PROJECT LABOR AGREEMENTS
A Cost-Benefit Analysis for State and Local Governments

The cover of the June 28, 2010 ***TIME Magazine*** has a headline that reads, "The Broken States of America – How the Financial Crisis of the States Affects All of Us." The article contained therein ("The Other Financial Crisis"), which focuses on the widespread issue of states and local governments facing the worst cash squeeze since the Great Depression, is an important aspect to the debate over public construction and the utility of Project Labor Agreements (PLAs), not to mention prevailing wage statutes.

According to the ***TIME*** article, "…state governments are approaching the brink of fiscal calamity, as the crash of 2008 and its persistent aftermath have led to a reckoning in 2010." As lawmakers across the country deal with these fiscal issues, it is imperative that they receive a substantive, countervailing narrative to the claims by the Associated Builders and Contractors (ABC) and others that PLAs and prevailing wage statutes unnecessarily drive up the costs of taxpayer-funded construction, and therefore in these times of fiscal misfortune at the state and local level, they should be summarily cast aside in favor of a "low bid" approach to procuring construction services.

We need to be aggressive in painting a more complete picture of the workings and practices of the U.S. construction as they currently exist today…and how they factor into, and directly affect, the fiscal problems that all jurisdictions are experiencing today.

For example, the ***TIME*** article asserts that over the course of the next year there is expected to be, on average, a 5.4% across-the-board growth in the number of Medicaid recipients. This simply continues the trend of the United States vastly extending taxpayer-funded Medicaid to the working poor. In fact, over the course of the past decade, Medicaid has been the source of the biggest expansion of a government entitlement since the Great Society was launched in the 1960s.

With little notice, the medical care program paid by federal and state taxpayers has grown from covering 34 million people in 1999 to 47 million in 2004.

Medicaid's growth has continued despite debates about spiraling costs and controversial efforts in Tennessee, Missouri and other states to scale it back. The initial growth of Medicaid enrollments was the direct aftershock of welfare reform, which since 1997 has pushed individuals off welfare and into the workforce. But, in order to support low-wage workers (who often do not receive health care insurance coverage through work), Congress and state legislatures have had to expand coverage to low-income working families. Medicaid previously had gone primarily to welfare recipients.

So, where does the construction industry fit into this equation? Well, not only does it fit, but it is one of the main drivers of this trend.

And that's because the American construction industry, as it exists today, is increasingly becoming defined by contractors who have explicitly chosen to not play fair…or play by any rules at all. We refer to this as the "low road" business model.

These unprincipled, "low road" contractors attempt to win bids and fatten their profit margins by intentionally doing things that subvert the law, and by treating their employees as disposable commodities. They will submit drastically low bids knowing they have no intention of following prevailing wage laws, even when mandated by law.

Additionally, many of these contractors are becoming increasingly engaged in misclassifying their employees as "independent contractors" in order to avoid paying Workers' Compensation, Unemployment Insurance, and health care and pension benefits (which allows them to submit even lower bids – while simultaneously ripping off the taxpayers by not paying requisite taxes).

According to a 2000 study commissioned by the U.S. Department of Labor, as many as 30 percent of firms illegally misclassify their employees as independent contractors. In addition to harming workers, independent contractor misclassification costs all levels of government billions each year in lost tax revenue. That lost tax revenue must then be accounted for by cutting other important public services, or by raising taxes on individuals or businesses.

Project Labor Agreements removes the potential for independent contractor misclassification to distort the contracting process, since employers that engage in this misclassification enjoy a substantial—and illegal—cost advantage over law-abiding employers.

It is also become a de facto part of the "low road" business model to utilize and exploit undocumented workers and pay them sub-standard wages (or not pay them at all, in some cases).

And finally, these contractors are not adverse to using inferior materials, and taking unsafe shortcuts that put workers, as well as the project itself, in danger.

