

# Project Labor Agreement FAQs

Below are frequently asked questions concerning the New York City Housing Authority's (NYCHA) Project Labor Agreement (PLA) with the Building and Construction Trades Council of Greater New York and Vicinity (BCTC). These FAQs are provided for reference purposes only and are not meant to be a complete summary of all provisions in the PLA. NYCHA strongly advises contractors to read the PLA carefully and in its entirety and to not rely solely on these FAQs.

## **Q1. The PLA applies to which NYCHA contracts?**

A. The PLA applies to construction contracts with a value in excess of \$250,000, bid and let by NYCHA (or its construction manager, where applicable) during the period from January 1, 2015 to June 30, 2021 (as extended pursuant to a series of extensions to the PLA between NYCHA and the BCTC and subject to any such further extensions to the PLA), that predominantly involve the renovation, repair, alteration, rehabilitation or expansion of an existing NYCHA building or structure, with the exception of contracts for maintenance, repair, modernization and rehabilitation of existing elevators as this elevator work was removed from the PLA via an amendment signed by NYCHA and the BCTC. See PLA Article 3, but subject to the removal of elevator work as noted in this answer.

## **Q2. Does a contractor need to be signatory with the unions in the BCTC in order to bid on projects under the PLA?**

A. No, any contractor may bid by signing a Letter of Assent to the PLA, thereby agreeing to the terms of the PLA. The contractor need not be signatory with these unions by any other labor agreement or for any other project.

## **Q3. Does a contractor agreeing to the PLA and signing the Letter of Assent create a labor agreement with these unions outside of the project covered by the PLA?**

A. No, the PLA applies only to those projects that the contractor agrees to perform under the PLA and makes no labor agreement beyond those projects.

## **Q4. Does the PLA affect the subcontractors that a bidder may utilize on the project?**

A. Subject to NYCHA's approval of subcontractors pursuant to the bid requirements, a contractor may use any subcontractor, union or nonunion, as long as the subcontractor signs a Letter of Assent to the PLA.

## **Q5. Are bidders required to submit Letters of Assent signed by proposed subcontractors with their bid in order to be found responsive?**

A. Yes. The contractor must submit signed Letters of Assent from all proposed subcontractors as part of its bid in order to be found responsive.

**Q6. May a contractor or subcontractor use any of its existing employees to perform this work?**

A. Generally labor for PLA projects will be referred to the contractor from the respective signatory local unions. See PLA Article 4. However, up to 12% of PLA covered employees on PLA projects may consist of the contractor's or subcontractor's existing labor force, provided that these employees meet the qualifications set forth in PLA Article 4, Section 2B. Certified MWBEs, for which participation goals are set by NYCHA pursuant to applicable federal, state or local law, that are not signatory to any Schedule A CBAs may use their existing employees that meet the qualifications of PLA Article 4, Section 2C, for the 2<sup>nd</sup>, 4<sup>th</sup>, 6<sup>th</sup> and 8<sup>th</sup> employee needed on the job if their contracts are valued at or under \$500,000. For contracts valued at above \$500,000 but under \$1,000,000, such certified MWBEs may use their own employees that meet the qualifications of PLA Article 4, Section 2C, for the 2<sup>nd</sup>, 5<sup>th</sup> and 8<sup>th</sup> employees needed on the job. If additional workers are needed by these MWBEs, the additional workers will be referred to the contractor from the signatory local unions subject to the contractor's right to meet 12% of the additional needs with its existing, qualifying employees.

**Q7. Must NYCHA set MWBE participation goals for the particular project or contract in order for a certified MWBE to utilize the provisions of PLA Article 4, Section 2C?**

A. No. The contractor should refer to NYCHA's Special Terms and Conditions for NYCHA's MWBE participation goals for a particular project or contract. For purposes of PLA Article 4, Section 2C, however, it is not necessary for NYCHA to have actually set participation goals for the particular contract or project.

