

STATEMENT OF

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**PUBLIC BUILDINGS SERVICE
U.S. GENERAL SERVICES ADMINISTRATION**

**BEFORE THE
SUBCOMMITTEE ON REGULATORY AFFAIRS,
STIMULUS OVERSIGHT, AND GOVERNMENT SPENDING**

**COMMITTEE ON
OVERSIGHT & GOVERNMENT REFORM**

U.S. HOUSE OF REPRESENTATIVES

***“PROJECT LABOR AGREEMENTS AND THE COST OF
DOING BUSINESS IN THE CONSTRUCTION INDUSTRY”***

March 16, 2011



Good afternoon Chairman Jordan, Ranking Member Kucinich, and Members of the Subcommittee. My name is Robert A. Peck, and I am the Commissioner of the U.S. General Services Administration's (GSA) Public Buildings Service (PBS). Thank you for inviting me here today to discuss GSA's measured business approach to the implementation of Project Labor Agreements (PLA) in our construction contracts.

A PLA is a project-specific collective bargaining agreement that establishes the terms and conditions of employment for a specific construction project. A PLA is a proven private sector tool to provide structure and stability to a project, especially large projects that take many years to complete. The private sector uses PLAs for a variety of construction projects similar to those GSA manages. Additionally, PLAs are used frequently at the state and local level in connection with a wide array of construction projects of varying sizes and scopes. PLAs have been used in all 50 states for a variety of construction projects.¹ GSA only uses PLAs when they promote economy and efficiency in federal procurement.

Upon issuance of the President's Executive Order 13502 to "promote the efficient administration and completion of Federal construction projects," GSA established internal guidance on the consideration of PLAs and pursued ten pilot projects under the American Recovery and Reinvestment Act of 2009 to test their use.

Project Labor Agreement Regulations and Guidance –

Executive Order 13502, which President Obama signed on February 6, 2009, encourages executive agencies to consider requiring contractors to use PLAs on large construction projects, defined as those totaling at least \$25 million. The Executive Order does not mandate that Federal agencies require PLAs; rather it states a policy "to encourage federal executive agencies to consider requiring the use" of PLAs on major construction projects in order to promote economy and efficiency in Federal procurement. The order only allows agencies to require PLAs where doing so would "advance the Federal Government's interest in achieving economy and efficiency in Federal procurement, produc[e] labor-management stability, and ensur[e] compliance with" federal employment laws. After a lengthy review process, and with hundreds of comments submitted by the public and industry, the Federal Acquisition Regulation was amended to implement the Executive Order. The final FAR rule, FAR Case 2009-005, was published in the Federal Register April 13, 2010 and became effective May 13, 2010.

Prior to the final rule, GSA issued interim guidance for PLA consideration in accordance with the Executive Order. Upon issuance of the final FAR rule, GSA revised its guidance accordingly. This procurement instructional bulletin provides guidance on creating solicitations and evaluating proposals related to PLAs on a project-by-project basis. GSA allows contractors to submit a proposal subject to the PLA requirements in the contract, a proposal not subject to the requirements in the contract or both. If GSA accepts a PLA proposal, the awardee is required to execute a PLA in accordance with

¹ As cited in the preamble to the final FAR rule FAR Case 2009-005

the Executive Order and the FAR. In GSA's contracts, the PLA is an agreement between the contractor and the labor organization, and GSA is not a party to the agreement.

Awarding Construction Contracts with Project Labor Agreements –

In selecting a contractor for award, GSA uses the "best value" method of award, which takes into consideration both cost and technical qualifications. While cost is always considered, the value of using well-qualified contractors who are able to perform the contract efficiently and effectively is also part of the decision process. GSA weighs numerous technical factors to evaluate a contract proposal. The inclusion of a PLA is one of these factors. Contractor submissions that include a PLA receive a 10 percent increase in their technical evaluation for submitting a proposal subject to the PLA requirements. This allows us to recognize the value of the potential benefits of a PLA to the project, including reduced project risks associated with wage stability, avoidance of work stoppages, increased labor availability, and project-specific coordination of work rules.

By using our optional bidding process, GSA does not discriminate against contractors. GSA awards to contractors who work with labor organizations, as well as contractors who work without such organizations.

The viability of a PLA on a given project is evidenced by the relative cost of the PLA proposals (if any) submitted. If a market is not suitable for a PLA, GSA believes that offerors will not submit PLA proposals or the proposals will include an elevated cost, which may take them out of the competitive range.

GSA's Implementation of Project Labor Agreements –

GSA is the Federal government's real property expert, managing a real estate portfolio of more than 1,500 owned buildings. We manage and execute an average of \$1.5 billion capital construction program annually. After President Obama signed the Executive Order for PLAs, GSA was also allocated \$5.5 billion through the American Recovery and Reinvestment Act of 2009 (Recovery Act) to help construct new facilities and modernize our federally owned inventory, transforming many of our buildings into high-performance green buildings.

During the implementation of our Recovery Act Spend Plan, GSA conducted a pilot program with Recovery Act projects to consider the use of a PLA. For this pilot program, GSA selected projects with budgets of more than \$100 million. Ten projects met this criterion and were selected for the pilot. Of these ten projects, seven have PLAs and three do not. Our experience in this pilot program has shown us that our bidding process has not hindered competition.

The following projects were included in the pilot program:

- ◆ 50 United Nations Plaza in San Francisco, California (signed PLA)
- ◆ A.J. Celebrezze Federal Building in Cleveland, Ohio (signed PLA)
- ◆ Byron Rogers Courthouse in Denver, Colorado (no PLA)
- ◆ Edith Green-Wendell Wyatt Federal Building in Portland, Oregon (signed PLA)
- ◆ GSA Headquarters Building in Washington, DC (no PLA)
- ◆ Lafayette Federal Building in Washington, DC (signed PLA)
- ◆ Nogales West Land Port of Entry in Nogales, Arizona (no PLA)
- ◆ Peter Rodino Federal Building in Newark, New Jersey (signed PLA)
- ◆ Prince Jonah Kuhio Kalanianaʻole Federal Building and Courthouse in Honolulu, Hawaii (signed PLA)
- ◆ Department of Homeland Security at the St. Elizabeths Campus in Washington, DC (signed PLA for 1 of the 3 contracts)

Through the construction of these projects, GSA plans to assess the use of PLAs for future implementation of best practices and updates to our policies. This pilot program has enabled GSA to obtain real market data regarding the impact of PLAs on competition. GSA has recently reached out to contractors and union officials to hear their feedback on our pilot projects in order to develop ways to further improve our PLA procurement process.

These pilot projects represent the first projects for which GSA had considered the use of PLAs; however, it is important to note that contractors have, of their own volition, entered into PLAs in certain instances where it makes sense.

Conclusion –

As real estate experts, GSA ensures that we are procuring construction goods and services at the best value for the Government on behalf of American taxpayers. Consideration of the use of PLAs is encouraged because of the benefits that they may bring. PLAs can provide wage stability for workers, establish mechanisms for resolving labor disputes, and reduce the risks of work strikes and lockouts to ensure the project continues on schedule.

In awarding construction contracts, GSA considers a variety of technical factors, including the potential benefits from a PLA, and weighs them against cost, to help determine the winning proposal. By leveraging our experience and expertise, GSA ensures high design and construction excellence at the best value to the American taxpayers.

Chairman Jordan, Ranking Member Kucinich, this concludes my prepared statement, and I am pleased to be here today to discuss GSA's measured business approach to the implementation of PLAs. I will be pleased to answer any questions that you or any other Members of the Subcommittee may have.