

FAIR AND OPEN COMPETITION ACT

DECEMBER 10, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOWDY, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1552]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 1552) to preserve open competition and Federal Government neutrality towards the labor relations of Federal Government contractors on Federal and federally funded construction projects, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 1552, the Fair and Open Competition Act, ensures that federal agencies neither mandate nor prohibit project labor agreements (PLAs) for federal or federally-funded construction contracts. PLAs are collective bargaining agreements with one or more labor organizations that establish the terms and conditions of employment for construction projects.¹ The purpose of this bill is to ensure fair and open competition through equal treatment of union and non-union construction contractors.

BACKGROUND AND NEED FOR LEGISLATION

In 2009, President Barack Obama signed Executive Order (E.O.) 13502 on the use of PLAs. E.O. 13502 strongly encourages the use of project labor agreements (PLAs) for federal or federally-assisted construction projects valued over \$25 million. Although the E.O. does not explicitly mandate the use of PLAs for federal or federally-assisted contracts, agencies have used it to openly encourage PLA mandates or preferences. For example, the General Services Administration (GSA) released guidance stating contractor proposals that include a PLA would receive a 10 percent increase in their technical evaluation score relative to contractors that did not include a PLA.² Other federal agencies have also issued guidance stating contractors participating in PLAs may receive a preference during the evaluation process or allow projects to mandate PLAs in contracts.³

Shortly after President Obama issued E.O. 13502, the impact of this preference for PLAs for federal construction contracts was apparent. In one \$105 million project to renovate the 70-year-old Lafayette building in Washington, D.C., GSA initially required contractors to submit one proposal with a PLA and one without. GSA later changed this requirement after it was challenged in litigation. In the second solicitation, GSA gave a 10 percent preference for contractors that voluntarily submitted bids with PLAs for the Lafayette project.⁴ In 2011, GSA officials reported 7 of 10 GSA projects with budgets of more than \$100 million and funded under

¹Project Labor Agreements are comprehensive pre-hire collective bargaining agreements that establish terms and conditions of employment for a specific construction project. U.S. Dep't of Transp., Construction Program Guide, available at <https://www.fhwa.dot.gov/construction/cqit/pla.cfm>.

²*Project Labor Agreements and the Cost of Doing Business in the Construction Industry: Hearing Before the H. Comm. On Oversight & Gov't Reform, Subcomm. on Regulatory Affairs*, 112th Cong. (Mar. 16, 2011) (statement of Robert A. Peck, Comr., Public Building Service, U.S. General Services Admin.).

³See Letter from Stephen E. Sandherr, Chief Executive Officer, Associated General Contractors of America, to Marta Anerton, Contract Specialist, U.S. Army Corps of Engineers (July 30, 2014) (discussing the Army Corps intent to require the use of PLAs on a construction project); Federal Highway Administration, *Interim Guidance on the use of Project Labor Agreements* (May 7, 2010), available at <http://www.fhwa.dot.gov/construction/contracts/100507.cfm>; Memorandum from Dep't of the Army on Procurement Instruction Letter (PIL) 2011-01-R1, USACE Policy Relating to the Use of Project Labor Agreements (PLAs) for Federal Construction Projects (Dec. 16, 2011), available at http://www.acq.osd.mil/dpap/cpic/cp/docs/PIL_2011-01-R1_Project_Labor_Agreements_Policy.pdf.

⁴Michael Neibauer, *GSA to not require unions on Lafayette building work*, Wash. Bus. J. (May 3, 2010), <http://www.bizjournals.com/washington/stories/2010/05/03/story12.html>.

the American Recovery and Reinvestment Act of 2009 had signed PLAs in place.⁵

The Fair and Open Competition Act addresses this policy preference by promoting efficient and cost-effective administration and completion of federal and federally-assisted construction projects.

