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PROJECT LABOR AGREEMENTS

The Extent of Their Use and Related Information



General Government Division

B-277866

May 29, 1998

The Honorable Peter Hoekstra
Chairman, Subcommittee on Oversight and Investigations
The Honorable Harris W. Fawell
Chairman, Subcommittee on Employer-Employee Relations
Committee on Education and the Workforce
House of Representatives

This report responds to your request for information about the use of project labor agreements (PLA) on federal construction contracts and related matters. The request largely resulted from a June 5, 1997, Presidential Memorandum that encourages federal agencies to use these types of collective bargaining agreements on their construction contracts that are over \$5 million and required agencies to establish procedures and criteria for PLA use within 120 days. As agreed, this report summarizes information developed on (1) the number of federal construction and other projects where PLAS were used and the extent to which PLAS have been used on projects sponsored by nonfederal organizations, including public projects with some federal funding; (2) the procedures and criteria for using PLAS established by federal agencies, as required by the Presidential Memorandum; (3) federal agency procedures established to comply with Chairman Hoekstra's July 9, 1997, letter to federal agencies requesting them to notify his Subcommittee of the planned use of PLAS; and (4) the feasibility of comparing contractor performance under federal construction contracts with and without PLAS.

PLAS are one form of "prehire" collective bargaining agreements between contractors, or owners on behalf of contractors, and labor unions in the construction industry. PLAS are called prehire agreements because they can be negotiated before employees vote on union representation or before the contractor hires any workers. The National Labor Relations Act¹ generally prohibits prehire agreements, but an exception in the act² allows the agreements only in the construction industry. Proponents say that PLAS provide economic benefits such as (1) avoidance of work stoppages on long-term projects during which local collective bargaining agreements of different craft unions expire, (2) uniform work rules for different crafts working on the same project, and (3) access to a skilled labor force through the union referral systems. Opponents say that, among other things, PLAS, particularly in the public sector (1) discourage competition by favoring union companies and (2) result in higher costs due to the

¹29 U.S.C. § 151 et seq.

²29 U.S.C. § 158(f)

restricted number of bidders, higher union wages, and the imposition of union work rules.

To obtain information on the use of PLAS, we contacted the Office of Management and Budget (OMB) and 13 federal agencies with the highest reported construction obligations in fiscal year 1996 (see app. I). We also judgmentally selected and contacted various construction industry contractors, unions, and associations; state agencies; and private-sector labor experts. In addition, we searched the internet and literature for studies, reports, news articles, and other documents containing relevant information on PLAS. Our verification of data included confirmation only of current PLAS identified by any source on federal construction contracts. We requested comments on a draft of this report from OMB and the 13 federal agencies we reviewed. Their comments are discussed at the end of this letter. We also sent the draft report to labor unions and industry associations that provided data and asked them to verify that we correctly reported the data. We did our work from August 1997 to March 1998 in accordance with generally accepted government auditing standards. Appendix II contains more details on our scope and methodology.

Results in Brief

The total number of PLAS in use is unknown because there is no complete or comprehensive database on the use of PLAS in the public or private sectors. Neither OMB nor the 13 federal agencies we reviewed maintained any databases concerning the use of PLAS on construction contracts involving federal funds. Similarly, we found no source of complete information on the use of PLAS by state governments or the private sector. Union and industry organizations maintain data on certain PLAS that they negotiated at the national level, but there were no comparable data on ad hoc PLAS negotiated between contractors and unions at the local level.

Four of the 13 federal agencies we reviewed have construction projects covered by 26 PLAS that we could identify. The four agencies are the Department of Energy (DOE), the Department of Defense (DOD), the Tennessee Valley Authority (TVA), and the National Aeronautics and Space Administration (NASA). However, officials at 11 of the 13 agencies, including DOD and NASA, said PLAS could be used on agency construction projects without their knowledge because such agreements are generally made between contractors and unions; and collective bargaining matters are not required to be reported to the government. Available literature and union data show that PLAS exist on numerous other public and private construction projects and on other public projects with some federal

funding. Also, labor experts and union officials say that the private sector is the biggest user of PLAS, but use of PLAS is reportedly increasing on public projects due in part to a 1993 U.S. Supreme Court decision involving the Boston Harbor cleanup project.³

Six of the 13 federal agencies we reviewed had issued various levels of guidance for PLA use as required by the June 5, 1997, Presidential Memorandum. However, none specifically provided for notifying the Subcommittee on Oversight and Investigations of any planned use of PLAS. Recently, OMB assumed responsibility for assisting the agencies in developing procedures and criteria for use of PLAS. Although OMB's draft procedures and criteria for implementing the Presidential Memorandum do not specifically refer to the Subcommittee's request to be notified by agencies planning to use a PLA, the draft would require the collection of the type of information requested by the Subcommittee. According to OMB, it included this provision so that agencies could comply with the request. Twelve of the 13 federal agencies do not expect the extent of their use of PLAS on construction projects to change as a result of the Presidential Memorandum, while one, the Department of Transportation, believes that increased awareness of PLAS could result in PLAS being used.

PLA proponents and opponents that we contacted said they believe contract performance comparisons between federal construction projects with PLAS and those without PLAS would be difficult. This is primarily because they believe it would be difficult to find projects similar enough to compare. In addition, we believe that even if similar PLA and non-PLA projects were found, it would be difficult to demonstrate conclusively that any performance differences were due to the use of the PLA versus other factors.

Background

There are two broad forms of PLAS—national and local. National agreements generally are sponsored by union and industry organizations, which negotiate and sign the agreements in advance of the need for them. National agreements are ready for a contractor's immediate use on a construction project after approval by the sponsoring organization. In contrast, local agreements result from direct negotiations between contractors and local unions for specific projects.

³Building and Construction Trades Council of the Metropolitan District v. Associated Builders & Contractors of Massachusetts/Rhode Island, Inc., et.al., 507 U.S. 218, 113 S. Ct. 1190 (1993). The Supreme Court upheld a state agency's required use of a PLA on a public works project, reasoning that, "... To the extent that a private purchaser may choose a contractor based upon that contractor's willingness to enter into a prehire agreement, a public entity as purchaser should be permitted to do the same. . . ."

PLAS cover new construction work and maintenance, repairs, and alterations of existing real property. Their provisions generally (1) apply to all work performed under a specific contract or project, or at a specific location; (2) require recognition of the signatory unions as the sole bargaining representatives for covered workers, whether or not the workers are union members; (3) supersede all other collective bargaining agreements; (4) prohibit strikes and lockouts; (5) require hiring through union referral systems; (6) require all subcontractors to become signatory to the agreement; (7) establish uniform work rules covering overtime, working hours, dispute resolution, and other matters; and (8) prescribe craft wages, either in the body of the agreement or in an appendix or attachment.

