

PORT OF OAKLAND
PROJECT LABOR AGREEMENT
SOCIAL JUSTICE PROGRAM

PROGRESS REPORT
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Prepared By

Jake Sloan
H. Lee Halterman
Beth Youhn
Joann Yoshioka

BACKGROUND

In August 1999, Davillier-Sloan, Inc. and Parsons Constructors, Inc. (DSI/PCI) completed the negotiation of an interim Vision 2000 Project Labor Agreement (V2000 PLA). The final PLA, the Maritime and Aviation Project Labor Agreement (MAPLA), negotiations were completed in March 2000. H. Lee Halterman and Bradford Coupe provided legal support.

The “traditional” components of the PLA provide the Port Maritime and Aviation Capital Improvement Program with the provisions necessary to assist the Port in executing its maritime and aviation capital programs on time, within budget and with the savings that can result from its protection. Those elements include but are not limited to:

- Project stability provided by a no-strike/no-lockout provision, and an expedited arbitration procedure to enforce it.
- Standardized grievance and dispute resolution procedures, including those for jurisdictional disputes, that will bring increased project efficiencies and confidence for non-union contractors involved in the projects.
- Provisions committing the unions to provide for a trained workforce for project work.
- Provisions for an on-the-job safety program, including comprehensive and uniform drug testing procedures.

In addition to these and other traditional elements of a project agreement, the Port Commissioners and the Port staff wanted to use the Maritime and Aviation Capital Improvement Programs and the PLA as vehicles for building the capacity of local residents and businesses, to secure jobs and to receive contracting opportunities respectively. To that end, “Social Justice” program components were successfully negotiated into the language of both PLAs.

LOCAL HIRING PROGRAM

As one important element of the “Social Justice” program, the PLA set specific goals for the hiring of residents from the Port’s Local Impact Area (LIA) and the Local Business Area (LBA). The LIA includes the cities of Alameda, Emeryville, Oakland and San Leandro. The LBA includes all of Alameda County and all of Contra Costa County. To achieve the goal that local area residents, as opposed to out-of-state “boomers”, received jobs on the Port projects, the agreements provided for:

- A goal that 50% of hours worked on a craft by craft basis be worked by residents of the LIA if such workers are available, capable and willing to work on the projects.
- Failing that, 50% of the hours worked be worked by residents of the LBA if they are available, capable and willing to work on the projects.
- A goal that 20% of the hours worked on a craft by craft basis be worked by apprentices and that all the apprentices be residents of the LIA if they are available, capable and willing to work on the projects. If the contractor cannot identify LIA resident apprentices, LBA residents are then to be hired as a next choice to meet this goal.

In order to maximize the chances of success, several innovative steps were taken by DSI/PCI. The provisions of the PLAs directed some of these steps, and some were the result of close coordination with Port staff, City of Oakland staff, Community Based Organizations, Labor and Contractors.

- A Social Justice Committee was established with the purpose of reaching the goals of the program. The committee is made up of all interested segments of the community, including local minority and female business organizations, community based organizations, the signatory unions, DSI/PCI and the participating contractors.
- A Social Justice Trust Fund was established with the purpose of funding supportive programs recommended by the Social Justice Committee. The Internal Revenue Service has approved the Trust Fund. As set out in the MAPLA, the fund will receive the contributions from those “industry promotion” funds approved by the Port and of equal contributions by non-union contractors who opt not to contribute to the funds established by collective bargaining agreements.
- A Social Justice Subcommittee was established with the purpose of supporting the goals of the program and administering the Trust Fund and ensuring compliance with the social justice goals of the PLAs. The Subcommittee is made up of four (4) representatives of the community, three (3) representatives of labor, three (3) contractor representatives, one (1) representative of DSI/PCI and one (1) representative of the Alameda County Building Trades.

- In early 2000, the Port's Office of Equal Opportunity started working closely with DSI/PCI on monitoring compliance with the PLAs' social justice provisions.
- The Port and the City of Oakland jointly hired an Apprenticeship Recruitment Coordinator in July 2000.
- The Port of Oakland's Employment Resources Development Program (ERDP) became integrally involved in the PLA in August 2000 and immediately began outreach and recruitment efforts.
- DSI and the Port staff are active members of the Oakland Apprenticeship Workforce Development Partnership System (OAWPDS).
- In May 2000, the OAWDPS Advisory Committee appointed a special taskforce to develop the Apprenticeship Pathway System (APS). The APS is designed to meet the support service needs critical to increasing and sustaining the presence of Oakland apprentices. The special task force is comprised of stakeholders representing the OAWDPS, the Port of Oakland Project Labor Agreement Social Justice Committee and the Bay Area Construction Sector Intervention Collaborative (BACSIC). The DSI team is leading this effort.