In terms of costs, mandated PLAs can drive up the cost of federal or federally-assisted construction projects between 12 and 18 percent.⁶ In one example, a U.S. Department of Labor Job Corps Center project in New Hampshire initially had a PLA mandate. Later, after three years of delays and litigation, the project was rebid without a PLA mandate with the result of nine—instead of three—bidders and lower bids (16.5 percent less than the lowest bid when there was a PLA mandate).⁷ In another example, a study of 551 California school construction projects, where 65 were built using PLAs, showed PLA contracts increased the construction costs from \$29 to \$32 per square foot.⁸ This same study concluded that PLAs are not a “costless policy tool,” but instead a cost increasing policy initiative.⁹

While PLAs are often portrayed as a way to avoid delays in construction projects by ensuring labor peace, this is often not the case. For example, the GSA headquarters renovation project at 1800 F Street, NW in Washington, D.C. was delayed by over 100 days because the contractor was unable to obtain an agreement from all the parties to a PLA for the project.¹⁰ Multiple state level projects with government-mandated PLAs have also experienced delays.¹¹ For example, a review by the New Jersey Department of Labor found that PLA projects experienced an average duration of 100 weeks compared to the 78-week average duration of non-PLA projects.¹² In fact, avoiding PLA mandates appears to result in less delay. A review of federal construction projects from 2001–2009, during which President Bush’s E.O. 13202 prohibiting mandated PLAs was in place, found no significant labor disputes that caused delays.¹³

The Fair and Open Competition Act will ensure robust competition. Under the Competition in Contracting Act, P.L. 98–494, agencies are required to “obtain full and open competition through the

⁵*H.R. 735 and Project Labor Agreements: Hearing Before the H. Comm. On Oversight and Gov’t Reform, Subcommittee on Technology*, 112th Cong. (2011) (statement of Susan Brita, Deputy Administrator, U.S. General Services Admin.).

⁶Letter from American Council of Engineering Companies, et. al. to Jason Chaffetz, Chair, Comm. on Oversight & Gov’t Reform, and Elijah Cummings, Ranking Member, Comm. on Oversight & Gov’t Reform (Mar. 27, 2017) on file with Comm.

⁷*PLA/NoPLA Bid Results*, TheTruthAboutPLAs.com (Apr. 23, 2013), <http://thetruthaboutplas.com/wp-content/uploads/2013/04/Bid-Results-of-Manchester-NH-DOL-Job-Corps-Center-bid-with-and-without-a-PLA-042313.pdf>; U.S. Dep’t of Labor Job Corps Center Opening Demonstrates Value of Open Competition, TheTruthAboutPLAs.com (Oct. 26, 2015), <http://thetruthaboutplas.com/2015/10/26/u-s-department-of-labor-job-corps-center-opening-demonstrates-value-of-open-competition/>.

⁸Vince Vasquez, et. al., *Measuring the Cost of Project Labor Agreements on School Construction in California*, National University System Institute for Public Research at 10 (2011).

⁹*Id.* at 15.

¹⁰*Delays and Increased Costs: The Truth about the Failed PLA on the GSA’s headquarters at 1800 F Street*, TheTruthAboutPLAs.com (Mar. 5, 2013), <http://thetruthaboutplas.com/2013/03/05/delays-and-increased-costs-the-truth-about-the-failed-pla-on-the-gsas-1800-f-street-federal-building/>.

¹¹Maurice Baskin, *Government-Mandated Project Labor Agreements: The Public Record of Poor Performance* at 22–25 (2011), available at <http://thetruthaboutplas.com/wp-content/uploads/2012/12/Baskin-Report-on-Government-Mandated-PLAs-The-Public-Record-of-Poor-Performance-2011-Edition-032311.pdf>.

¹²*Id.* at 24.

¹³*Id.* at 25.

use of competitive procedures” in all procurements.¹⁴ PLAs, however, can effectively reduce competition by excluding certain contractors and their employees from competing for construction projects—because not all contractors participate in PLAs. Currently, more than 80 percent of the private construction workforce in the United States is non-union.¹⁵ In addition, because PLAs increase the cost of the project, fewer individuals will bid on the construction projects, thereby reducing competition.¹⁶ The Associated Builders and Contractors, Inc. conducted a poll of its members that found that 98 percent of all respondents would be less likely to bid on a contract where a PLA was mandated.¹⁷ Requiring a PLA, or even giving preference to such agreements, essentially limits opportunities for more than 80 percent of the private construction workforce to compete for federal construction contracts.