**Q8. Does the PLA supersede or modify the contractor's and subcontractor's hiring and subcontracting requirements under 24 CFR 75, formally codified under 24 CFR 135 (Section 3) or NYCHA's contractual requirements with respect to labor force expenditures on its residents?**

A. No. Contractors and subcontractors on PLA covered projects are required to comply with all of their Section 3 requirements, as well as any contractual requirements with respect to labor force expenditures on NYCHA residents.

**Q9. What are the prevailing wage rates for employees on PLA covered projects?**

A. Employees on PLA covered projects will be paid the wage rates that are in the local unions' collective bargaining agreements, but only to the extent that these wage rates are higher than the federal prevailing wage rate. If the federal prevailing wage rate is higher than the wage rates that are in the local unions' collective bargaining agreements, then employees will be paid the federal prevailing wage rate.

**Q10. May a contractor bring in union members from locals that are not signatory unions?**

A. Referrals will be from the respective signatory locals and/or locals listed in Schedule A of the PLA. Contractors may utilize ‘traveler provisions’ contained in the local collective bargaining agreements (local CBAs) where such provisions exist and/or in accordance with the provisions of PLA Article 4, Section 2.

**Q11. Does a non-union employee working under the PLA automatically become a union member?**

A. No, the non-union employee does not automatically become a union member by working on a project covered by the PLA. Non-union employees working under the PLA are subject to the union security provisions (i.e., union dues/agency shop fees) of the local CBAs while on the project. These employees will be enrolled in the appropriate benefit plans and earn credit toward various union benefit programs. See PLA Article 4, Section 6 and Article 11.

**Q12. Are all contractors and subcontractors working under the PLA, including nonunion contractors and contractors signatory to collective bargaining agreements with locals other than those that are signatories to the PLA, required to make contributions to designated employee benefit funds?**

A. Contractors and subcontractors working under the PLA will be required to contribute on behalf of all employees covered by the PLA to established jointly trustee employee benefit funds designated in the Schedule A CBAs and required to be paid on public works under any applicable prevailing wage law. See PLA Article 11, Section 2. NYCHA may withhold from amounts due the contractor any amounts required to be paid, but not actually paid into any such fund by the contractor or a subcontractor. See PLA Article 11, Section 2C.

**Q13. What happens if a contractor or subcontractor fails to make a required payment to a designated employee benefit fund?**

A. The PLA sets forth a process for unions to address a contractor or a subcontractor’s failure to make required payments. The process includes potentially the direct payment by NYCHA to the benefit fund of monies owed and the corresponding withholding of payments to the contractor. See PLA Article 11, Section 2.

**Q14. Does signing on to the PLA satisfy the Apprenticeship Requirements established for the bid?**

A. Yes. By agreeing to perform the Work subject to the PLA, the bidder demonstrates compliance with the apprenticeship requirements imposed by the bid.

**Q15. Does the PLA provide a standard work day across all the signatory trades?**

A. Under the PLA all signatory trades will work an eight (8) hour day, Monday through Friday with a day shift at straight time as the standard work week. The PLA also permits a contractor to schedule, with NYCHA’s approval, a four day work week, ten (10) hours per day at straight time rates if announced at the commencement of the project. See PLA Article 12, Section 1.

**Q16. Does the PLA create a common holiday schedule for all the signatory trades?**

A. Yes, the PLA recognizes eight (8) holidays. See PLA Article 12, Section 4.

**Q17. Does the PLA provide for a standard policy for 'shift work' across all signatory trades?**

A. Yes. Under the PLA, evening and night shifts may be worked with a standard 5% premium pay. In addition, a day shift does not have to be scheduled in order to work the evening and night shifts at the 1.05 hourly pay rate. See PLA Article 12, Section 3.

**Q18. May the Contractor schedule overtime work, including work on a weekend?**

A. Yes, the PLA permits the contractor to schedule overtime work, including work on the weekends. See PLA Article 12, Sections 2, 3, and 5. To the extent that NYCHA's approval is required before a Contractor may schedule or be paid for overtime, that approval is still required notwithstanding the PLA language.

**Q19. Are overtime payments affected by the PLA?**

A. Yes, all overtime pay incurred Monday through Saturday will be at time and one half (1 ½). There will be no stacking or pyramiding of overtime pay under any circumstances. See PLA Article 12, Section 2. Sunday and holiday overtime will be paid according to each trades CBA.