Historically, the use of PLAS on federal and other publicly funded projects dates back to the construction of the Grand Coulee Dam in Washington state in 1938 and the Shasta Dam in California in 1940. During and after World War II, atomic energy and defense construction projects used PLAS. NASA used PLAS in construction at Cape Canaveral, FL, during the 1960s. In addition, the private sector has used PLAS on various projects, including the Trans-Alaska Pipeline and Disney World.

More recently, PLAS gained particular public attention when, in July 1992, President Bush seemingly endorsed PLAS by siding with organized labor in litigation before the U.S. Supreme Court over the use of a PLA on the Boston Harbor cleanup project. However, in October 1992, he issued an Executive Order⁴ forbidding the use of PLAS by any parties to federal or federally funded construction projects. President Clinton revoked⁵ that Executive Order in February 1993.

In early 1997, President Clinton had planned to issue an Executive Order requiring federal agencies to use PLAS on their construction contracts, but the proposal met with considerable political and industry opposition. Instead, the President issued the June 5, 1997, memorandum, described earlier, which encourages the use of PLAS on contracts over \$5 million for the construction of facilities to be owned by a federal department or agency. The memorandum also states that PLAS can be used in other circumstances, like leasehold arrangements and federally funded projects.

⁴Executive Order 12818, titled "Open Bidding on Federal and Federally Funded Construction Projects," Oct. 23, 1992.

⁵Executive Order 12836, titled "Revocation of Certain Executive Orders Concerning Federal Contracting," Feb. 1, 1993.

The memorandum defines “construction” to include not only new construction but also alteration and repair work.⁶

The U.S. Supreme Court’s March 1993 decision in the Boston Harbor case cleared the way for more frequent use of PLAS on public-sector construction projects. A lower court had required the Massachusetts Water Resources Authority, an independent state agency, to clean up pollution in Boston Harbor. The Authority’s contract bid specification for the project required the use of a PLA negotiated between its project manager (a private contractor) and local unions. The bid specification was challenged; and the case ended up before the U. S. Supreme Court, which upheld the use of the PLA. During the 1990s, according to one literature source, the use of PLAS on at least 25 other nonfederal public-sector projects faced court challenges in nine states (see app. III). Most challenges reportedly claimed, among other things, that the use of the PLA violated state or local competitive procurement laws. However, the courts upheld the use of the PLAS in 17 of the 25 cases and invalidated the PLAS in the other 8 cases.⁷

In addition, there was a court case concerning the PLA at DOE’s Oak Ridge Reservation, Tennessee.⁸ The PLA was entered into by DOE’s prime contractor—MK-Ferguson of Oak Ridge Corporation—and the Knoxville Building and Construction Trades Council. In 1992, the Sixth Circuit Court of Appeals concluded that the PLA violated neither the National Labor Relations Act nor the Competition in Contracting Act.⁹ The court held that it was unaware of any reason why DOE may not directly, or through an agent, enter into such an agreement, as long as it would be valid if entered into by private parties. We did not find any other court decisions ruling on the legality of PLAS, with respect to federal construction contracts.

Under the authority of Public Law 85-804, August 28, 1958, as amended, certain federal agencies have extraordinary contracting authority to facilitate the national defense. Those agencies can take procurement actions they deem necessary, without regard to other provisions of law

⁶The Presidential Memorandum gives the term “construction” the same meaning as section 36.102 of the Federal Acquisition Regulation, which states in part, “‘Construction’ means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. . . .”

⁷We did not determine the ultimate disposition of all 25 cases, but we confirmed that, on appeal, a higher court later upheld at least 1 of the 8 PLAs shown to be invalidated.

⁸Phoenix Engineering, Inc., v. MK-Ferguson of Oak Ridge Co., 966 F. 2d 1513, (6th Cir. 1992), cert denied, 113 S. Ct. 1577 (1993).

⁹41 U.S.C. § 253

relating to the making, performance, amendment, or modification of contracts. Nine of the 13 federal agencies we reviewed have this authority, but as discussed later in this report, only DOE reported using that authority with regard to PLAS.

Total Number of PLAs Is Unknown

The lack of available complete data on the use of PLAS precludes an exact count of their total numbers at any level—federal, state government, or private sector. The federal government has no central or agency-specific data system with information about PLAS used on federal construction contracts. In addition, we found no source of complete data on the use of PLAS at the state government or private-sector levels. Certain labor union and industry organizations compile data on standardized national PLAS they sponsor, but they have little or no data on PLAS negotiated locally. Nevertheless, our research disclosed that PLAS have been used in all 50 states and the District of Columbia on federal, state, local government, or private sector construction projects, including nonfederal projects that involve federal funds.

Data on PLAs Are Incomplete

The Federal Procurement Data System, maintained for OMB by the General Services Administration's (GSA) Federal Procurement Data Center, contains statistical data about U.S. government executive branch agencies' procurement contracts awarded since October 1, 1978. However, the Federal Procurement Data System does not collect or report data about PLAS used on federal construction contracts. In addition, OMB and the 13 federal agencies we reviewed reported that they are not aware of any external or internal data systems that report information about PLAS used on federal construction contracts. To respond to our requests, most federal agencies had to canvas their internal procurement organizations to determine any use of PLAS on their construction projects.

The Building and Construction Trades Department¹⁰ of the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), maintains data on at least three current national PLAS that it sponsors (see app. IV). In addition, the National Constructors Association¹¹ and National

¹⁰The Building and Construction Trades Department represents 15 building and construction trades unions and coordinates the activities of local building and construction trades councils in all 50 states and the District of Columbia.

¹¹The National Constructors Association is a construction industry association representing member companies who construct industrial operating or manufacturing facilities.

Maintenance Agreements Policy Committee, Inc.,¹² each sponsors a single national agreement and maintains data on the agreement. The Building and Construction Trades Department also sponsored at least one other national agreement in the past—the Nuclear Power Construction Stabilization Agreement. The five current national agreements cover varying types of construction and maintenance work performed by workers in various craft unions.

On May 14, 1997, the Building and Construction Trades Department sent a letter regarding the use of PLAS to the secretaries of its affiliated state and local building and construction trades councils. The letter reminded the councils about the Department's procedures and policies that have been in place, but frequently ignored, since at least 1976. The letter reiterated existing procedures on the use of PLAS and stated that councils ignoring the procedures would be subject to sanctions determined by the Department. In summary, the letter requires local councils to obtain separate written approval from the Department to negotiate or execute any PLA. In addition, the letter transmitted a copy of the Department's standard PLA to each council, stating that it must be used in the negotiation of all future PLAS. This action has the potential to eliminate ad hoc local PLAS, replace them with a more uniform PLA that local parties can adapt to their projects, and facilitate a more complete database of PLAS.