The Fair and Open Competition Act will codify the principles of neutrality and competition for federal and federally-assisted construction projects; thereby, ending the regular shift in federal construction policy on PLAs with each new administration. In 1997, President Clinton issued a memorandum on “Use of Project Labor Agreements for Federal Construction Projects” encouraging the use of PLAs.¹⁸ Then in 2001, President Bush signed E.O. 13202 entitled, “Preservation of Open Competition and Government Neutrality Towards Government Contractors’ Labor Relations on Federal and Federally Funded Construction Projects,” which essentially revoked the Clinton era memorandum.¹⁹ In 2009, President Obama signed E.O. 13502 entitled, “Use of Project Labor Agreements for Federal Construction Projects,” which revoked the Bush era E.O.²⁰ This bill will end shifting federal policy and harmonize federal policy with many states’ policies on PLAs. In fact, 22 states have measures in place restricting the use of PLAs, and several more states are considering similar measures.²¹

Finally, the contention that requiring PLAs for federal and federally-assisted construction contracts does not impact small business because of the large size of these contracts is a misconception. The Small Business Administration notes that the construction industry in particular is comprised of a large number of small businesses—with more than an 86 percent of construction firms considered small businesses.²² However, these small businesses are mostly non-union and are disadvantaged when PLAs are involved. As a result, the use of PLAs can negatively impact the small business

¹⁴ 41 U.S.C. § 3301(a)(1).

¹⁵ U.S. Dep’t of Labor, Bureau of Labor Statistics, *Union Members Summary*, (Jan. 26, 2017) (stating only 13.9 percent of construction workers in the private sector are union members).

¹⁶ Paul Carr, *Investigation of Bid Price Competition Measured through Prebid Project Estimates, Actual Bid Prices, and Number of Bidders*, J. of Construction, Engineering and Management (Nov. 2005).

¹⁷ Letter from Ben Brubeck, Dir. of Labor and Fed. Procurement, Associated Builders and Contractors, Inc., to Tom Dickert, USACE (Mar. 22, 2011) (additional surveys cited in the letter show between 70–86 percent of nonunionized contractors surveyed would be unlikely to bid on projects requiring PLAs).

¹⁸ Memorandum on Use of Project Labor Agreements for Federal Construction Projects (June 5, 1997) available at <https://www.gpo.gov/fdsys/pkg/PPP-1997-book1/pdf/PPP-1997-book1-docpg705.pdf>.

¹⁹ Exec. Order No. 13202, 66 Fed. Reg. 11,225 (Feb. 22, 2001).

²⁰ Exec. Order No. 13502, 74 Fed. Reg. 6,985 (Feb. 11, 2009).

²¹ Letter from American Council of Engineering Companies, et. al. to Jason Chaffetz, Chair, Comm. on Oversight & Gov’t Reform, and Elijah Cummings, Ranking Member, Comm. on Oversight & Gov’t Reform (Mar. 27, 2017) on file with Comm.

²² U.S. Small Business Admin., Office of Advocacy, *The Small Business Economy: A Report to The President*, (2009).

set-asides put in place by Congress to promote small businesses.²³ The Fair and Open Competition Act will help ensure policies designed to promote and support small business in government contracting are not undermined by a preference that would discriminate against small businesses.

LEGISLATIVE HISTORY

On March 15, 2017, Representative Dennis Ross (R-FL) introduced H.R. 1552, the Fair and Open Competition Act, or FOCA Act. The following Representatives are cosponsors of the bill: Thomas Massie (R-KY), Mark Walker (R-NC), Jody Hice (R-GA), Ralph Lee Abraham (R-LA), Gregg Harper (R-MS), Trent Franks (R-AZ), Mo Brooks (R-AL), Glenn Grothman (R-WI), Ken Calvert (R-CA), Blake Farenthold (R-TX), Steve Chabot (R-OH), John Carter (R-TX), Dana Rohrabacher (R-CA), Jodey Arrington (R-TX), Trey Hollingsworth (R-IN), Rick Allen (R-GA), Paul Gosar (R-AZ), Trent Kelly (R-MS), Mimi Walters (R-CA), Darrell Issa (R-CA), Luke Messer (R-IN), Tom Cole (R-OK), Francis Rooney (R-FL), Ann Wagner (R-MO), Duncan Hunter (R-CA), Billy Long (R-MO), Jason Smith (R-MO), Blaine Luetkemeyer (R-MO), John Moolenaar (R-MI), Lloyd Smucker (R-PA), Vicky Hartzler (R-MO), David Rouzer (R-NC), and Richard Hudson (R-NC), Edward Royce (R-CA), Joe Wilson (R-SC), Scott Perry (R-PA), Kevin Yoder (R-KS), Stephen Knight (R-CA), Paul Mitchell (R-MI), and Jim Jordan (R-OH). H.R. 1552 was referred to the House Committee on Oversight and Government Reform. The Committee considered the bill at a business meeting on March 28, 2017 and ordered the bill reported favorably to the House, without amendment, by voice vote.