Not surprisingly, these contractors, and the organizations that represent them (such as the Associated Builders and Contractors), are the most vocal opponents of project labor agreements and prevailing wage laws.

Now, this is not only unfair to responsible businesses and employees who live and work in our communities, and who find themselves having to compete against this “race to the bottom” business model…but it's also NOT FAIR TO THE TAXPAYERS! And that’s because the “low road” business model has a negative affect on the fiscal health of state and local governments.

For example, a close examination of the U.S. construction industry as it exists today reveals an industry that saddles the U.S. health care system with the highest injury and illness rate among all private industries. According to CPWR – the Center for Construction Research and Training, the construction industry has the highest rate of non-fatal injuries and illnesses, and it has three times the fatality rate of other private industries. Accordingly, construction accounts for the highest rate of injuries and illnesses entering the nation’s hospitals, particularly hospital emergency services.

Now, couple that disturbing trend with the fact that the construction industry and the agricultural industry have the lowest rate of employer-provided health care coverage on an inter-industry basis…and within construction, coverage is lowest within companies having fewer than 10 employees – which comprises the vast number of construction contractors (over 80% of all employers).

In sum, the U.S. construction industry today is defined by the dual characteristics of high-risk work and chronic un-insurance, primarily because relatively few construction companies offer employee coverage – and significant numbers of employees cannot afford the coverage when it is offered…leaving them to obtain health care services at the public’s expense (e.g. Medicaid).

So, when a hospital patient receives a bill that charges $7.00 for one tablet of Tylenol, he or she needs to look no further than the preponderance of the “low road” approach in the construction industry to understand why.

In fact, such cost-shifting has taken, and continues to take, a tremendous toll on families and communities all across the nation. Recent studies have documented the heavy burden on public safety net programs—and resulting costs for the taxpayers—caused when workers are paid poverty wages and do not receive employer-provided health and retirement benefits.

For example, the Center for American Progress has estimated that in Dallas, TX the societal cost of uncompensated health care and other services – in the form of higher taxes and insurance premiums – runs as high as $1,800 per family per year!

Similarly, an analysis by the University of California found that $10.1 billion of the $21.2 billion that federal and state taxpayers spent in 2002 on public assistance programs in California went to families of low-wage workers. Similar analyses have demonstrated corresponding public costs attributable to low-wage employers in New York, Wisconsin and Illinois.

These hidden public costs to governments at all levels more than offset the perceived savings that low-wage contractors may appear to offer federal, state and local agencies who contract for construction services. Unfortunately, the contract pricing and evaluation systems currently used by agencies at all levels of government typically do not take into account these indirect costs.

Conversely, a growing body of research demonstrates that in many industries, contractors that provide good wages and benefits and respect workplace laws deliver higher quality services for government agencies and the taxpayers.

In construction contracting in particular, research has indicated that "high road" contractors that comply with workplace laws and provide quality training, along with family-sustaining wages and benefits, typically have better skilled and more productive workforces that increase both the productivity and quality associated with public construction work. And that typically results in savings for the taxpayers.

Indeed, numerous credible academic studies have concluded that there is no evidence to support claims that Project Labor Agreements either limit the pool of bidders or drive up the actual construction costs. We would refer lawmakers and public procurement officials to a series of such studies, including Fred B. Kottler's March 2009 report, ***"Project Labor Agreements in New York State: In the Public Interest*** (Cornell University School of Industrial and Labor Relations). They would also benefit from reading Dale Belman's, Matthew Bodah's and Peter Philips' comprehensive report for ELECTRI International, ***"Project Labor Agreements,"*** which concluded that, "The presence of a PLA does not have a statistically significant effect on the final cost of a project." And there are numerous other studies that can be found at: www.PLAsWork.org.

It's simply a matter of common sense and economics. A highly paid, highly trained workforce is more productive, which can have the effect of producing lower labor costs than a low-wage, low-skill workforce. That is the essence of the PLA business model.