The Building and Construction Trades Department had no comprehensive data on PLAS negotiated locally before May 1997, but it provided examples of a few such PLAS. Overall, our research identified about 90 locally negotiated PLAS used in at least 20 states. However, contractors and labor experts told us that locally negotiated PLAS are used more frequently than national agreements. Therefore, it is likely that there are many more local agreements than those we identified. Possible reasons why the local agreements are not more readily identifiable are that they are common labor-relations tools used in the construction industry; and they are rarely publicized, particularly PLAS used in the private sector.

Few Federal Agencies Report Using PLAs

Four of the 13 federal agencies we reviewed have current construction projects using the 26 PLAS that we could identify (see app. V). The four agencies are DOE with 12 PLAS, DOD with 10 PLAS, TVA with 2 PLAS, and NASA with 2 PLAS. Officials at the remaining nine agencies were not aware of any PLAS on their construction contracts. However, according to officials at 11

¹²The National Maintenance Agreements Policy Committee, Inc., is a joint committee of labor and management representatives. The committee administers the National Maintenance Agreement program as a tool for the effective performance of work in industrial construction maintenance.

of the 13 agencies, including DOD and NASA, PLAS could be used on their construction projects without the agencies' knowledge because contractors are not required to report collective bargaining matters to the government. As an example, within DOD, we contacted the Corps of Engineers, the Air Force, and the Navy, and, among them, these agencies identified only one project using a PLA—a Corps project. However, data provided by the Building and Construction Trades Department and the National Constructors Association showed that seven additional current Corps projects and two Air Force projects involved the use of PLAS. We verified with the related agencies or contractors that PLAS were in use on these projects.

TVA and DOE appear to be the most actively involved in the use of PLAS. TVA negotiates with the Building and Construction Trades Department and its 15 international unions and also signs agreements requiring that contractors become signatory to the PLAS. PLAS on projects of the other three agencies were negotiated and signed by the contractors and unions. DOE, however, invoked the authority of P.L. 85-804 at four locations, Colorado, Idaho, Nevada, and Washington, to require that all contractors and subcontractors follow certain provisions of the six related PLAS. In addition, bid solicitations by DOE for construction projects made reference to the use of PLAS. The 1997 solicitation for construction of the National Ignition Facility in California stated that a PLA had been established. The 1989 solicitation for a new construction management contractor at the Oak Ridge site in Tennessee required bidders to include plans/alternatives to recognize the PLA already in place at that location.

Officials of two of the nine federal agencies with no PLAS that we could identify told us that they considered, but elected not to use, PLAS on recent construction projects. These agencies were GSA and the Department of Labor. A GSA official told us that GSA considered requiring the use of a PLA on a courthouse construction project in Boston, MA, because other federally funded projects in the Boston area had used PLAS. However, she said that the agency decided not to require a PLA because it had no reason to believe that a PLA was needed and because the agency believed that a neutral posture should be maintained regarding use of union versus nonunion labor.

Department of Labor officials told us that two factors led its Employment and Training Administration to consider using a PLA on a Job Corps construction project in Massachusetts for which bids were solicited in March 1997. First, a September 24, 1996, letter from the Building and

Construction Trades Department to the Assistant Secretary of Labor for Employment and Training urged the Department of Labor to consider using a PLA on the project. Second, other public entities in Massachusetts use PLAS on construction projects, such as the Boston Harbor cleanup project in Boston. The Employment and Training Administration did not require the use of a PLA in the project solicitation because the agency was uncertain of its legality under the circumstances and did not want to risk delaying the project. However, instructions to bidders for the project included the following statements:

“In connection with this solicitation, a responsive bidder may have a Project Labor Agreement (PLA) with its subcontractors. . . . The Employment and Training Administration has a strong interest in ensuring good labor relations to achieve expeditious completion of this project. A PLA is one possible method of meeting this goal. . . .”

See appendix VI for more details about the four federal agencies with PLAS identified on current construction projects.

Other Public Sector Projects Use PLAs

Although we could find no centralized, complete source of data on the use of PLAS in the nonfederal public sector, our research disclosed examples of states, counties, and other nonfederal public entities using PLAS on construction projects with and without federal funding. Examples of projects with federal funding include the Boston Harbor cleanup and Central Artery/Tunnel projects in Boston, MA; the Denver International Airport, Denver, CO; and the 38th and Fox Phase IV and the Del Camino Interchange projects for the Colorado State Department of Transportation. The first three projects used locally negotiated PLAS. The contractor on the latter two projects used a national PLA—the Heavy and Highway Construction Project Agreement—that was neither required nor encouraged by the state of Colorado, according to a state official.

Examples of public projects that used PLAS and, according to Washington and Colorado state officials, involved no federal funds, include the Duwamish River Bridge, the 164th Avenue Interchange, and the SR5 to Blanford Drive projects for the Washington State Department of Transportation; and the McClellan Interchange, the C-470 Yosemite Interchange, and the 125th & Mississippi Avenue Bridge projects for the Colorado State Department of Transportation. State officials said that neither state required or encouraged the use of PLAS on these projects. The contractor in each case used the Heavy and Highway Construction Project Agreement.

Other nonfederal public projects with PLAS include the Inland Feeder and Eastside Reservoir Projects for the Metropolitan Water District in Southern California; the Waterfront Park Project for Mercer County, NJ; and the Tappan Zee Bridge Project for the New York State Thruway Authority. All used locally negotiated PLAS.

Some labor experts believe that the use of PLAS for public construction projects will increase due in part to the Boston Harbor decision. Since that decision, the governors of four states have issued Executive Orders encouraging the use of PLAS on their states' public construction projects: Nevada (1994), New Jersey (1994), New York (1997), and Washington (1996). In addition, the mayors of Boston, MA (1997) and Philadelphia, PA (1995) issued similar Executive Orders for their cities' construction work. At least two other states, Alaska and Illinois, recently considered legislation that would allow their state agencies to enter into or require PLAS on public-works projects, but neither bill had passed at the time of our review. Conversely, in 1995 Utah passed a law that expressly forbids any state agency or political subdivision to require the use of a PLA in connection with any public-works project.

Private-Sector Projects Use PLAs

Although no complete central source of information exists, according to labor experts and union officials, most PLAS are used in the private sector. An official from a large national contractor told us that virtually all of that company's private-sector domestic work is covered by PLAS. The vast majority of PLAS under the national agreements, discussed earlier, are used on private-sector projects. For example, 93 percent of the projects/contracts under the National Constructors Association's national PLA are in the private sector. Percentages are similar for known uses of the other national agreements, except for the National Heavy and Highway Construction Project Agreement, which is used predominantly on nonfederal public projects.

