

October 18, 2022

To: Department of Defense, General Services Administration, National Aeronautics and Space Administration via www.regulations.gov
From: National Utility Contractors Association
Re: FAR Case 2022-003 -- NUCA Comments in Opposition to NOPR on Project Labor Agreements

[FAR Case 2022-003; Docket No. FAR-2022-0003, Sequence No. 1] RIN 9000-AO40 Federal Acquisition Regulation: Use of Project Labor Agreements for Federal Construction Projects

NUCA Opposes Federally Mandated Project Labor Agreement Rule

Inflationary PLA Burdens Will:

1. *Slow Utility Infrastructure Projects*
2. *Increase Costs to Taxpayers*
3. *Shrink an Already Too Small Labor Pool, and*
4. *Result in Fewer Buildouts of Utility Projects*

The National Utility Contractors Association (NUCA) strongly objects to government-mandated Project Labor Agreements (PLAs) as proposed in the [Federal Acquisition Regulation: Use of Project Labor Agreements for Federal Construction Projects](#), which would implement President Biden's Executive Order requiring federal construction contracts of \$35 million or more to be subjected to PLAs.

NUCA represents represent construction contractors, manufacturers, and distributors who build and maintain a wide range of underground facilities and transportation infrastructure. Since its establishment in 1964, NUCA's member companies have provided the manpower and equipment needed to build, repair, and maintain the systems needed for water and wastewater, gas distribution, broadband, and electric infrastructure as well as the nation's surface transportation system. NUCA is the only national trade association solely representing the utility construction industry, which will be responsible for over \$100 billion worth of construction stemming from the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law.

Simply stated: mandating PLAs on utility contracts involving federal dollars will slow projects and increase project costs. The truth is government-mandated PLAs needlessly increase costs for taxpayers. These jobsite-specific collective bargaining agreements unique to the construction industry unfairly limit competition by some of America's best contractors. Ultimately, they exclude almost 9 out of 10 of the construction industry's workforce from the

middle-class jobs and benefits created by government investment in infrastructure, affordable housing and clean energy projects.

These industries are already facing monumental worker shortages and adding on PLA requirements will further shrink the pool of available workers, resulting in much slower deployment of critical public works and other utilities projects. Added costs will also significantly reduce the number of projects ultimately put into service as funded by IIJA and other federal dollars, reducing the value to the taxpayer in a time where inflation has already cut the amount of projected work.

Government-mandated PLAs are jobsite-specific collective bargaining agreements unique to the construction industry that needlessly increase costs and unfairly discourage competition from quality merit-shop contractors and their employees, who comprise 87.4 percent of the private U.S. construction industry workforce, according to the most recent U.S. Bureau of Labor Statistics data.

For example, a PLA 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. This forces employers whose workers have freely made the choice not to join a union to pay “double benefits” into their existing employee benefit plans and union plans and places these qualified firms at a significant competitive disadvantage. In addition, research suggests that the few nonunion employees permitted to work on a PLA jobsite lose 34 percent of wages and benefits unless they pay union dues and/or join a union and meet benefits plan vesting schedules.

In short, these anti-competitive provisions in typical PLAs increase costs, eliminate employee choice for union representation, and make it extremely difficult for many merit-shop, and typically small, minority- or women-owned firms, to win public works contracts subject to anti-competitive PLAs.

When mandated by government agencies, PLAs can also supersede and interfere with existing collective bargaining agreements that contractors have already negotiated with various unions and prevent firms from using labor from certain unions. PLAs resulting from a government mandate also on average increase construction costs to taxpayers by 12 to 20 percent, reduce opportunities for qualified contractors and their skilled craft professionals, and exacerbate the construction industry’s worker shortage of about 650,000 employees. Industry estimates say that this proposal, once finalized, could impact approximately 120 federal contracts valued at \$10 billion, which is roughly 40 percent of the value of federal construction projects put in place on an annual basis.

The proposed PLA rule on federal contracts over \$35 million will reduce competition, shrink the already too small labor pool, and increase costs for the American taxpayer, resulting in a far

slower rate of critical water projects, high-speed broadband buildouts, electric grid upgrades, essential infrastructure repairs, and many, many other important utilities projects.

For these reasons, the National Utility Contractors Association must strongly oppose the proposed PLA rule, and urges the Administration to consider its withdrawal.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Doug Carlson', with a long horizontal line extending to the right.

Doug Carlson
Chief Executive Officer