As early as the 1980's, an audit by the U.S. Department of Housing and Urban Development (HUD) of seventeen HUD sites found a "direct correlation between labor law violations and poor quality construction" on HUD projects, and found that the quality defects on these sites contributed to excessive maintenance costs. The HUD Inspector General concluded that “[T]his systematic cheating costs the public treasury hundreds of millions of dollars, reducing workers’ earnings, and driving the honest contractor out of business or underground.”

More recently, a survey of New York City construction contractors by New York’s Fiscal Policy Institute found that contractors with workplace law violations were more than five times as likely to have a low performance rating than contractors with no workplace law violations. Other studies have found that construction workers who receive higher wages and quality training are at least 20 percent more productive than less skilled and lower paid workers.

On the flip side, a study examining the impact of repealing prevailing wage laws in nine states found that the resulting drop in construction worker wages correlated with increases in cost overruns and delays on construction projects, and led to a workforce that was less skilled and less productive. Yet despite the recognized quality advantages and offsetting savings generated by better paid workforces, many federal, state and local contracting systems do not currently provide any systematic way to factor them in during the contract pricing and evaluation process. As a result, they remain largely ignored, skewing the selection process towards the “race to the bottom” contractors.

The city of El Paso, Texas, discovered that while the bids that the city receives from contractors that provide health benefits tended to be a little higher, the net impact on the taxpayer is about the same because of higher workforce productivity and the offsetting public health care system savings.

In the long run, and especially during these times of fiscal calamity for state and local governments, it is costing government more money to have people not insured than it does to have people insured. It is a huge drain on the economy and on the tax base of local governments.

Therefore, it is important for lawmakers and policymakers to factor those costs into the contracting process, and into their deliberations involving the embrace of PLAs and prevailing wage statutes. The calculation is fairly straightforward: Where an employer is providing health and retirement benefits and saving the health system money, those savings should be weighed when federal, state and local governments seek to invest in construction.

Project Labor Agreements (and prevailing wage statutes) are a valuable tool to ensure that public dollars are leveraged to ensure not just a quality return on publicly-funded construction investments, but also to ensure those dollars are not being used to further prop up a business model that causes so much social and economic damage – and which those same governmental entities will have to clean up with additional taxpayer funds.

The bottom line is that the U.S. construction industry is increasingly becoming characterized by companies willing to do work for bargain-basement prices, but they may not always deliver what they promise and often times that results in more costs for our community as work needs to be corrected or repaired, and poverty-wage workers unduly place increasing burdens on our social safety nets – which results in increased taxes and other costs being placed on individuals and small businesses.

Through the use of Project Labor Agreements, a community can assure itself that it is dealing with only responsible companies, those who possess the proper business registrations, show past compliance with environmental, labor and safety laws, relevant insurance coverage, prevailing wage compliance and apprenticeship and training participation. It is these types of attributes that are ensured through PLAs, and which can go a long way in assuring the financial and structural success of all public construction projects.

In the long run, a Project Labor Agreement is going to provide more taxpayer value than a process that selects the “race to the bottom” contractor who is cutting corners in the areas of workforce skill levels, materials, or safety.

Finally, Project Labor Agreements provide a structured pathway for local residents to gain access to career training in the skilled trades. Most skilled trade apprenticeship offer “earn while you learn” programs that mandate five years of training consisting of over 800 hours of classroom education and 8,000 hours of on-the-job training under the supervision of an experienced and highly skilled tradesperson. In some cases, the completion of a skilled craft apprenticeship program includes the awarding of a two-year Associate’s Degree from a local community college.

In the end, PLAs provide local communities with a cost-effective model to obtain quality work and jobsite efficiencies; while helping local jurisdictions handle current fiscal problems associated with an increased strain on public safety net resources – such as Medicaid expenditures. PLAs also ensure a financial boost to the local tax base through the payment of livable wages and benefits; as well ensuring a local pool of skilled and properly trained workers, along with structured pathways to career training for local residents.