

March 5, 2021

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

Dear President Biden:

Our diverse coalition of construction and business associations formally requests a meeting with administration officials in charge of infrastructure policies to discuss an issue of great importance to our collective memberships and America's economic recovery.

We applaud the Biden administration's ongoing efforts addressing the state of America's infrastructure. We are in strong agreement that our roads, bridges, schools and water, energy and transportation systems are in urgent need of public and private investment in order to accelerate America's strong economic comeback and keep our country competitive in a global economy.

However, we share concerns about the expansion of existing policies on federal and federally assisted construction projects that needlessly increase costs to taxpayers, unfairly limit competition by some of America's best contractors and ultimately exclude almost nine out of 10 of the construction industry's workforce from middle class jobs and benefits resulting from government investment in infrastructure.

Specifically, we are concerned about the expansion of policies encouraging the use of government-mandated project labor agreements on federal and federally assisted construction projects.¹

A PLA is a jobsite-specific collective bargaining agreement unique to the construction industry that 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 multi-employer pension plans that nonunion employees will be unlikely to access. This forces employers to pay "double benefits" into their existing plans and union plans and places such firms at a significant competitive disadvantage. In addition, PLAs typically force construction workers to pay union dues and/or join a union if they want to work on a PLA project and receive benefits earned while working on the job.

When mandated by government agencies and lawmakers, PLAs can supersede and interfere with existing collective bargaining agreements contractors have already negotiated with various unions. In addition, PLA mandates unfairly discourage competition from quality nonunion contractors and their employees, who comprise 87.3% of the private U.S. construction industry workforce, according to the most recent U.S. Bureau of Labor Statistics data.²

The federal government's existing PLA policy, Executive Order 13502, signed Feb. 6, 2009, encourages federal agencies, on a case-by-case basis, to require PLAs on federal construction projects exceeding \$25 million in total value and permits states and localities to mandate PLAs on federally assisted projects in order to "promote the economy and efficiency in federal procurement."³

However, subsequent government-mandated PLAs on federal and federally assisted projects have resulted in reduced competition, increased costs, delays, poor local hiring outcomes and litigation. In addition, multiple studies of hundreds of taxpayer-funded school construction projects found that PLA mandates increase the cost of construction by 12% to 20%

¹On Feb. 6, 2009, President Obama issued Executive Order 13502, which encourages federal agencies to require PLAs on federal construction projects exceeding \$25 million in total cost on a case-by-case basis and permits state and local recipients of federal dollars to mandate PLAs. See [FAR Case 2009-005, Use of Project Labor Agreements for Federal Construction Projects, published April 13, 2020](#).

²See bls.gov *Union Members Summary*. Jan. 22, 2021, <https://www.bls.gov/news.release/union2.nr0.htm>.

³Executive Order 13502, *Use of Project Labor Agreements for Federal Construction Projects*, signed Feb. 6, 2009, (<https://www.govinfo.gov/content/pkg/FR-2009-02-11/pdf/E9-3113.pdf>) and related FAR Case 2009-005, effective May 13, 2010 (<https://www.regulations.gov/docket?D=FAR-2009-0024>).

compared to similar non-PLA projects.⁴ Simply put, hardworking taxpayers are getting less and paying more when PLAs are encouraged or mandated by government on federal and federally assisted construction projects.

Government-mandated PLAs are especially problematic considering two key data points; 1) industry reports estimate the U.S. infrastructure spending deficit will total \$2.6 trillion by 2029 and more than \$5.6 trillion by 2039;⁵ and 2), the U.S. construction industry faces a 9.6% unemployment rate⁶ due to the recession caused by COVID-19.

For these reasons, we are especially troubled to see the U.S. Department of Transportation Build America Bureau's Feb. 17, 2021, announcement that the FY 2021 Infrastructure for Rebuilding America (INFRA) discretionary grant program⁷ is encouraging grant applicants to mandate PLAs.⁸

We hope that this change is not a signal of a broader Biden administration policy shift to expand the use of controversial and exclusionary government-mandated PLAs on taxpayer-funded construction projects.

We look forward to meeting with your team to discuss inclusive policy solutions that expand the benefits of rebuilding America's infrastructure to the entire construction industry. Ensuring fair and open competition on taxpayer-funded construction projects will ultimately result in savings to taxpayers, more opportunities for all qualified small businesses, minorities and women in the construction industry, and the construction of more quality infrastructure projects so America can Build Back Better and faster.

Sincerely,

American Fire Sprinkler Association
American Pipeline Contractors Association
Associated Builders and Contractors
Business Coalition for Fair Competition
Construction Industry Round Table
Electronic Security Association
Independent Electrical Contractors
National Black Chamber of Commerce
National Federation of Independent Business
National Ready Mixed Concrete Association
National Roofing Contractors Association
National Utility Contractors Association
Power and Communication Contractors Association
Small Business and Entrepreneurship Council

⁴See multiple studies measuring the impact of PLA mandates on public school construction in Connecticut, Massachusetts, New Jersey, New York and Ohio by the Beacon Hill Institute (<http://beaconhill.org/labor-economics/>); an October 2010 report by the New Jersey Department of Labor and Workforce Development, *Annual Report to the Governor and Legislature: Use of Project Labor Agreements in Public Works Building Projects in Fiscal Year 2008* (https://www.nj.gov/labor/forms_pdfs/legal/2010/PLAReportOct2010.pdf); and a 2011 study by the National University System Institute for Policy Research, *Measuring the Cost of Project Labor Agreements on School Construction in California* (<http://www.nusinstitute.org/assets/resources/pageResources/Measuring-the-Cost-of-Project-Labor-Agreements-on-School-Construction-in-California.pdf>).

⁵See ASCE's 2021 report, *Failure to Act: Economic Impacts of Status Quo Investment Across Infrastructure Systems*.

⁶BLS construction industry unemployment rate for February 2021, <https://www.bls.gov/iag/tgs/iag23.htm>.

⁷The U.S. DOT's FY 2021 INFRA grant program provides \$889 million to fund state and locally procured transportation projects of national and regional significance <https://www.transportation.gov/buildamerica/financing/infra-grants/infrastructure-rebuilding-america>

⁸See *Notice of Funding Opportunity for the Department of Transportation's Infrastructure For Rebuilding America (INFRA) Program for Fiscal Year 2021*, <https://www.transportation.gov/buildamerica/sites/buildamerica.dot.gov/files/2021-02/FY%202021%20INFRA%20NOFO.pdf>