction industry and the completion of more quality infrastructure projects on time and on budget.

Sincerely,

American Fire Sprinkler Association
American Pipeline Contractors Association
American Road & Transportation Builders Association
Associated Builders and Contractors
Business Coalition for Fair Competition
Construction Industry Round Table
Electronic Security Association
Independent Electrical Contractors
National Association of Home Builders
National Black Chamber of Commerce
National Ready Mixed Concrete Association
National Stone, Sand & Gravel Association
National Utility Contractors Association
Plastics Pipe Institute
Power and Communication Contractors Association
Small Business and Entrepreneurship Council