Our research disclosed few specific examples of locally negotiated, private-sector PLAS. We believe that this may be because the private-sector PLAS receive less publicity than those in the public sector. The latter seem to make news because public funds are involved. Some locally negotiated PLAS used on private-sector projects that we were able to identify include those for Toyota manufacturing plants in Princeton, IN, and Georgetown, KY; a Coil Spring Processing Facility in Spencer County, IN; and a project for Reynolds Metals in Massena, NY.

Agencies' Procedures and Criteria for Use of PLAs

The June 5, 1997, Presidential Memorandum required that federal agencies develop procedures and criteria for the use of PLAs on their construction contracts by October 3, 1997. Section 6 of the Memorandum states,

“The heads of executive departments and agencies covered by this memorandum, in consultation with the Federal Acquisition Regulatory Council, shall establish, within 120 days of the date of this memorandum, appropriate written procedures and criteria for the determinations set forth in section 1.”

Six of the 13 federal agencies we reviewed issued some level of guidance on PLA use, generally by the due date. Officials at five of the remaining seven agencies said that they were awaiting related Federal Acquisition Regulation amendments before issuing procedures and guidelines. OMB eventually assumed responsibility for assisting the agencies in developing procedures, although the agencies still have the primary responsibility; and on March 12, 1998, OMB sent a draft generic PLA guidance document to officials at DOD, GSA, DOE, and the Department of Labor for comment. The memorandum transmitting the draft guidance states that the draft is not intended to foreclose agency-specific customization and adds that the draft soon may be circulated to agencies to assist them in developing their guidance. The draft guidance does not require agencies to notify the Subcommittee on Oversight and Investigation of information it requested on the future planned use of PLAs, but the draft guidance does provide for the agencies to collect the needed information. According to OMB, this provision was added so that agencies could comply with the Subcommittee's request.

The six agencies that issued some guidance were the Department of Commerce (Commerce), DOD, GSA, the Department of the Interior, NASA, and the Department of Transportation (Transportation). All agencies except Commerce included some or all of the following factors for contracting officials to consider before making a decision on the use of a PLA: (1) the history of labor disputes in the area of the work, (2) whether local collective bargaining agreements with needed crafts are expected to expire during the planned period of the project, (3) the general availability of qualified craft workers in the area, (4) the effect on the government of delays in contract performance, and (5) the probable effect of a PLA on competition.

Commerce's guidelines primarily reiterated the provisions for use of a PLA included in the Presidential Memorandum. Transportation did not issue its own guidelines, but distributed the Presidential Memorandum and GSA's

guidelines to its acquisition personnel via the internet. During the course of our review, officials at each of the 13 agencies we reviewed said that they did not expect any changes in the extent of their use of PLAS as a result of the Presidential Memorandum. However, on April 22, 1998, after our field work was completed, the Secretary of Transportation issued a memorandum to the heads of all Transportation agencies strongly encouraging the use of PLAS on agency construction projects as well as projects funded with agency grants. A Transportation official told us that PLA awareness brought about by the Secretary's memorandum could result in PLAS being used.

Agencies' Responses to Subcommittee Request

None of the six agencies' guidance for the use of PLAS clearly provide for responding to the Subcommittee on Oversight and Investigation's request to federal agencies that it be notified of any planned use of PLAS. GSA's initial guidance regarding the use of PLAS made provision for notifying the Subcommittee. That specific provision was later deleted when the agency revised its procedures and criteria to conform with OMB's draft guidelines, but those revised procedures and criteria call for collection of the data GSA would need to comply with the Subcommittee's request. Commerce's procedures and criteria acknowledged the congressional interest in PLAS, but they did not include guidance for providing information to the Subcommittee. It should be noted that in response to the Subcommittee's request, agencies may only give notice of PLAS that are required by the agencies. Therefore, 12 of the 26 PLAS we identified on federal construction projects likely would not have been reported to the Subcommittee because the PLAS were initiated by contractors and not required by the agencies.

Performance Comparisons Between Federal PLA and Non-PLA Projects Difficult to Make

Proponents and opponents of the use of PLAS said it would be difficult to compare contractor performance on federal projects with and without PLAS because it is highly unlikely that two such projects could be found that were sufficiently similar in cost, size, scope, and timing. Also, through our own observations, we know that many of the federal construction projects using PLAS involve unique facilities. For example, the PLAS used by TVA and many used by DOE cover all construction at a given site or sites and involve many contracts. In the case of TVA, work under the PLAS is spread over seven states. In the case of DOE, its various locations have unique missions, facilities, and circumstances. Also, officials at the four federal agencies with current projects using PLAS said they could not readily identify similar projects not using a PLA. In addition, a PLA in use on a

project that might be appropriate for comparison with a non-PLA project may not be representative of all PLAs because the specific provisions of PLAs can vary based on local negotiations. Finally, in our opinion, based on varied evaluation experience, any contract performance differences that might be discerned between a project with a PLA and one without a PLA could be attributable to factors other than the PLA. Therefore, drawing definitive conclusions on whether or not the PLA was the cause of any performance differences would be difficult.

Nevertheless, our research disclosed three analyses of the costs of a project using a PLA versus not using the PLA on the same project; however, none compared a PLA project with a similar non-PLA project. These analyses are described in this report for information purposes only. We did not verify any of the analyses, nor do we take a position on the validity of the conclusions drawn.

The first analysis was done in March 1995 by a local chapter of the Associated Builders and Contractors, East Syracuse, NY.¹³ The chapter compared initial estimates and actual bids both with and without a required PLA on a construction project for the New York State Dormitory Authority at the Roswell Park Cancer Institute. This unusual comparison was possible because several contracts were awarded before the PLA became effective. The analysis showed that the bids were 26 percent higher after the PLA requirement began than before the requirement existed.

In the second case, the New York Thruway Authority hired a consultant to negotiate a PLA for its 4-year project to refurbish the Tappan Zee Bridge. The consultant found that without a PLA, 19 local collective bargaining agreements with varying provisions would apply to the project and estimated that labor costs under the uniform provisions of the PLA would be over \$6 million less than labor costs under the 19 separate agreements. The savings represented about 13.5 percent of the \$44.7 million estimated total labor costs and about 4.6 percent of the project's total estimated cost of \$130 million. In addition, each of the 19 local agreements would have expired and required renegotiation one or two times during the life of the project. Each expiration represented a potential strike situation. The PLA was adopted in 1994 and survived a court challenge in 1996, based in part on the consultant's estimate of cost savings and on unspecified savings of

¹³The Associated Builders and Contractors, Inc., is a national association representing more than 20,000 open-shop construction and construction-related contractors across the United States. It is a leading opponent of PLAs on public-sector projects.

revenue from bridge tolls, as a result of having a PLA. One of the authority's key objectives was to avoid work disruptions on this project.