**Q20. Does the PLA contain special provisions for the manning of temporary services?**

A. Yes. Where temporary services are required by specific request of NYCHA or its construction manager, they shall be provided by the contractor's existing employees during working hours in which a shift is scheduled for employees of the contractor. The need for temporary services during non-working hours will be determined by the agency or construction manager and may be limited to one person per applicable trade where practicable. There will be no stacking of trades on temporary services. See PLA Article 15.

**Q21. What do the workers get paid when work is terminated early in a day due to inclement weather or otherwise cut short of 8 hours?**

A. The PLA provides that employees who report to work pursuant to regular schedule and not given work will be paid two hours of straight time. Work terminated early for severe weather or emergency conditions will be paid only for time actually worked. In other instances where work is terminated early, the worker will be paid for a full day. See PLA Article 12, Sections 6 and 8.

**Q22. Should a local collective bargaining agreement (local CBA) expire during the project will a work stoppage occur on a project subject to the PLA?**

A. No. All the signatory unions are bound by the 'no strike' agreement as to the PLA work. Work will continue under the PLA and the otherwise expired local CBA(s) until the new local CBA(s) are negotiated and in effect. See PLA Articles 7 and 19.

**Q23. May a contractor working under the PLA be subject to a strike or other boycott activity by a signatory union at another site while the contractor is a signatory to the PLA?**

A. Yes. The PLA applies ONLY to work under the PLA and does not regulate labor relations at other sites even if those sites are in close proximity to PLA work.

**Q24. If a contractor has worked under other PLAs in the New York City area, are the provisions in this PLA generally the same as the others?**

A. While Project Labor Agreements often look similar to each other, and particular clauses are often used in multiple agreements, each PLA is a unique document and should be examined accordingly.

**Q25. What happens if a dispute occurs between the contractor and an employee during the project?**

A. The PLA contains a grievance and arbitration process to resolve disputes between the contractor and the employees. See PLA Article 9.

**Q26. What happens if there is a dispute between locals as to which local gets to provide employees for a particular project or a particular aspect of a project?**

A. The PLA provides for jurisdictional disputes to be resolved in accordance with the NY Plan for the Settlement of Jurisdictional Disputes (NY Plan). See PLA Article 10. The PLA provides that work is not to be disrupted or interrupted pending the resolution of any jurisdictional dispute. The work proceeds as assigned by the contractor until the dispute is resolved. See PLA Article 10, Section 3.

**Q27. Are there special provisions for Saturday work when a day is 'lost' during the week due to weather, power failure or other emergency?**

A. Yes. When this occurs the Contractor may schedule Saturday work at weekday rates. See PLA Article 12, Section 5.

**Q28. Do the provisions of the PLA apply equally to subcontractors as well as contractors?**

A. Yes, the provisions of the PLA apply to subcontractors.

**Q29. If there is a disruption in the project schedule, must a contractor continue to pay workers during the 'down time'?**

A. A contractor is free to lay-off workers and re-hire at a later date when work resumes.

**Q30. May a contractor discharge a union referral for lack of productivity?**

A. Yes.

**Q31. May a contractor assign a management person to site?**

A. Yes, the PLA places no restriction on management and/or other non-trade personnel as long as such personnel do not perform trade functions.

**Q32. Who decides on the number of workers needed?**

A. Generally, the contractor (or subcontractor) decides on the number of workers needed and the means and methods of work.

**Q33. When will the agency shop dues payer affiliate workers become eligible for union benefits?**

A. The union benefit funds are governed by the federal ERISA law and the workers will become eligible for certain benefits at different points in time. Contractors who will have agency shop dues payer affiliate workers should speak with the respective union(s) as to benefit eligibility thresholds.

**Q34. If a contractor has a company benefit plan and assigns a worker in the plan to a PLA project under the 'bring along' provisions in Article 4, must the contractor continue to pay into the firm's benefit plan as well as the union benefit fund?**

A. The issue of continuing company benefit payments is governed by the federal ERISA law and the firm should consult with its own legal counsel.