



Contractors Association of West Virginia

2114 Kanawha Boulevard, East · Charleston, West Virginia 25311 · (304) 342-1166 · Fax (304) 342-1074 · www.cawv.org · cawv@cawv.org

Officers

*President

Nathaniel R. Orders

*Senior Vice President

James B. Ridgeway

*Vice President

Timothy N. Spradling

Treasurer

John P. Boyle II

Secretary

James W. Dailey III

*Immediate Past President

Michael Gianni

Directors

Matt Farley

Derick Foster

Mark Urso

AGC National Directors

Art King

Robert O. Orders Jr.

Richard C. Smailes

ARTBA National Directors

John P. Boyle II

Leo A. Vecellio Jr.

Chairman, Asphalt

Pavement Association

Mark Haverly

Chairman, Building Division

Courtney Persinger

Chairman, Highway/Heavy

Division

Shannon Hapuarachy

Chairman, Utilities Division

James Scott Pierson

*Chair, Associate Division

Tammie Alexander

Vice Chair, Associate Division

Chris Lambert

Past President Directors

David B. Alvarez

James E. Brown

John S. Casto

Dan Cooperrider

J. Steven Cvechko

James W. Dailey II

Daniel B. Flesher

Art King

James Mattingly

Doug Meeks

Charles R. Neighborgall III

C. R. Neighborgall IV

Robert O. Orders Jr.

Scott Pierson

Richard C. Smailes

B. Lee Snyder

John H. Strickland

Roger Thomas

Gene E. Thompson

Phillip L. Weser

Gary D. Young

Staff

Executive Director

Michael L. Clowser

Assistant Executive Director

Patrick E. McDonald

Communications Director

Cassidy D. Webb

Planroom Administrator

Rena R. Moles

Administrative Assistant

Monica Rivera

Executive Director

Asphalt Pavement Association

Patrick M. Parsons

APAWV Office Manager/ CAWV Administrator

Cheryl R. Clark

*Executive Committee

June 13, 2022

U.S. Department of the Interior
Office of Surface Mining and Reclamation
1849 C Street, NW
Washington, D.C. 20240

Sent via e-mail to getinfo@osmre.gov

RE: CAWV COMMENTS ON DRAFT GUIDANCE ON BIPARTISAN INFRASTRUCTURE LAW ABANDONED MINE LAND GRANT PROGRAM

The Contractors Association of West Virginia represents 450 firms employing 20,000 workers who perform highway, bridge, building, utility, site development and other construction projects in West Virginia. Since passage of the Surface Mining Control and Reclamation Act in 1977, CAWV members have historically performed most of the abandoned mine land reclamation projects for the West Virginia Department of Environmental Protection.

We are writing to oppose the use of a project labor agreement (PLA) as proposed in the U.S. Department of the Interior's draft guidance for eligible states and the Navajo Nation on how to apply for the first \$725 million in funding in reclaiming abandoned mine lands (AML) as part of President Biden's Bipartisan Infrastructure Law.

The CAWV neither supports nor opposes contractors' voluntary use of PLAs on government projects, but strongly opposes any government mandate for contractors' use of PLAs. The CAWV is committed to free and open competition for publicly funded work and believes that the lawful labor relations policies and practices of private construction contractors should not be a factor in a government agency's selection process.

More importantly, West Virginia State Code 5-22-3 specifically prohibits the use of project labor agreements on government construction contracts.

The CAWV represents both union and non-union construction firms. Government mandates and preferences for PLAs restrain competition, drive up costs, cause delays, lead to jobsite disputes, and disrupt local collective bargaining agreements.



AGC
THE CONSTRUCTION
ASSOCIATION



In addition to limiting competition, imposing a PLA will make it harder for firms to find enough workers to hire.

The Associated General Contractors of America, the CAWV's national organization, on June 2, 2022 released a survey of contractors which shows that nearly three-quarters of federal contractors will stop bidding on federal projects if the Biden administration were to follow through on its plans to impose government-mandated project labor agreements.

In addition to limiting competition for federal projects, the survey found that imposing project labor agreements will make it harder for firms to find enough workers to hire. Nearly 40 percent of the survey respondents operate under a collective bargaining agreement. Of these respondents, 83 percent said there are not enough union workers to guarantee completion of the project on time and on budget. Among firms that have worked on a project that involved a government-mandated project labor agreement, 67 percent said the agreement made it harder to find workers to hire.

Government-mandated project labor agreements require every general contractor or subcontractor performing work to negotiate with or become a party to an agreement with one or more unions. Eighty-two percent of firms report this mandate will make it harder for general contractors to subcontract with small, disadvantaged businesses—such as women-owned, HUBZone, and service-disabled veteran-owned small businesses—because those firms typically are not accustomed or prepared to operate on a union basis.

AGC of America conducted the survey between April 21, 2022 until May 5, 2022 to evaluate the potential impact of a Biden administration executive order that seeks to require project labor agreements for all federal construction projects that cost \$35 million or more. Nearly 300 firms participated in the survey, 78 percent of which perform federal construction work and 41 percent of which are small businesses. Seventy-three percent of surveyed firms report they are currently bidding on federal construction projects valued at \$35 million or more. Yet the same percentage, 73 percent, report they would not bid on those projects if a project labor agreement were required.

The West Virginia Department of Environmental Protection is ramping up to design and bid millions of dollars in AML projects. The proposed guidance requiring contractors bidding on AML projects over \$1 million to sign a project labor agreement will severely limit the amount of reclamation projects that will be performed using Infrastructure Investment and Jobs Act (IIJA) funds.

Another concern the CAWV has with the proposed guidance is language to require states and tribes “provide employment to current and former employees of the coal industry.” CAWV members routinely do this as a course of business and many miners work on reclamation projects. One major concern today of our members is finding qualified workers. This provision in the guidance needs to change from the word “require” to “encourage” in order for reclamation projects to progress should there not be enough workers to meet this hiring requirement.

U. S. Department of Interior
page 3

The Contractors Association of West Virginia appreciates the opportunity to present its views on the U.S. Department of Interior's draft guidance. We look forward to discussing our concerns in further detail. Please contact me at 304-342-1166 or mclowser@cawv.org for further information.

Sincerely,



Michael L. Clowser
Executive Director

cc: Nathaniel Orders, CAWV President