Recruitment, Hiring and Retention

Performance through March 2001

Once the infrastructure was put in place, DSI, the Port staff and consultants, in coordination with the City of Oakland, the signatory unions, the participating contractors and community-based organizations, began a concentrated effort at recruitment and retention of local residents:

- The ERDP monthly job listing is posted on the Port of Oakland website, with the Apprenticeship Program information and contact information.
- Inclusion of "*Apprenticeship Programs: In the Construction Trades*", in the Monthly ERDP Job Listing. This separate listing provides some background information on Port expansion, the general demand for construction workers and the Apprenticeship Programs. The ERDP Job Listings are sent each month to over 200 local community based organizations, individuals and agencies serving Oakland residents.
- Five "Apprenticeship Orientation" workshops were held last year, with a total of 97 people attending, most of whom were recruited through the Port's ERDP. The purpose was to help interested residents understand how apprenticeship works and to aim interested individuals at the appropriate apprenticeship program.
- An Electrician's Interview Coaching Class was held in December at Laney College, to address the problem of applicants who pass the written entrance test but score poorly on the oral interview.
- An Orientation Meeting for Applicants to the Plumbers and Steamfitters Apprenticeship opening was held at the City on March 12. In order to maximize local residents' participation in this special apprenticeship opening, a special orientation meeting was held, which was attended by 23 interested applicants.

- A “Spring Apprenticeship Orientation Workshop and Resource Fair” was held on March 26 at the Lake Merritt Garden Center. Fifty (50) people attended the event.
- DSI and EDRP have developed a database of local area applicants for apprenticeship. The database includes tracking capability, so that applicants can be monitored.
- Apprenticeship Programs/Construction Trades representatives are featured speakers at the ERDP monthly Roundtable meetings held with community-based organizations.
- EDRP has received enquiries from a total of four hundred sixty seven (467) local area residents interested in apprenticeship.
- Ninety-three (93) local area residents have been interviewed and given an orientation for construction.
- As of April 9th, there are 100 Local area residents on the waiting list for the next Orientation, to be held on May 2, 2001.
- Four hundred forty-five (445) Oakland residents were accepted into apprenticeship in 2000. All parties, including our Union partners agree that this number is a direct bi-product of the Port’s activities in conjunction with the Social Justice Committee and the City.
- Regular monthly meetings of the Social Justice Committee, and its subcommittees, to review contractor compliance with PLA hiring goals.
- The DSI team and the appropriate Social Justice Committee working subcommittees regularly assess and monitor participating contractors by site visits and review of summary reports of employment.

Local Hiring

Performance through January 2001

Using the information made available in the Port’s Summary of Construction Workforce reports, the following is the local hiring performance from November 1999 through January 2001:

	Actual	Goal	Variance
Total Hours worked	332,398		
Total hours worked by LIA residents	26,214 (8%)		
Total Hours worked by LBA residents	147,484 (44.36%)	50%	-5.46%

	Actual	Goal	Variance
Total hours worked by apprentices	46,513(14%)		
Total hours worked by LIA resident apprentices	13,248 (4%)		
Total hours worked by LBA resident apprentices	26,214 (8%)	20%	-12%

SMALL BUSINESS UTILIZATION PROGRAM

As part of the program adopted by the PLAs, the Port intended to maximize the successful participation of small local businesses in the construction and construction service opportunities available at the Port's covered projects. The PLA sets out to achieve this goal by seeking to secure work for such businesses both by exempting a small amount of work from PLA coverage and, more importantly, by securing the Unions' commitment to work cooperatively with such businesses on work that is within and the coverage of the PLA. In order to maximize the potential for success of the program, several innovative steps were taken, in coordination with Port staff:

- As part of the language of the PLA, the unions agreed to set aside certain portions of work up to a maximum of \$ 15,000,000 to be reserved for the development of small, local businesses. This work will not require signing the PLA but is covered by the no-strike protection provisions of the agreements.
- Within that "carve-out program", the Port at its sole discretion can award contracts up to \$300,000 under its Non-Discrimination and Small/Local Business Utilization Program. (It bears noting that the Port has unlimited right to use this program for work that is covered under the Agreement; and that it is to this area of contracting those contractors will graduate from the "carve- out" program.)
- Any qualifying contractor can receive an aggregate of awards for carved-out contracts totaling up to \$300,000 or a single contract at or above \$150,000 but which does not exceed \$300,000; thereafter they would be required to utilize the Non-Discrimination and Small/Local Business Utilization Programs that will be awarded under the terms of the PLA.
- Contractors that have a pre-existing dispute with unions can work under the terms of the PLA, and the unions are committed to work cooperatively with such contractor(s) on the Port work without regard to that dispute.
- Local contractors will have an opportunity to employ their "core" employees on this Project.
- The Port has put in place programs that provide support in the important areas of bonding and insurance, financing and technical assistance that augment this comprehensive basket of programs to assist such businesses to increase their capacity.