The third analysis involved the use of a PLA for constructing the National Ignition Facility at DOE's Lawrence Livermore National Laboratory, Livermore, CA. A Laboratory official provided us with documents showing that, in January 1997, the project contractor estimated the PLA would save \$2.6 to \$4.4 million on the \$1.2 billion construction project, or less than 0.4 percent, and concluded that these savings alone justified the PLA. Most of the savings resulted from estimated wage differences from using the PLA and involved such items as shift differential, overtime pay, use of apprentices, travel and subsistence pay, and holiday pay. For example, use of the PLA reportedly resulted in employing more apprentices and fewer, higher-paid journeymen on the project than would have been the case without the PLA.

Comments From Federal Agencies, Industry Associations, and Unions and Our Evaluation

We requested comments on a draft of this report from OMB and the 13 federal agencies selected for review. GSA's Deputy Associate Administrator for Acquisition Policy; NASA's Acting Deputy Administrator; DOE's Director, Office of Worker and Community Transition; and the Department of Agriculture's Chief, Procurement Policy Division provided written technical comments that we incorporated in the report, as appropriate. Program officials from the Departments of Veterans Affairs, the Interior, Justice, Health and Human Services, and Commerce responded orally that they generally agreed with reported information and had no specific comments. Officials from OMB, TVA, and the Departments of Labor and Transportation provided oral technical comments that we incorporated in this report as appropriate. A Program Analyst in DOD's Office of the Under Secretary of Defense for Acquisition and Technology provided oral comments that are discussed below. In addition, we asked the following organizations to verify that we correctly reported data they provided: the AFL-CIO's Building and Construction Trades Department, the Associated Builders and Contractors, Inc., the Associated General Contractors of America, and the National Constructors Association. The President of the Building and Construction Trades Department and the Counsel, Labor and Employment Law, Associated General Contractors of America,¹⁴ provided written comments that are discussed below. Officials from the other two

¹⁴The Associated General Contractors of America represents both union and open-shop construction firms in 99 chapters in all 50 states and Puerto Rico. Its 32,500 member firms are involved in building, highway, heavy, municipal-utility, and industrial process construction projects. The organization opposes mandated PLAs on public projects.

organizations provided oral technical comments that we have incorporated in this report as appropriate.

DOD raised three points. First, it noted that the draft report's definition of a PLA was much more encompassing than that in the Presidential Memorandum. The reason is that, in practice, PLAS cover maintenance, modification, and repair work in addition to new construction, and our objective was to gather information on all forms of PLAS. Second, DOD questioned whether three agreements we classified as PLAS were in fact PLAS. We reevaluated these three cases and concluded that one—a Navy construction project—is not a PLA, and we excluded it from the final report; but the other two—Air Force projects—were PLAS, although the projects primarily involved maintenance activities rather than new construction. Third, DOD cautioned that in considering use of a PLA, government personnel must be careful not to act in a way that would be inconsistent with existing laws. We agree.

The Building and Construction Trades Department stated that it found nothing in the draft report that is incorrect concerning the information that it provided but had three further significant comments. First, the Department expressed concern that the draft report did not fully or fairly reflect the benefits offered by PLAS or the extent of their use. The Department cited several benefits it believes PLAS provide. Although our report noted most of these perceived benefits, it did not include all of the ones cited by the Department, such as (1) joint labor-management safety training programs and (2) joint labor-management dispute resolution procedures for all labor and employment disputes affecting craft personnel. As the report states, our listing of perceived benefits and perceived disadvantages was intended to be illustrative, not exhaustive. We did not make any changes to the report to reflect a higher extent of PLA use because it already reflected all the uses the Department and others provided, and the Department did not provide any additional data on PLA usage. The Department also noted its disagreement with opponents' views that PLAS increase costs and decrease competition; however, these matters were beyond the scope of our review and are not discussed in the report.

Second, the Department stated that our description of the Associated Builders and Contractors of America should show that the organization is a leading opponent of PLAS. We agree and revised the report accordingly.

Third, the Department stated that the report provides a misleading picture of PLA case law in New York state. It refers to at least two of the reported

court decisions where PLAS were overturned, saying that one was later reversed by a higher court and suggesting that the other decision was rendered moot by a later decision on another case. Although we confirmed that the decision for one of these cases was reversed by a higher court and noted this in our report, we did not change our report to address the second case because the Department did not provide any specific information on the case. In general, we identified the reported state cases from available literature and did not determine the ultimate disposition of the state cases beyond the information that was available in the literature we reviewed. We clarified our report to provide additional emphasis to this aspect of our methodology.

The Associated General Contractors of America made three main points. First, it emphasized its opposition to the mandated use of PLAS on public projects and cited certain disadvantages of PLAS that were not included in our report. For example, the organization said that (1) public owners lack needed experience for negotiating PLAS with unions, which it believes results in agreements more favorable to the unions than the public owners or contractors; (2) PLAS can only increase not decrease wages and benefits on any project subject to the Davis-Bacon Act;¹⁵ and (3) PLAS create inefficiencies by eliminating contractors' flexibility to employ and deploy multiskilled and semiskilled personnel and by requiring that contractors contribute to union benefit funds, which may be in addition to contributions to their own benefit plans. As we previously said, our intent was to provide examples of advantages and disadvantages of PLAS purported by PLA proponents and opponents. We did not set out to provide an exhaustive list of either, or to make an assessment of the advantages or disadvantages of PLAS.

Second, the organization disagreed with the draft report statement that the U.S. Supreme Court's decision in the Boston Harbor case "cleared the way for more frequent use of PLAS on public-sector construction projects." The Boston Harbor decision did clear the way for further use of PLAS on public-sector construction projects because it overruled the First Circuit's decision that had enjoined the use of a PLA in a public-sector construction project. The Supreme Court upheld the state agency's right to require contractors to agree to be bound by a PLA. The organization also states that the Boston Harbor case did not address the legality of PLAS in the context

¹⁵40 U.S.C. 276a - 276a-5. The Davis Bacon Act requires the payment of prevailing wages and fringe benefits to laborers and mechanics employed by contractors and subcontractors engaged in federal construction projects.

of the Employee Retirement Income Security Act,¹⁶ anti-trust laws, or competitive bidding statutes. However, our report does not discuss or attempt to predict how future challenges to PLAS would be decided by the courts under those laws. We only note that the Supreme Court has upheld a public agency's bid specification requiring contractors on a public construction project to agree to abide by a PLA negotiated by its project manager and labor.

Third, the organization said that we should state in our report the basis for our statement that many of the PLAS used on federal contracts were initiated by contractors. We based this statement on what agency officials and contractors told us and modified our report to reflect this.

