



SHEET METAL AND AIR CONDITIONING CONTRACTORS' NATIONAL ASSOCIATION

June 6, 2011

United States Senate
Washington, DC 20510

Dear Senator:

The Sheet Metal and Air Conditioning Contractors' National Association (SMACNA), is supported by more than 5,000 construction firms engaged in industrial, commercial, residential, architectural and specialty sheet metal construction throughout the United States. On behalf of SMACNA, I want to express our support for the appropriate use of construction project labor agreements (PLA's) on public construction. Therefore **we strongly oppose S. 119, the so-called Government Neutrality in Contracting Act** as introduced by Senator Vitter (R-LA). Under government financed PLA's, competing construction contractors and prospective workers are solicited for PLA projects regardless of their union or nonunion status as required by law. In comparison, private sector owners are free to select union-only PLA's to build their projects. Private owners frequently take advantage of a skilled and formally trained workforce employed by highly regarded contractors as an economic decision. Simply put, Federal PLA's are determined through an open bidding process for all contractors and workers contrary to the myth some have advanced in legislation, such as S. 119. Those seeking to ban PLA's are attacking a proven private sector practice enhancing management discretion.

SMACNA's position supports the option of considering and utilizing PLA's where deemed in the best economic interest of the project owner on behalf of the taxpayer on public work. Therefore we stand in opposition to S. 119 and ANY legislation banning the use of project labor agreements on federal construction. Further, we have joined other organizations in supporting President Obama for signing the Executive Order encouraging executive agencies to consider the use of Project Labor Agreements (PLA's) on all federal-funded construction projects. The Administration's action reversed past hostility toward using any PLA-managed projects and this fair consideration of PLA's is a great source of optimism to our leadership and the thousands of contractors we represent. Those decrying the consideration of PLA's today had no objection to a ban on PLA's in past administrations. That speaks volumes to their objectivity on the issue.

From decades of real life experience on projects where PLA's have been used, our firms know that project agreements are a voluntary, legal and most often highly efficient means of meeting construction quality standards, owner deadlines and unique project demands. **For this reason, most PLA's are found on private projects where corporate budget and scheduling decisions are highly scrutinized.** SMACNA believes that utilizing project agreements on federal construction when and where appropriate expands the proprietary responsibility the President is charged with under the Federal Property and Administrative Services Act and offers the likely result of decreased costs, higher quality and expedited project completions. Smart construction management calls for the federal government, like the private sector, to have the option to consider and establish project agreements where necessary and appropriate. While banning the use of PLA's on large federal projects in the last Administration may have found favor in some circles, unfortunately it did not serve sound construction management in all cases. Economics, not ideology, should drive PLA votes in Congress.

We oppose S. 119 and ask that you support the federal government's long established right to consider the use of PLA's on federal construction where deemed most appropriate for project management success.

Sincerely,

Stanley E. Kolbe, Jr.
Director, Governmental Affairs



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Project Labor Agreements

Quality Construction Alliance Position:

Federal government agencies and contracting officers should have the same construction management tools for on-time, on-budget, quality construction as building owners in the private sector. The Congress should continue to allow federal owners the option of utilizing Project Labor Agreements where appropriate on federal construction projects and should oppose any effort to prohibit agencies from using them. QCA opposes The Government Neutrality in Contracting Act in the House and Senate.

Issue:

The PLA is a business model used in both the private and public sector that offers jobsite efficiencies, with a steady, local and legal supply of trained and productive workers and contributes to the economic health of the local communities where they are used. Project labor agreements have been used for almost 100 years in private sector construction and for about 60 years in federally funded construction. The Supreme Court Boston Harbor Decision in 1993 permitted states and municipalities to also use project labor agreements.

In 2009, President Barack Obama issued Executive Order 13502 to permit, not mandate, government agencies to consider Project Labor Agreements on projects over \$25 million. PLAs are valued by experienced, cost-conscious owners and construction contractors. PLAs guarantee a steady supply of skilled, legal labor when needed and ensure that all parties associated with the completion of a construction project are working under the same set of rules from the outset. A PLA creates efficiencies on the job that owners value because they facilitate project completion. PLAs have been proven to be sound tools that garner the highest quality workforce and project results. Although they have been lightning rods for political and legal challenges, nearly all such challenges have failed. Republican and Democratic governors alike have endorsed the use of PLAs.

- Owners and government agencies reasonably assess the appropriateness of a PLA authorization on a project-by-project basis.
- Project labor agreements are neither mandatory nor “union-only” projects. Once a PLA has been negotiated, both union and nonunion contractors are free to bid on the work as they do on any other construction project.
- Disney, Toyota, General Motors and major oil companies on the Trans-Alaska Pipeline have all used Project Labor Agreements for major construction projects. The Grand Coulee Dam, Kennedy Space Center, several nuclear research facilities, the Woodrow Wilson Bridge Project, and dozens of professional sports stadiums, including the Washington Nationals Stadium, are examples of public sector projects that have used PLAs.
- PLAs address concerns by prime contractors over availability of skilled labor, even in an area where several big projects may be competing for the same skilled labor pool because the local Building Trades Council agrees to provide labor from other areas, under the same agreement, if there is a skilled worker shortage.
- PLAs allow for workforce screening and background credentialing for project security requirements.
- PLAs do not discriminate against nonunion construction contractors or workers. Union-only agreements are permitted in the private sector but bid awards in the public sector cannot be based



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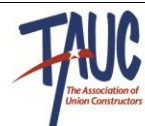
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- on union or nonunion status. Contractors have the sole right to reject any applicant referred by a local union. Nonunion contractors are permitted to by-pass union referrals for “core employees.”
- PLAs do not limit the pool of bidders nor do they raise construction costs. Market factors and business cycles are shown to have more impact on bidding than the implementation of PLAs.
 - PLAs do not thwart participation by small businesses or women- or minority-owned firms. The construction industry is compromised almost totally of small businesses. PLAs are frequently constructed to require reach-out to small businesses and to women and minority owned firms.
 - PLA employers maintain a system of apprenticeship training, health and welfare, pension benefits, and career advancement training

Status of Project Labor Agreement Legislation

H.R. 735 The Government Neutrality in Contracting Act

Sponsor: Rep. John Sullivan (R-1-OK)
Co-Sponsors: 3
Last Major Action: Referred to the House Committee on Oversight and Government Reform

S. 119 The Government Neutrality in Contracting Act

Sponsor: Sen. David Vitter (R-LA)
Co-Sponsors: 0
Last Major Action: Referred to the Senate Committee on Homeland Security and Governmental Affairs

Legislation would effectively prevent the implementation of PLAs on federal government construction projects.

Updated: May 1, 2011

H.R. 735 Co-Sponsors:

Michael Burgess [R-TX26]; Steve King [R-IA5]; Lynn Westmoreland [R-GA3]