



California School Boards Association

November 2007

Project Stabilization Agreements

With the recent passage of numerous local and statewide school facilities bonds and parcel tax initiatives, many school districts and county offices of education are primed to renovate and/or build new facilities in the coming years. As the governing board and district administration prepare for this construction, they must also plan for the staffing of the project by skilled construction workers. Research into labor options may lead a school district or county office of education to consider a project stabilization agreement (PSA).

Project stabilization agreements or *project labor agreements* or *pre-hire agreements* are names given to a type of contract, usually entered into between a project owner or developer (including public agencies) and several building trade unions. The contract is designed to govern the employer-employee relations of the general contractor and all subcontractors in connection with a particular construction project. As it relates to school districts and county offices of education, a PSA is a contractual agreement between the local education agency and a consortium of labor unions (and sometimes a construction firm). PSAs normally govern work rules, wages, benefits, and dispute resolution processes for every worker on a particular project. Typically, PSAs are pre-hire collective bargaining agreements that are signed either before planning begins or construction commences. The agreement can cover one large project or several related smaller projects and usually lasts only for the duration of the project.

Because these are contracts that are subject to negotiation between parties, however, the terms of these agreements can vary widely. For example, some require all contractors to hire local workers or participate in job training programs, while others only impose certain work rules on the project (e.g., arbitration procedures, vacation and overtime rules).

District considerations

Some districts may find PSAs beneficial while others may decide that a PSA is unnecessary. PSAs are a tool that may be most helpful during a major building and/or renovation campaign of a few large sites and/or several smaller projects.

In some districts, boards have decided that PSAs may help coordinate a large labor force of diverse subcontractors' employers and their employees. Districts that choose to use a PSA believe that entering into an agreement will save costs and may eliminate any uncertainty with respect to supply and cost of labor for the life of the project.

However, in other districts, boards have decided these contracts can limit the autonomy and authority to select contractors and subcontractors. Also, although labor costs are stabilized under a PSA, other costs can still fluctuate due to unforeseen project delays and obstacles.

Ultimately, the decision to enter into a PSA must be done on a case-by-case basis. A PSA must meet the specific needs of each local district and be written in a way that addresses the specific goals, desired outcomes and budgetary limitations of the district. The decision to enter into or not to proceed with a PSA should be made carefully with adequate time for thorough research, discussion, advice and counsel.

Common features of a project stabilization agreement

Dispute Resolution

- No-strike and no-lock-out agreements are in place during the course of the project.
- Mediation and arbitration clauses are in place to help resolve workplace disputes in a timely fashion that does not disrupt progress on the job.

Hiring Practices and Working Conditions

- All California school construction is covered by state prevailing wage laws. A PSA has no effect on wage rates.
- The construction firm and/or school district may agree to exclusively hire workers through a union hiring hall or use a hiring hall first.



- While workers under a PSA are not required to be union members, they are required to pay agency fees for representation.
- The construction firm and/or school district may standardize working conditions, grievance procedures, work rules and guidelines, as well as corresponding postings on the job site.
- The construction firm and/or school district may create a uniform workday, workweek, overtime, holiday, and payday schedules.

Addressing District Goals

- When creating a PSA, a school district may wish to build into the agreement provisions to include certain groups of workers (for example, local workers, minorities and women) through local hiring agreements and pre-apprenticeship programs.
- Many districts have adopted PSAs have included specific training requirements, including cooperation with district sponsored programs like construction academies.

Questions for board members to ask when deliberating a PSA

It is the board's responsibility, working with the superintendent, to determine whether it is in the district's best interest to enter into a PSA and, if so, to establish parameters for negotiating the contract. The board might consider the following questions that pertain to each of the board's major areas of responsibility.

Setting the direction for the community's schools

- Will the district's construction goals, as outlined in the school district's facilities master plan, be met and/or furthered by a PSA?
- Does the PSA take into account the board's criteria for:
 - Quality
 - Cost and value
 - Orientation to apprenticeship and apprenticeship programs
 - Work delay contingencies

Establishing an effective and efficient structure for the school district

- What is the level of complexity for the project or series of projects? Will the design and construction plans involve multiple construction trades and multiple different skills to complete the project? Does district staff or construction manager have experience in administering projects of this complexity?

- What would be the duration of a potential PSA as compared to the duration of the project?
- Has the likelihood of a disruption in the supply of labor been evaluated? For example, would related collective bargaining agreements expire during the construction process?
- What role, if any, will the district play when selecting subcontractors?

Providing support

- Does the school district have the appropriate staff or consultants available to:
 - Research
 - Draft
 - Negotiate
 - Administer
 - Monitor a PSA

Ensuring accountability to the public

- What measure can the district use to determine whether the PSA is implemented appropriately and is effective in meeting its goals? (See section on "Success Indicators" below).
- Do the benefits to the school district advance the district's goals in the areas of facilities, educational programs and community benefits?
- What added costs, if any, will the district incur if it signs a PSA?
- Will the best work be obtained for the best price?

