

# Government Mandated Labor Agreements and Contracting



Government Mandated Project Labor Agreements (GMLA), also known as Project Labor Agreements (PLA), Project Stabilization Agreements (PSA), or Community Workforce Agreements (CWA), are becoming increasingly proposed on local, state and federal public works projects. The adoption of these policies, when developed without contractor input, who may have preexisting agreements, undermines collectively bargained contracts and creates an artificial environment for public works construction. The Associated General Contractors of California (AGCCA) supports a competitive process of bidding and negotiations which ensures quality work and the efficient use of resources on both public and private projects. In ideal circumstances, public owners would distribute specifications for a project and expect contractors to return with cost-effective bids. Additionally, owners should ensure that the bidders fully understand all job requirements. Ordinarily, this bidding process ensures that contractors can compete for work in a competitive environment to offer the best price available that meets the project specifications. To be competitive in this environment, contractors have significant day-to-day incentives to maintain labor policies with employees that promotes productivity, quality, increase skill and teamwork, and attract a skilled workforce while maintaining expenses. The project owner benefits from this system.

However, when public owners prioritize social and community benefits as an element of public work contracting, beyond the traditional prioritization of quality construction and the efficient use of resources, the ability to deliver high quality, on budget, on time projects at the most cost-effective price can be impacted.

AGCCA believes that Government mandated labor agreements ( PLAs, PSAs, and CWAs), whether they be project specific, municipality specific, or local workforce specific, should be negotiated with contractor input as the contractor that builds the work is ultimately the only entity held responsible to deliver the project under the terms and conditions of any agreement. Lack of contractor input on such agreements can erode the benefits of the competitive bidding process, and cause resources to be spent on additional administrative requirements rather than actual construction of the project itself. Agencies and their projects directly benefit from the expertise provided by contractors who manage the day-to-day construction process.

## **AGC Policy Position**

AGC generally opposes policies that increase the regulatory burden and limit a contractors' capacity to efficiently deliver high quality, on time, and on budget construction projects. These policies can interfere with the individual labor relations activities of contractors and reduce resources from the actual construction of projects, artificially inflating project costs. Just as the competitive bidding process typically results in giving owners the benefit of receiving the best and most efficient construction services necessary to complete a project, agencies and owners benefit when individual construction employers are permitted to pursue employment policies which they find bring the best trained and most efficient labor resources to the job.

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## AGCCA supports:

- Fair and equitable competition in all private and public construction markets.
- Policies that ensure that contracts to build publicly financed projects are competitively awarded in a process available to all responsible contractors.
- Policies that ensure the public's limited resources are spent efficiently on the projects for which they are intended in keeping with the public trust.

## AGCCA Opposes:

- Policies that increase regulatory burdens that limit a contractor's ability to deliver high quality, on time, and on budget public works projects. A public owner should work with contractors and firms to maintain the current efficient labor practices that allow for competitive bids and deliver the best quality product in the most efficient manner possible consistent with established prevailing wages.

When a labor agreement of any type is mandated on a public project, AGC CA believes that the proper parties to negotiate any hiring or employment elements of that project agreement are the entities who will be responsible for employing and supplying the necessary tradespeople. In the construction industry there is an existing regime of how tradespeople are trained and provided to jobsites and those existing practices should be the basis of any labor or hiring agreement. The employer parties that have these preexisting relationships and provide contributions to training funds are in the best position to develop and execute a labor agreement's specific hiring policy. Contractors have a vested interest in forging a fair and stable employment relationship, are authorized to enter into such an agreement under the National Labor Relations Act and are accountable for the construction and constructability of projects for which they are hired.

Government agencies and their representatives benefit from the expertise provided by contractors who manage the day-to-day construction process, quantify the practical effects of the terms found in regular labor negotiations, and can provide insights on how to ensure quality and efficient construction practices, and ultimately increase the overall investment available for projects.

