

## PLA's in the Public Sector

- Master Builders of Iowa
  - State-wide contractor organization
  - Union and non-union membership
  - 1,800 member-firms

## Definition of Terms

- Project Labor Agreement (PLA)
- Competitive Bidding/Low Responsive Bid

## What is a PLA?

- A Project Labor Agreement (PLA) is a working document between a public owner (city council) and the building trade unions that dictate the terms under which a construction firm will run their business on the project.
- It imposes provisions on management, working conditions, compensation and unionized-hiring requirements.

## Competitive Bidding/Low Responsive Bid

- These terms mean the lowest “responsible” and “responsive” bidder on the project.
- Responsible and responsive bidders are those firms judged to be qualified to perform the project in accordance with the project’s plans and specifications and whose bid is responsive to all contract documents.

## Competitive Bidding/Low Responsive Bid continued...

- Iowa’s competitive bidding laws were created with the intent to prevent political influence, favoritism, graft or corruption from entering into the award of a public contract.

## PLA Myths

- Myth #1 – The PLA guarantees qualified workers.
  - WRONG
  - Workforce restrictions in the agreement prohibit the contractors from utilizing their full compliment of qualified employees on the project.

### PLA Myths, continued...

- Myth #2 – The PLA guarantees project quality.
  - WRONG
  - Insurance companies bond contractors for the project and insure the owner that work performed will be in accordance with project specifications.
  - In addition, faulty workmanship is further covered by a 15-year statute of repose (2<sup>nd</sup> longest in the US) under current Iowa law.

### PLA Myths, continued...

- Myth #3 – The PLA guarantees the project will be completed on time and under budget.
  - WRONG
  - Absolute guarantees of timely completion are not possible because of weather or other unanticipated or unknown factors that can adversely affect construction.
  - However, deadlines for project completion can be established by the owner and included in the project specifications.

### PLA Myths, continued...

- Penalties can be established for failure to meet the deadlines just as incentives can be offered for early completion. The owner also has the option to instruct the architect to include a "No Strike" commitment as part of the project specifications.
- All of these measures can be accomplished without the use of a PLA.

### PLA's Create Additional Owner Liabilities

- Employee Referral Systems
  - Under normal contracts, the contractor assumes all responsibilities for their employees on the work site (indemnifying or holding owners harmless). However, with a PLA the public owner is now dictating to the contractor its hiring procedures, which has the effect of exposing the public owner to additional new, legal liabilities, including discrimination and Right to Work lawsuits.
- Safety
- Administration of Dispute Resolution Process
- PLA's are Illegal on Federally Funded Projects

### The Main Question – What problem are we trying to solve?

- Our local construction work force is qualified and well trained.
- Our local construction industry and local construction projects do not experience work stoppages, prolonged slowdowns or shutdowns as a result of labor disputes or union strikes or shortages of workers.

### What problem are we trying to solve? continued....

- Local projects that are competitively bid attract significant local bidder participation and the bidding process is very competitive.
- Public owners currently possess the ability to control quality, timely completion and contractor selection without going to the extreme of a PLA.

What problem are we trying to solve?  
continued...

- While the competitive bid process is not perfect, it offers the best opportunity to provide value to the owner and ethical treatment for bidders on well defined projects.

What problems will a PLA create?

- A PLA will add costs to the project as the agreement creates numerous restrictions on performance.
- Bidders will also likely include additional costs to cover the added expenses and risks associated with the PLA.
- Local bidders will be deterred from bidding the project – a lack or reduction in competition can only lead to higher costs.

What problems will a PLA create?  
continued...

- A PLA will create new and unnecessary administrative obligations for the public owner associated with negotiations and the administration of a complex and very technical PLA.
- This will add costs for contract administration and potential liabilities for the public owner.

What problems will a PLA create?  
continued...

- A PLA will result in the loss of efficiencies that the free and open market brings to the construction procurement process.
- A PLA dictates a rigid and uniform set of highly restrictive management rules under which a construction company must adhere to in running their business on that particular project.

What problems will a PLA create?  
continued...

- The PLA makes it much more difficult to achieve diversity in the workplace, particularly for women and minorities, in that construction firms are “limited” to one source of recruiting employment – i.e. local union halls.
- The PLA denies workers the right to choose whether or not they want to be represented by a labor organization.

What problems will a PLA create?  
continued...

- PLAs run counter to the industry developed and universally accepted “Manual of Recommended Procedure for Competitive Bidding and Award of Building Contracts.”

## Your Decision

- The Iowa Supreme Court has ruled that PLAs are permissible based upon the Iowa Events Center model.
- Your challenge is to decide whether or not a PLA adds value to your construction project and is a prudent use of taxpayers dollars.

## Summary and Recommendation

- Reject the notion that construction firms should be told how to run their businesses on your construction project.
- Reject the notion that construction workers should give up their freedom to choose whether or not to be represented by a labor organization.
- Reject the notion that because PLAs are legal, makes them prudent.

## Summary and Recommendation, continued...

- A PLA is not necessary and will not add value to the construction process, our city, the local taxpayers or most importantly...our citizens.
- We respectfully request and recommend that you say "NO" to the PLA proposal.
- By doing so, you will join thousands of Iowa businesses represented by the following Iowa organizations:

## Organizations Opposed to PLAs

- American Council of Engineering Companies of IA
- American Institute of Architects, Iowa Chapter
- Associated Builders and Contractors of Iowa
- Associated General Contractors of Iowa
- Association of Business and Industry of Iowa
- Dubuque Chamber of Commerce
- Greater Des Moines Partnership (Chamber of Commerce)
- Iowa City Chamber of Commerce
- Iowa Engineering Society
- Iowa Motor Truck Association
- Master Builders of Iowa