We are sending copies of this report to the Ranking Minority Members of your Subcommittees and the Chairman and Ranking Minority Member of the Senate Committee on Labor and Human Resources. We also will send copies to the Director, OMB; the head of each of the 13 agencies included in our review; and the other organizations we contacted. Also, we will make copies available to others on request.

Major contributors to this report were Sherrill H. Johnson, Assistant Director; Louis G. Tutt, Evaluator-in-Charge; Billy W. Scott and David W. Bennett, Senior Evaluators; Victor B. Goddard, Senior Attorney; and Hazel J. Bailey, Communications Analyst. Please contact me on (202) 512-4232 if you or your staff have any questions.



Bernard L. Ungar
Director, Government Business
Operations Issues

¹⁶29 U.S.C. § 1001 et seq.

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Abbreviations

AFL-CIO	American Federation of Labor-Congress of Industrial Organizations
DOD	Department of Defense
DOE	Department of Energy
GSA	General Services Administration
NASA	National Aeronautics and Space Administration
OMB	Office of Management and Budget
PLA	Project Labor Agreement
TVA	Tennessee Valley Authority

Top Thirteen Federal Agencies Ranked by Fiscal Year 1996 Construction Obligations

Agency	Fiscal year 1996 construction obligations	
	Total amount of obligations (\$000)	Percent of total obligations
Department of Defense	\$11,247,595	73.6
General Services Administration	965,810	6.3
Department of Veterans Affairs	461,975	3.0
Department of Transportation	422,297	2.8
National Aeronautics and Space Administration	376,522	2.5
Department of the Interior	338,784	2.2
Tennessee Valley Authority	288,413	1.9
Department of Justice	247,014	1.6
Department of Agriculture	218,978	1.4
Department of Energy	173,204	1.1
Department of Health and Human Services	119,304	0.8
Department of Commerce	90,375	0.6
Department of Labor	80,769	0.5
Subtotal	\$15,031,040	98.4
Others	251,855	1.6
Total	\$15,282,895	100.0%

Note: We used these data only to identify and select for review the federal agencies that account for most of the federal construction dollars.

Source: Fiscal Year 1996 Federal Procurement Report, Federal Procurement Data System, General Services Administration.

Scope and Methodology

To determine the extent to which project labor agreements (PLA) are used in the federal government, agencies' responses to the June 5, 1997, Presidential Memorandum encouraging federal agencies to use PLAS, and agencies' plans for responding to the Subcommittee on Oversight and Investigation's continuing request to be notified of planned PLA uses, we contacted the Office of Management and Budget (OMB) and the 13 federal agencies that accounted for more than 98 percent of the total construction obligations in fiscal year 1996, as reported in the Federal Procurement Data System (see app. I). Each agency responded to our written request for various data regarding PLAS, including identification of any PLAS currently in effect. We interviewed officials at each agency regarding PLAS in general and PLAS identified. We also visited three locations where current federal projects have PLAS: Oak Ridge, Tennessee, the Department of Energy; Knoxville, Tennessee, the Tennessee Valley Authority; and Houston, Texas, the National Aeronautics and Space Administration.

To obtain information on the use of PLAS in the private sector and the nonfederal public sector, we contacted several contractors, industry associations, union officials, state agencies, and private-sector labor experts. We judgmentally selected contractors based on their known participation in federal construction projects and their known use of PLAS. The industry associations were selected because they represent union and nonunion contractors in the construction industry. The union officials were from the American Federation of Labor-Congress of Industrial Organizations' (AFL-CIO) Building and Construction Trades Department that represents 15 construction craft unions. We contacted state agency officials in Arizona, Colorado, Florida, Nevada, New York, Pennsylvania, and Washington primarily because they were among the largest recipients of federal highway funds in 1996 or because they had projects known to have PLAS. We selected private labor experts because of their involvement in the debate on PLAS. In addition, we performed literature and internet searches to identify specific projects with PLAS and to develop general subject matter background. We limited verification of data to confirmation of current PLAS on federal construction projects, whether identified by the agencies awarding the contracts or other sources. We did not verify data generated by the Federal Procurement Data System nor did we make any independent assessment of the advantages or disadvantages of PLAS.

To evaluate the feasibility of comparing contractor performance on federal construction projects done with and without PLAS, we asked each agency with PLAS to identify any similar non-PLA projects. We also asked contractors, industry associations, and private labor experts for any

Appendix II
Scope and Methodology

known studies or methodologies for comparing federal projects with and without PLAS.

We requested comments on a draft of this report from OMB and each of the 13 federal agencies we reviewed. We also sent the draft to the Building and Construction Trades Department, the National Constructors Association, the Associated Builders and Contractors, Inc., and the Associated General Contractors of America and asked them to verify that we correctly reported data that they provided. At the end of this letter, we present and evaluate comments we received. We also made changes in the letter, where appropriate, to reflect these comments and the technical comments that were provided. We did our work from August 1997 to March 1998 in accordance with generally accepted government auditing standards.

Summary of Court Decisions in the 1990s Involving Challenges of PLAs on Public-Sector Construction Projects as Reported in Literature

States where public-sector PLAs were challenged in court	Total cases	Court decisions on PLA challenges	
		PLA upheld	PLA defeated
Alaska	3	3	0
California	4	3	1
Illinois	1	1	0
Massachusetts	1	1	0
Minnesota	2	1	1
Nevada	1	1	0
New Jersey	3	0	3
New York ^a	8	5	3
Ohio	2	2	0
Totals	25	17	8

^aWhile we did not independently verify all the data in this enclosure, we are aware that at least one New York court decision, in which a PLA was said to be invalidated, was later reversed by a higher court; and the PLA was upheld.

Source: Journal of Labor Research, Winter 1998, Vol. XIX, No 1.

Selected Information on Five Current National PLAs

National PLAs	Year PLA began	No. of times used	No. of States ^a where used
Heavy and Highway Construction Project Agreement ^b (For heavy and highway construction, improvements, modifications, or repairs)	1954	47 ^e	38 ^f
General Presidents Project Maintenance Agreement ^b (For maintenance and repair of existing facilities)	1958	965 ^g	47
National Maintenance Agreement ^c (For maintenance and repair of existing facilities)	1972	N/A ^h	50
National Construction Stabilization Agreement ^d (For construction of industrial operating and/or manufacturing facilities)	1987	76 ^g	24
Building and Construction Trades Department Standard Project Labor Agreement ^b (For new construction work)	1997	59 ^g	23

Note: We did not verify these data except for those PLAs on current federal projects.

^aIncludes the District of Columbia.

^bSponsored by the Building and Construction Trades Department of the American Federation of Labor-Congress of Industrial Organizations, Washington, D.C.