- AGC of CA believes there is are sufficient existing mechanisms in place to ensure a competitive bidding environment for all responsible contractors that provides highly paid jobs to trades people through the prevailing wage system

When a labor agreement is entered into, based on common proposals being considered at the local level in California, the following considerations should be deliberated carefully and quantified as to the cost and benefit with insights from the contractor community. The details of these provisions will be critical and should have the input of actual contractors to ensure their effectiveness.

- Any agreement should be kept to project specific, rather than a wrap-around. Projects have different needs and will attract different bidders based on the nature of the work. In order to keep bidding competitive on all project and maximize the bidding process for the owner, a

blanket approach can be detrimental to a municipality's ability to attract bidders and its efficient use of limited public resources.

- The administration of an agreement does in fact create additional overhead for the contractor which will be incorporated in the bid amount. The threshold dollar amount for any PLA considered should be set high enough so the additional costs associated do not cause a significant amount of resources to be taken from actual construction of the desired project.
- A competitive environment for all contractors should be maintained to ensure that the maximum value is received by the project owner and the beneficiaries of the project.
- Owners should accept contractors' reports in a form already required in existing state or federal code, when applicable to avoid wasted resources being dedicated to duplicative reporting requirements. This would ultimately drive up bid prices and siphon off assets from actual construction.
- All employee data should be protected to ensure employer/employee privacy.
- The Contractor should be afforded an adequate number of their core workforce to assign to the project. Limitations on core workforce can drive up the costs of projects which will be reflected in bids. Additional costs will be incurred due to lost efficiency and expertise with specific work, and the need to train up non-core employees on the job. Public owners should avoid mandates that all new employees be referred by specific hiring sources. All state recognized qualified sources should be allowed.
- Determine the time frame (Number of hours) before a contractor can hire from alternative means should any designated hiring sources be unable to produce necessary employees.
- A suspension clause should be added in order to protect the owner if the PLA fails to produce necessary bidders, workers or cause significant increased costs thus decreasing resource availability for the project.
- The assignment of Covered Work will be solely the responsibility of the Contractor performing the work involved. If an agreement is approved, it should be the Contractor who assigns that work to a trade under the existing DIR standards, processes, and prevailing wage classifications.
- To better help grow local disadvantaged or underrepresented businesses, project work and subcontracting with disadvantaged/women/veteran owned business should be provided an exemption from the provisions of a labor agreement.
- Prefabrication and offsite work must remain exempt from any agreements.

## Community Workforce or Local Hire Provisions

Prior to establishing local workforce requirements, the responsible government agency should engage both the construction and employment development community to assess the probability of success for the effort. Specific policy questions and issues that should be considered include:

- Does the local government have sufficient data to ensure that any local hire threshold can be met?
- What support systems exist to ensure that targeted employee populations can fulfil the requirements to complete work on projects?
- How does a locally designated worker/employee establish residency in a target area?

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- Public owners should avoid mandates that all new employees be referred by specific hiring sources. All qualified sources should be allowed.
- When considering local hire provisions, targeted areas should be considered on a broader regional area rather than a smaller zip code basis. Construction is well paid, but hard work, and referred workers that are ultimately unable to do the assigned work drain time and resources from both the local hiring hall and contractor.
- Contractors should be given relief from the local hire provisions if for some reason a substantial portion of the employees from targeted areas cannot perform the work or self-terminate.

In order to identify and quantify the targeted workforce populations' benefits, the public owner should actively track the following data when any local hire policy is considered:

- Number and type of bidders on projects before and after creation of a Project Labor Agreement or Community Workforce Agreement.
- The percentage of employees referred to the project that either fail to perform satisfactorily on the jobsite or self-terminate or perform satisfactorily to remain with their employer after the first 30 cumulative/consecutive days. (employee persistence)

AGCCA supports policies and procurement systems that ensure a competitive environment that maximizes the expertise of contractors for the benefit of the public. The practice of having contractors at the table when labor agreement are negotiated is such a system that draws from contractor expertise and is a policy AGC can support.