Performance to Date

- The "by-gones" provision has worked to the benefit of a local small business that would otherwise not have been able to receive dispatched workers to their firm. Through negotiations with the relevant Union, a settlement was worked out that allowed this contractor to substantially exceed what public works contracting they had been able to perform and to participate fully in the Port program.
- Since the inception of the Project Labor Agreements, Port staff has sought to set aside under the carve-out program.

- Staff has identified \$2.5 million in contracts for the carve-out program. These contracts would not have been subject to the PLA (except for application of the no-strike clause) and the contractor would not have had to sign the letter of assent.
 - On some of this work, no small business enterprise bid and on several others a single bid was received that significantly exceeded the Engineer’s Estimate of project cost. As a result, the Port has been able to award
 - Of the \$2.5 million set aside thus far, approximately \$857,000 worth of work has proceeded under the carve-out program.
- It bears noting that the large volume of work performed under these PLAs to date has been large-scale maritime construction: dredging, yard construction, etc. As such it is far less conducive to small business set asides than the approaching work on the airport. Nonetheless we have succeed in placing over 5% of our carve-out program goal on this work thus far, and we have learned important lessons that will guide us as we move to construction of the airport facilities that are far more conducive to this process.
 - In addition, we have undertaken a program to reach out to the existing contractor organizations, to secure their assistance in securing our objectives through active partnering and subcontracting procedures. This is where the truly significant gains can be made in moving historically disadvantaged small businesses into our construction opportunities.

CHALLENGES/OPPORTUNITIES

Local Hiring

The major challenge is at the same time a major opportunity. Contractors are increasingly finding it difficult to find qualified workers. The challenge for DSI, the Social Justice Committee and the Port is getting people interested in entering the apprenticeship “pipeline”. We have achieved a substantial measure of success in developing and implementing the strategies necessary to achieve these goals. Key to this success has been the establishment of strong working relationships with the unions and the community groups that are key to moving the targeted population into the Port construction workforce. It is vital to remain guided by the Committee’s sense of the appropriate pace for “ratcheting up” enforcement” as the expectations of contractor comprehension of the program and the community’s ability to identify prospective workers both increase. Key elements of the strategies include:

- Continue working with the community-based organizations to build and retain a pool of local residents who are interested in working on Port projects, with a particular emphasis on identifying, recruiting and sustaining apprentices who live in the LIA
- To ensure a high success rate, immediate follow up and ongoing support/case management is necessary, and the development of the tracking system necessary to follow applicants from orientation through apprenticeship.

- Once applicants are accepted, there needs to be in place a mentoring program that involves leadership from journey workers
- Extensive additional outreach efforts must be implemented, but there must also increase our/the community's organizational capacity to serve clients before wider outreach is undertaken.
- Continue to work with the Social Justice Committee and OAWDPS to address the many obstacles to employment that face some of the applicants. These obstacles include but are not limited to:
 - Lack of valid Drivers License
 - Lack of High School Diploma or GED
 - Lack of transportation
 - Lack of adequate, affordable childcare
 - Lack of money for tools and fees
- Identify interim funding for the supportive services until such time as the Trust is funded
- Continue the education and enforcement efforts that will lead to better contractor compliance with PLA and state requirements for the hiring and retention of apprentices.

Small Business Utilization Program

In order for the Small Business Utilization to achieve maximum success, several issues must be addressed:

- Build a “focused” database of local firms specifically interested in bidding or negotiating on Port construction work.
- Carefully analyze the capacity of firms in the “focused” database in terms of their realistic ability to perform the work.
- Maintain a “no excuses” environment by identifying all the supportive services that are provided by the Port: bonding and insurance, financing and technical assistance and getting those businesses aligned with those services.
- Working with Engineering and outside consultants, identify contracting and negotiating opportunities as early in the process as possible and ensure that those opportunities are identified both as covered work and as carve-out program work.
- Identify successful local firms; especially through partnering with the contractor associations that are willing to work with small local businesses in the program and secure the partnering and subcontracting opportunities that should be available to such firms.
- Match successful firms with small local firms.
- Continue to provide ongoing support to our targeted firms.

SUMMARY

In summary, we envisioned and negotiated a very ambitious “Social Justice” program as part of the PLA. Its implementation will require extensive efforts at outreach and the provision of supportive services/case management, both for local workers and local businesses.

At the workforce level, as the role of the City/Port Apprenticeship Recruitment Coordinator becomes more focused, as existing databanks are refined and built upon, and as alliances between the Community Based Organizations, the Building Trades, the contractors, governmental agencies and other stakeholders are strengthened, the utilization of local area apprentices should increase accordingly. Putting the Trust Fund in place and identifying other sources of funding for supportive services is critical.

At the level of small businesses, it will be important to work at building relationships between successful and aspiring small businesses while providing identified supportive services. The first step is a realistic analysis of local capacity.