^cSponsored by the National Maintenance Agreements Policy Committee, Inc., Arlington, VA.

^dSponsored by the National Constructors Association, Washington, D.C.

^eActive agreements as of March 13, 1998.

^fSince 1983.

^gSince 1958.

^hAn accurate count is not available; however, an official of the National Maintenance Agreements Policy Committee, Inc., estimated that in any given year, the National Maintenance Agreement is used at 1,500 to 1,700 industrial sites.

Source: Sponsors identified above.

Summary of Current PLAs on Federal Agency Projects

Agency/location	Work covered by PLA	Year PLA use began	Current contractor(s)
Department of Energy (12 PLAs)			
Fernald Environmental Management Project, OH	Site-wide construction	1982	Fluor Daniel Fernald
Idaho National Engineering Environmental Laboratory, ID	Site-wide construction	1984	Lockheed Martin Idaho Technologies Co.
Nevada Test Site, NV	Site-wide construction	Mid-1960s	Bechtel Nevada Corp.
Nevada Test Site, NV	Site-wide maintenance and operations	Mid-1960s	Bechtel Nevada Corp.
Nevada Test Site, NV	Site-wide tunnel construction, alteration, renovation	Mid-1960s	Bechtel Nevada Corp.
Lawrence Livermore National Laboratory, CA	Construction of National Ignition Facility conventional facilities	1997	Parsons Constructors Inc.
Oak Ridge Reservation, TN	Site-wide construction	Mid-1950s	M-K Ferguson of Oak Ridge
Oak Ridge Reservation, TN	Specific construction related to decontamination and decommissioning work at the K-25 Facility	1997	BNFL, Inc.
Weldon Spring Site, MO	Construction related to decontamination	1996	M-K Ferguson
Hanford Site, WA	Site-wide construction	1984	Fluor Daniel Hanford/Fluor Daniel Northwest
Rocky Flats Environmental Technology Site, CO	Site-wide construction	1973	Kaiser-Hill Co. L.L.C.
Savannah River Site, SC	Site-wide construction	1989	Bechtel Savannah River, Inc.
Department of Defense, U.S. Army Corps of Engineers (8 PLAs)			
Olmstead Lock and Dam Project, IL	Project construction	1995	Atkinson-Dillingham-Lane (Joint Venture)
Gallipolis Lock and Dam Project, WV	Project construction	1993	Fru-Con Construction
Winfield Lock and Dam Project, WV	Project construction	1994	Johnson/Massman
Lock and Dam 14 Project, IA	Project construction	1996	Midwest Foundation
Wyoming Valley Levee Project, PA	Project construction	1997	Fru-Con Construction
R. Byrd Lock and Dam Project, WV	Project construction	1997	Fru-Con Construction
Weapon Disposal Facility, Umatilla, OR	Project construction	1997	Raytheon Constructors
Bonneville Lock and Dam Project, WA	Project construction	1997	Balfour Beatty Construction
Department of Defense, U.S. Air Force (2 PLAs)			
Falcon Air Force Base, CO	Base construction and renovation	1986	Management Logistics, Inc.

(continued)

**Appendix V
Summary of Current PLAs on Federal
Agency Projects**

Agency/location	Work covered by PLA	Year PLA use began	Current contractor(s)
Falcon Air Force Base, CO	Base maintenance and repair	1986	Management Logistics, Inc.
Tennessee Valley Authority (2 PLAs)			
Tennessee Valley Authority	Site-wide construction ^a	1991	L.E. Myers Co. and John W. Cates Construction Co.
Tennessee Valley Authority	Site-wide maintenance, repair, and modification ^a	1991	NPS Energy Services, Inc., GUBMK Constructors, and Stone and Webster Engineering Corp.
National Aeronautics and Space Administration (2 PLAs)			
Johnson Space Center, TX	Center operations and maintenance	1973	BRSP
Langley Research Center, VA	Center operations and maintenance	1989	EG&G Langley, Inc.

^aCovers work in seven states.

Sources: Federal agencies and contractors identified above; Building and Construction Trades Department of the American Federation of Labor-Congress of Industrial Organizations; and National Constructors Association.

Additional Information on Four Federal Agencies With PLAs

Department of Energy

The Department of Energy (DOE) has no data system that reports information on its PLAs, but our research disclosed that construction projects of DOE's predecessor agency, the Atomic Energy Commission, likely had PLAs as early as the 1940s. Currently, DOE has construction projects in 9 states with at least 12 PLAs. The nine states include California, Colorado, Idaho, Missouri, Nevada, Ohio, South Carolina, Tennessee, and Washington (see app. V). The oldest of these PLAs has been in effect at DOE's Oak Ridge Reservation, Tennessee, since the mid-1950s. Similarly, PLAs have been in effect at the Nevada Test Site since the mid-1960s and at the Rocky Flats Environmental Technology Site, Colorado, since the early 1970s.

DOE is not signatory to any of the 12 current PLAs, but the agency has effectively sanctioned 6 of the agreements by invoking the authority of P.L. 85-804 to require that all contractors and subcontractors adhere to specific provisions of those agreements. The six PLAs include three at the Nevada Test Site; and one each at the Colorado Site, the Idaho National Engineering Environmental Laboratory,¹⁷ and the Hanford Site, Washington. DOE officials said that the primary reasons for PLAs on their construction projects are to (1) prevent work stoppages (strikes and slowdowns); (2) ensure access to a skilled, qualified workforce, with needed security clearances; and (3) provide cost and wage stability.

Two of the 12 PLAs on current DOE projects cover maintenance and repair work—one at the Weldon Spring Site, Missouri, and the other at the Nevada Test Site. Another current PLA covers conventional construction work¹⁸ on the National Ignition Facility¹⁹ at the Lawrence Livermore National Laboratory, California, while the newest PLA covers specific construction related to decontamination and decommissioning work at the K-25 Site on the Oak Ridge Reservation. The remaining eight PLAs cover all new construction work at the respective sites where they apply. The PLA at the Weldon Spring Site is the National Maintenance Agreement,²⁰ which is sponsored by the National Maintenance Agreements Policy Committee,

¹⁷In 1991, we issued a report on wage rates and other matters under the PLA at this location. See [Labor Management Relations: Construction Agreement at DOE's Idaho Laboratory Needs Reassessing \(GAO/GGD-91-80BR, May 23, 1991\)](#) for further information.

¹⁸Some work on the National Ignition Facility is not covered by the PLA because it involves installation of highly specialized equipment. However, contractors doing that work may voluntarily elect to become signatory to the PLA.

¹⁹This facility will house the world's largest laser.

²⁰We considered the Weldon Spring Site to have only one PLA, although the contractor reportedly signed identical National Maintenance Agreements with each of 14 local craft unions.