Acting as community leaders

- Is it in the best interest of the district to promote employment and/or training of specific classes of individuals for construction projects?
- What would the effect be on workers (union or non-union) in the community if the district were to sign a PSA?
- What are the projected long-term effects of entering into a PSA with regard to labor unions, the business community, the supply of skilled workers, etc.?

History and use in California

General

The construction of the Shasta Dam, which ran from 1938 to 1944, was the first project involving a PSA in California.



Other notable projects include the Bay Area Rapid Transit (BART), the Los Angeles Convention Center, and the San Joaquin Hills Corridor toll road.

Schools

In the past few years, an increasing number of school districts have signed PSAs. Several large school districts including (but not limited to) Los Angeles USD, Pittsburg USD, Sacramento City USD, Vallejo USD, and West Contra Costa SD have used PSAs. With the availability of state bond dollars and requirements for Labor Compliance Programs, some medium sized districts have also found it advantageous to enter into PSAs.

Legality

According to the California Research Bureau, the legality of PSAs has been thoroughly tested in both federal and state courts and with respect to both private and public construction projects. Their validity has been upheld in both federal and state cases.

District profile –

Sacramento City Unified School District¹
Project stabilization agreement

As part of its labor plan and strategy, the Sacramento City USD considered entering into a PSA for all of its construction work in the summer of 2005. The district's goals included:

- Construction quality
- Construction cost and value
- Pre-apprenticeship and apprenticeship programs
- Reduced work delays
- Worker healthcare and pension benefits

The consultant and construction manager hired by the district to evaluate the PSA found that "if, as referenced in Resolution 2410, creating employment opportunities of district students and/or graduates is an important goal for the Board, then a PSA is a tool that can be used to achieve it." In their findings, the consultant concluded that "the objective expressed in Resolution 2410 of securing quality construction at a competitive price, on-time project completion without labor disruption while providing career opportunities for district students/graduates and fairness in the process have a greater likelihood of being met by utilizing a PSA."

Success indicators of a PSA

If a school district or county office of education is considering a PSA, it may want to outline what success would look like as a result of the agreement. Below are some suggested indicators of success; however, the district's specific local needs must be part of the consideration.

- The benefits to the school district or county office of education must be clear and measurable.
- The PSA will enable a project to be completed on time.
- Constituents of the school district or county office of education will be assured the results of the project have met the fiduciary responsibility of the board.
- The PSA will provide cost-saving benefits for the school district or county office of education. Projects included in the agreement will be completed on-budget or under-budget.
- Projects will be completed correctly, the first time.
- The agreement will allow the best trained and experienced workers for the project. If the PSA includes inclusive provisions (for example, female and/or minority workers), those workers are successfully employed for the duration of the project and beyond the duration of the project.
- As a result of the PSA, the school district or county office of education will build relationships with community partners (i.e., business councils, labor unions and community based organizations).
- If a community survey has been completed prior to the start of the project about attitudes and beliefs, survey results will be incorporated into the completed project.

¹ Swinerton Management and Construction report to Sacramento City USD July 20, 2005.



Resources

Constructing California: A Review of Project Labor Agreements, Kimberly Johnston-Dodds, Prepared at the request of Senator John L. Burton, President pro Tempore by the California Research Bureau, California State Library, October 2001

Project Labor Agreements, Bill Rickman, State Building and Construction Trade Council of California, 2000

Construction Information Sheet - Project Labor Agreements, Los Angeles Unified School District, Facilities Services Division

Project Labor Agreements, Kristen Thur Plemon, Real Estate Weekly, March 24, 2004

Project Labor Agreements, Public Service Research Foundation, 1990

The Effect of Project Labor Agreements on the Cost of School Construction, Dale Belman, Michigan State University, Presented at Sloan Industrial Studies Conference, December 2005

Project Labor Agreements and the Cost of Public School Construction in Connecticut, Paul Bachman, Beacon Hill Institute at Suffolk University, September 2004

Sacramento City Unified School District Project Stabilization Fact-Finding Report. Swinerton Management & Consulting. Presented to the Board of Education on July 20, 2005
http://www.scusd.edu/board_of_education/agendas/index.asp

The California School Boards Association's Construction Management Task Force provides districts with policy briefs and fact sheets on construction related issues. District staff and Governing Boards should use this information as a resource when making local decisions. These documents are provided for informational purposes only and are not a substitute for legal advice from school districts' legal counsel. Districts should obtain independent legal advice and review when necessary.

If you have any questions, please contact CSBA Policy Services at (800) 266-3382 or via e-mail policy@csba.org

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