



# Transportation Board of Directors

## Project Labor Agreements

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# WHAT IS A PROJECT LABOR AGREEMENT (PLA)?

- A PLA is a project-specific agreement with labor organizations where the collectively bargained agreement(s) are used to govern the terms and conditions of employment for craft/trade workers both union and non-union.
- The primary conditions of a PLA are set to mitigate labor risks associated with construction projects.
- Many conditions of a PLA are addressed through existing State law.

## **Worker Wages and Benefits**

- Nevada State Prevailing Wages
- Assembly Bill 190, 2019

## **Work Rules and Working Conditions**

- NRS 338, 408 and 613
- NDOT Standard Specifications for Road and Bridge Construction
- Form FHWA 1273 Contract Provision, covering provisions of Chapters 23, 29, 41 and 49 of the Code of Federal Regulations (CFR), Titles 23 and 29 of United State Code (U.S.C.), Executive Order 11246, The Civil Rights Act of 1964, and The Rehabilitation Act of 1964.

## **Referral of Employees Including Apprentices and Trainees**

- The Apprenticeship Utilization Act, 2019 (SB 207)
- Federal On-the-Job Training (OJT) Program
- Current NDOT/multi-agency efforts to promote workforce diversity and recruitment of employees into the construction trades

## **Work Stoppages, Lockouts and Jurisdictional Disputes**

- Office of the Labor Commissioner Advisory Opinion – AO 2017-09
- Work stoppages, slow-downs and lockouts are rare on Public Works projects, and none have been reported on NDOT projects in recent memory.

- PLAs are allowed on Federal-Aid projects under the terms and guidance of Executive Order 13052.
- The FHWA will review the use of PLAs on a project-by-project basis through a two-step process, which can take between 5-14 months of development time.

## Demonstrate the PLA Is A More Cost-Effective Use of Federal Funds

### **NDOT Develops Analysis 1-3 months**

- time sensitivity of the project and costs associated with project delays, impacts to traffic, detrimental effect to public relations, etc.
- risks of labor unrest and jurisdictional disputes
- available skilled labor pool

### **FHWA Approval of Step 1 1-3 months**

FHWA evaluates:

- size, complexity and duration of the project
- the importance of the project and need to adhere to a certain timeline
- demonstrated cost-effectiveness

## Approval of the Project Labor Agreement

### **NDOT Develops PLA with NV Labor Unions 2-6 months**

- binding to all contractors and subcontractors with allowances for DBE/SBE contractors
- no penalties for non-union contractors
- conforms to all State and Federal laws
- guarantees against labor strikes, slowdowns and other disruptions

### **FHWA Approval of Step 2 1-2 months**

FHWA evaluates that the agreement:

- does not violate any Federal program requirements, for example the DBE program.
- includes worker protections as required by Federal Law
- conforms to all other Federal laws and regulations including no local hiring preferences

# OTHER CONSIDERATIONS

- Use of PLAs more common with vertical construction:
  - Self-performance requirement of the prime/general contractor:
    - 5% to 15% self-performance for vertical
    - 30% to 50% self-performance for horizontal
  - Multiple construction contracts with added complexity in the contractor/subcontractor relationship
  - Project delays, due to labor risks, are more prevalent.



# OPTIONS FOR REVIEW

The adoption of a PLA on an NDOT project must be done on a case-by-case basis, bearing in mind specific project facts such as: complexity, size, scope, duration, time sensitivity and costs of delay.

1. Consider PLAs for vertical projects over \$25 million with no consideration for horizontal projects.
2. Consider PLAs for vertical projects over \$25 million and State funded horizontal projects over \$200 million with construction lasting more than 36 months.
3. Consider PLAs for vertical projects over \$25 million, State funded horizontal projects over \$200 million with construction lasting more than 36 months and Federal-Aid horizontal projects more than \$500 million with construction lasting more than 36 months.



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