Inc. and requires union membership as a condition of employment. The remaining 11 PLAs include 10 negotiated locally between DOE's contractors and local unions and 1 (the Hanford Site PLA) negotiated between DOE's contractors and the international unions.

Department of Defense

The Department of Defense (DOD) has no central database with information on PLAs. Our research showed evidence that PLAs were used in the construction of various military installations, missile sites, and other defense facilities as far back as World War II. In addition, data from the Building and Construction Trades Department of the American Federation of Labor-Congress of Industrial Organizations showed that General Presidents Project Maintenance Agreements were used on at least six Air Force contracts during the 1970s and 1980s. Currently, 10 DOD construction projects have PLAs that we could identify. According to contractors and agency officials, all 10 PLAs were initiated by the contractors. The oldest of these PLAs have been in effect at Falcon Air Force Base, Colorado, since the mid-1980s.

We requested data on the use of PLAs from the U.S. Army Corps of Engineers, the U.S. Air Force, and the Naval Facilities Engineering Command. In the initial responses to our requests, the Corps of Engineers identified one current construction project with a PLA, while the Air Force and Navy identified none. Each said it does not require PLAs and that its contractors could have PLAs unknown to the agencies.

The Naval Facilities Engineering Command response to our inquiry about PLAs captures the essence of the problem of identifying PLAs on federal construction projects. The response stated, in part, that

“Without examining each and every contract for construction . . . we would be unable to provide to you information on whether or not the Naval Facilities Engineering Command ever awarded a contract with a contract requirement for a project labor agreement. The several headquarters and field activity contracting personnel . . . contacted with regard to your inquiry did not recollect any occasion where this Command would have included such a requirement in a solicitation for construction.”

“[We] are unable to determine information concerning the use of project labor agreements negotiated by a contractor during the performance of construction contracts . . . since contractors are not required to report their collective bargaining agreements to the government . . .”

“[I]t is likely that some of our contractors elected to use project labor agreements and in fact negotiated such agreements applicable to the workers performing on their contract. Without an extensive, time-consuming survey of all of our construction contractors performing at present . . . and extensive research to identify contractors who performed on closed contracts, we would be unable to provide the information you have requested.”

Tennessee Valley Authority

The Tennessee Valley Authority (TVA) has no data system that reports information on its PLAs. However, we found evidence that from 1988 to 1991, a TVA contractor used the General Presidents Project Maintenance Agreement at four TVA locations in Alabama and Tennessee. Since 1991, TVA has had two PLAs that cover contracts for construction and maintenance work in its seven-state coverage area. Previously, that work was managed by TVA and performed primarily by an in-house workforce represented by 15 craft unions.

TVA is unique among the four federal agencies with projects that have PLAs, in that it negotiates the PLAs and has agreed to require that certain contractors become signatory to these PLAs; and a TVA official told us that the agency believes the U.S. Supreme Court decision in the Boston Harbor case supports its authority to require use of PLAs. Also, according to a TVA official, deregulation of the utility industry increased competitive pressures and forced TVA to cut costs. The official said that TVA realized its in-house construction management and safety record needed improvement, and it began downsizing and restructuring. In 1991, TVA signed the two PLAs and engaged private contractors to manage construction and maintenance work under them. The in-house workforce was reduced to include primarily operational crafts representing six unions while most construction, maintenance, and modification work was contracted out under the two PLAs. TVA officials also told us that the primary reasons for using PLAs at TVA are to ensure harmonious labor relations, avoid work stoppages, and ensure an adequate supply of skilled labor.

One PLA covers construction at new or existing plant sites directly related to new generating capacity or power transmission, and the construction, modification, or addition to offices, other buildings or facilities. The other PLA covers maintenance, renovation, modification, addition, and/or repair to existing plants and transmission facilities that do not involve the addition of new power capacity.

All companies working on construction of new generating capacity or transmission construction for the Nuclear or Fossil and Hydro groups²¹ must become signatory to the construction PLA. Otherwise both of TVA's PLAs generally require that only companies receiving contracts over \$250,000 must become signatory to the appropriate PLA. However, in 1994, an additional threshold of \$350,000 was added to each PLA for contracts relating to work for TVA's Transmission and Power Supply Group. Also, each contractor must ensure that its subcontractors become signatory to the appropriate PLA except for those performing specialty work²² or those with subcontracts for \$100,000 or less. The various dollar thresholds exist, in part, to help ensure that businesses within the TVA power service area, and small, disadvantaged, minority- or woman-owned businesses have an opportunity to compete for TVA work. About 90 to 95 percent of TVA's construction dollars are awarded to contractors who are signatory to the two PLAs.

According to TVA officials, TVA is not subject to the Davis Bacon Act wage rates that normally apply to federal construction contracts. Instead, section 3 of the TVA Act requires TVA to include a prevailing wage provision in covered contracts. Pursuant to section 3, TVA conducts its own analysis of prevailing wage rates and negotiates those rates annually with the Trades and Labor Council, which is comprised of the 15 unions who signed the PLAs. TVA uses 15 factors in determining its wage rates, including union wages paid in 13 cities, Davis-Bacon wages, and wages at various major projects. Prior to 1991, TVA used this system to determine wage rates for its in-house craft union workers. Each year, TVA uses this wage survey in negotiating PLA wage rates with the unions and contractors. Any union that disagrees with TVA's wage determinations may appeal to the Department of Labor. TVA officials told us there is about one appeal each year.

National Aeronautics and Space Administration

The National Aeronautics and Space Administration (NASA) has no database showing information on its use of PLAs, but sources outside the agency indicate that PLAs were used in the construction of NASA facilities at Cape Canaveral in the 1960s. We confirmed that a form of PLA is being used on two current NASA contracts, one at the Johnson Space Center, Texas,

²¹TVA has several organizational groups involved in functions that use the PLAs. The primary ones are the Nuclear Group, the Fossil and Hydro Group, and the Transmission and Power Supply Group.

²²Article VI of each PLA defines specialty work as work not normally performed by a general contractor and that requires specialized knowledge, skills, or equipment operation not normally possessed by the craft and referable out of the union halls.

**Appendix VI
Additional Information on Four Federal
Agencies With PLAs**

and one at the Langley Research Center, Virginia. Each PLA covers maintenance and operations of facilities, rather than new construction work; and, according to agency officials, each was initiated by the local contractor, not by NASA. According to NASA officials, each contractor's primary reason for using a PLA was to ensure labor and wage stability. The General Presidents Project Maintenance Agreement is being used at Johnson Space Center, and the Building and Construction Trades Department's data show that it has been in place since 1973. The PLA at the Langley Research Center was negotiated locally between the contractor and local unions, and it began in 1989.

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