On March 14, 2017, Senator Jeff Flake (R-AZ) introduced S. 622, the Fair and Open Competition Act. Senators James Risch (R-ID) and David Perdue (R-GA) cosponsored the bill. S. 622 was referred to the Senate Committee on Homeland Security and Governmental Affairs.

A similar bill was introduced in the 114th Congress. On March 26, 2015, Representative Mick Mulvaney (R-SC) introduced H.R. 1671, the Government Neutrality in Contracting Act. H.R. 1671 was referred to the House Committee on Oversight and Government Reform. The Committee considered H.R. 1671 at a business meeting on January 12, 2016 and ordered the bill reported favorably, without amendment, by voice vote.

The Senate companion to H.R. 1671 was S. 71. On January 7, 2015, Senator David Vitter (R-LA) introduced S. 71, which was referred to Senate Committee on Homeland Security and Governmental Affairs.

SECTION-BY-SECTION

Section 1. Short title

The short title of the bill is the “Fair and Open Competition Act” or “FOCA Act.”

²³ Ben Brubeck, *Government Project Labor Agreement Mandates Harm Small Businesses*, TheTruthAboutPLAs.com (June 2, 2010), available at <http://thetruthaboutplas.com/2010/06/02/government-project-labor-agreement-mandates-harm-small-businesses/>.

Section 2. Purposes

Section 2 establishes the purposes of the legislation.

Section 3. Preservation of open competition and federal government neutrality

Subsection (a)(1) of this section establishes the general prohibition that the head of each executive agency that awards any construction contract after the date of enactment, or that obligates funds for such a contract, shall ensure that the agency, and any construction manager acting on behalf of the Federal government with respect to such a contract, does not:

(A) Require or prohibit a bidder, offeror, contractor, or subcontractor from entering into or adhering to agreements with one or more labor organizations, with respect to that construction project or another related construction project; or

(B) Otherwise discriminate against or give preference to a bidder, offeror, contractor, or subcontractor because such bidder, offeror, contractor, or subcontractor (i) becomes a signatory, or otherwise adheres to an agreement with one or more labor organizations; or (ii) refuses to become a signatory, or otherwise adhere to, an agreement with one or more labor organizations, with respect to that construction project or another related construction project.

Paragraph (2) of subsection (a) applies the general prohibition to contracts entered into on or after the date of enactment and subcontracts of such contracts.

Paragraph (3) of subsection (a) states that the general prohibition in paragraph (1) does not prohibit a contractor or subcontractor from voluntarily entering into an agreement with one or more labor organizations.

Paragraph (4) of subsection (a) requires revisions to the Federal Acquisition Regulation for federal contracts not later than 60 days after enactment.

Subsection (b) applies the general prohibition in Subsections (a)(1)(A) and (B) to agency awards of grants, financial assistance, and cooperative agreements.

Subsection (c) authorizes action by the agency head if the entity fails to comply with subsections (a) and (b). Subsection (c) states that if an executive agency, a recipient of a grant or financial assistance from an executive agency, a party to a cooperative agreement with an executive agency, or a construction manager acting on behalf of such agency, recipient, or party fails to comply, the head of the executive agency awarding the contract, grant, or assistance, or entering into the agreement involved, shall take such action, consistent with law, as the head of such agency determines to be appropriate.

Subsection (d) provides exemptions to Subsections (a) and (b).

Paragraph (1) of subsection (d) authorizes the head of an executive agency to exempt a particular project, contract, subcontract, grant, or cooperative agreement from the requirements of Subsections (a) and (b) if the head of such agency determines special circumstances exist that require an exemption in order to avert an imminent threat to public health or safety or to serve the national security.

Paragraph (2) of subsection (d) states a finding of special circumstances may not be based on the possibility or existence of a labor dispute concerning contractors or subcontractors that are not signatories to, or that otherwise do not adhere to, agreements with one or more labor organizations—or labor disputes concerning employees who are not members of, or affiliated with, a labor organization.

Paragraph (3) of subsection (d) provides authority for an additional exemption from subsections (a) and (b) for certain projects. The agency head may exempt certain projects if, as of the date of enactment, the head of the agency finds that the awarding authority, recipient of grants or financial assistance, party to a cooperative agreement, or construction manager acting on behalf of any such entities had issued or was a party to specified items that contained the requirements or prohibitions in Subsection (a)(1). The specified items are bid specifications, project agreements, and agreements with one or more labor organizations.

Subsection (e) defines the terms “construction contract,” “executive agency,” and “labor organization.”

EXPLANATION OF AMENDMENTS

No amendments to H.R. 1552 were offered or adopted during Full Committee consideration of the bill.

COMMITTEE CONSIDERATION

On March 28, 2017, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported by voice vote.

ROLL CALL VOTES

No roll call votes were requested or conducted during Full Committee consideration of H.R. 1552.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill promotes fair and open competition in federal and federally assisted construction projects. As such, this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goal or objective of this bill is to preserve open competition and federal gov-

ernment neutrality towards the labor relations of federal government contractors on federal and federally funded construction projects.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does direct the completion of specific rule makings within the meaning of section 551 or title 5, United States Code. H.R. 1552 section 3(a)(4) requires the Federal Acquisition Regulation Council, no later than 60 days, to amend the Federal Acquisition Regulation to implement provisions of this bill.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act of 1995, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 7, 2017.

Hon. JASON CHAFFETZ,
*Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1552, the FOCA Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 1552—FOCA Act

H.R. 1552 would prohibit federal agencies working on construction projects from either requiring or prohibiting the use of project labor agreements (PLAs) except in specific circumstances. On February 9, 2009, Executive Order 13502 encouraged all federal agencies to use PLAs on construction projects exceeding \$25 million. A PLA is a collective bargaining agreement that applies to a specific project and is effective only for the duration of that project. Under those agreements, which generally include provisions regarding wages and fringe benefits and procedures for resolving labor disputes, workers generally agree not to strike and contractors agree not to lock out workers. The bill would allow contractors and unions working on construction projects that involve the expenditure of federal funds to voluntarily negotiate and execute a PLA.

Information from the Army Corps of Engineers, General Services Administration, the Congressional Research Service, as well as union and non-union contractors, is not sufficient to allow CBO to determine whether the use of PLAs under current law results in any significant costs or savings to the federal government. However, because CBO expects that implementing H.R. 1552 would not significantly change the contracting process or the use of PLAs, CBO estimates that implementing the bill would not have a significant effect on the federal budget.

Enacting the bill could affect direct spending by agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net change in spending by those agencies would be negligible. Enacting H.R. 1552 would not affect revenues.

CBO estimates that enacting H.R. 1552 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1552 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

MINORITY VIEWS

Committee Democrats strongly oppose H.R. 1552, the so-called “Fair and Open Competition Act.” The measure would create a permanent statutory prohibition preventing federal agencies from requiring the use of Project Labor Agreements (PLA) in any contract, bid specification, or project agreement, even if the use of a PLA would achieve efficiency in the construction project or save taxpayers money.

The legislation would prohibit the inclusion of any provisions requiring the use of PLAs in the contracts associated with any projects funded by any type of federal assistance, including grants and cooperative agreements. The legislation would allow the use of PLAs to be required only in “special circumstances that require an exemption in order to avert an imminent threat to public health or safety or to serve the national security.”

The immediate effect of enacting H.R. 1552 would be to overturn Executive Order 13502, issued by President Obama on February 6, 2009. Executive Order 13502 does not require the use of PLAs on any federal contract, but instead states that agencies “may” require PLAs to “advance the Federal Government’s interest in achieving economy and efficiency in Federal procurement, producing labor-management stability, and ensuring compliance with laws and regulations governing safety and health, equal employment opportunity, labor and employment standards, and other matters.”¹

According to a report issued in 1998 by the then-General Accounting Office (GAO), “PLAs have been used in all 50 states and the District of Columbia on federal, state, local government, or private sector construction projects.” GAO also found that PLAs have been used extensively by the private sector, including on such projects as the Trans-Alaska Pipeline and Disney World.²

The government should have the option of using the same construction industry practices used in the private sector if those practices will help save money and ensure that projects are completed on time and within budget. It would be a potentially costly and ill-advised disservice to American taxpayers to forbid federal agencies from using PLAs even when they protect the government’s investment and save taxpayer funds.

ELIJAH E. CUMMINGS,
Ranking Member.



¹ Exec. Order No. 13502, 74 Fed. Reg. 6985, *Use of Project Labor Agreements for Federal Construction Projects* (Feb. 6, 2009) (online at www.gpo.gov/fdsys/pkg/FR-2009-02-11/pdf/E9-3113.pdf).

² General Accounting Office, *Project Labor Agreements: The Extent of Their Use and Related Information* (May 29, 1998) (GAO/GGD-98-82) (online at www.gao.gov/assets/230/225719.pdf).