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**Sent:** Monday, October 7, 2019 3:36 PM  
**To:** Bransen, Susan@CATC <[Susan.Bransen@catc.ca.gov](mailto:Susan.Bransen@catc.ca.gov)>;  
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**Subject:** 2020 TRANSIT AND INTERCITY RAIL CAPITAL PROGRAM FORMAL DRAFT GUIDELINES - Comment for the Chair, Commissioners and Staff

Good afternoon

I am providing comments on your draft guidelines for my client Western Electrical Contractors Association (WECA)

Under 9.2 *Secondary Evaluation Criteria 2. Benefit to priority populations* I believe the "special consideration" given to "projects that include community workforce agreements or labor agreements with unions..." include some false and misleading statements that could confuse commissioners. I hope these statements were unintentional.

The third bullet reads:

CWAs and PLAs set standards for wages and expand training opportunities for workers, because they include use of the state-certified apprenticeship system and contributions to apprenticeship training trust funds for every hour worked. Some agencies that require PLAs for major subsidized housing developments and transit system expansion projects include targets for local hiring (turning the PLA into a Community Workforce Agreement, or CWA), set goals for apprenticeship utilization, and codify goals for participation of disadvantaged workers to expand access to women and other workers underrepresented in the construction trades.

Allow me to explain point by point:

- *CWAs and PLAs set standards for wages* - **FALSE and misleading**. While PLAs and CWAs may make statements about wages and benefits, **California Labor Code §1774** states that workers must be paid not less than the "specified prevailing rates of wages" to all workers employed in the execution of the contract. These specific rates are found in the General Determinations, which correspond to the type of work performed by individual workers, as explained in the State's Public Works Manual. **So, it is California LAW that sets standards for wages, not a PLA or CWA.**
- *CWAs and PLAs ... expand training opportunities for workers, because they include use of the state-certified apprenticeship system.* - **FALSE and misleading. California Labor Code §1773 mandates** all public works contracts valued at \$30,000 or more carry an obligation to hire apprentices, unless the craft or trade does not require the use of apprentices, as indicated in the corresponding prevailing wage determination. **This duty applies to all**

**contractors and subcontractors on a project, even if their part of the project is less than \$30,000. So, it is California LAW that sets requirements for apprentices, not a PLA or CWA. In fact - typical PLAs discriminate against state-certified apprenticeship programs that are not sponsored by unions.**

- *CWAs and PLAs set standards for ... contributions to apprenticeship training trust funds for every hour worked. FALSE and misleading. California Labor Code §1777 mandates that a "contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site."* **So, it is California LAW that sets requirements for apprenticeship training contributions, not a PLA or CWA.**
- *Some agencies that require PLAs ... include targets for local hiring (turning the PLA into a Community Workforce Agreement, or CWA), set goals for apprenticeship utilization, FALSE and misleading (see bullet point 2 above)*
- *Community Workforce Agreements, set goals for apprenticeship utilization, and codify goals for participation of disadvantaged workers to expand access to women and other workers underrepresented in the construction trades. Partially true. While PLAs and CWAs tout their local and disadvantaged worker participation goals, they are set at an easily attainable level - and we have found that they are often never verified by the unions or public agency to establish the effectiveness of the goals. And PLAs and CWAs routinely do not include penalties for failure to achieve goals.*

My client hopes staff will correct this false and misleading information and clarifies the role of state law in establishing wages, benefits, and apprenticeship utilization when the Commission considers the draft guidelines.

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## Remedios, Douglas@CATC

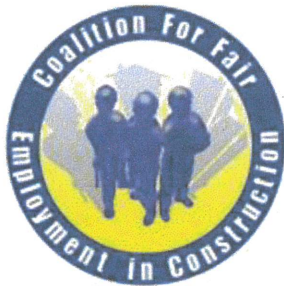
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**From:** Bransen, Susan@CATC  
**Sent:** Wednesday, October 9, 2019 1:47 PM  
**To:** Favila, Teresa@CATC; Cheser, Dawn@CATC; Weiss, Mitchell@CATC  
**Cc:** Remedios, Douglas@CATC  
**Subject:** Fwd: 2020 TRANSIT AND INTERCITY RAIL CAPITAL PROGRAM FORMAL DRAFT GUIDELINES - Comment for the Chair, Commissioners and Staff

Sent from my iPhone

Begin forwarded message:

**From:** "ericchristen" <[ericdchristen@gmail.com](mailto:ericdchristen@gmail.com)>  
**Date:** October 9, 2019 at 10:52:31 AM PDT  
**To:** "Susan@CATC Bransen" <[Susan.Bransen@catc.ca.gov](mailto:Susan.Bransen@catc.ca.gov)>, <[steven.keck@catc.ca.gov](mailto:steven.keck@catc.ca.gov)>, <[ronald.sheppard@catc.ca.gov](mailto:ronald.sheppard@catc.ca.gov)>  
**Subject:** RE: 2020 TRANSIT AND INTERCITY RAIL CAPITAL PROGRAM FORMAL DRAFT GUIDELINES - Comment for the Chair, Commissioners and Staff



Good afternoon.

My name is Eric Christen and I am the Executive Director of the Coalition for Fair Employment in Construction (CFEC). CFEC was formed 21 years ago to oppose discriminatory and wasteful Project Labor Agreements (PLAs). PLAs are banned in 26 states and across 11 entities in California. These are "agreements" pushed by big labor special interests that seek to exclude the 86% of the California construction workforce that is union-free.

I am providing comments on your draft guidelines because of the flawed information you are providing commissioners re the issue of PLAs.

Under *9.2 Secondary Evaluation Criteria 2. Benefit to priority populations* I believe the "special consideration" given to "projects that include community workforce agreements or labor agreements with unions..." include some false and misleading statements that could confuse commissioners. I hope these statements were unintentional.

The third bullet reads:

*CWAs and PLAs set standards for wages and expand training opportunities for workers, because they include use of the state-certified apprenticeship system and contributions to apprenticeship training trust funds for every hour worked. Some agencies that require PLAs for major subsidized housing developments and transit system expansion projects include targets for local hiring (turning the PLA into a Community Workforce Agreement, or CWA), set goals for apprenticeship utilization, and codify goals for participation of disadvantaged workers to expand access to women and other workers underrepresented in the construction trades.*

Allow me to explain point by point:

- *PLAs (I won't use the euphemism "CWAs" because it's just a PLA that sounds better) set standards for wages - FALSE. California Labor Code §1774 states that workers must be paid not less than the "specified prevailing rates of wages" to all workers employed in the execution of the contract. These specific rates are found in the General Determinations, which correspond to the type of work performed by individual workers, as explained in the State's Public Works Manual. So, it is California LAW that sets standards for wages, not a PLA. This needs to be made clear to the commissioners.*
- *PLAs ... expand training opportunities for workers, because they include use of the state-certified apprenticeship system. - FALSE. California Labor Code §1773 mandates all public works contracts valued at \$30,000 or more carry an obligation to hire apprentices, unless the craft or trade does not require the use of apprentices, as indicated in the corresponding prevailing wage determination. This duty applies to all contractors and subcontractors on a project, even if their part of the project is less than \$30,000. So, it is California LAW that sets requirements for apprentices, not a PLA. PLAs actually reduce opportunities for apprentices as they discriminate against state-certified apprenticeship programs that are not sponsored by unions. This needs to be made clear to commissioners.*
- *PLAs set standards for ... contributions to apprenticeship training trust funds for every hour worked. FALSE. California Labor Code §1777 mandates that a "contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site." So, it is California LAW that sets requirements for apprenticeship training contributions, not a PLA. This needs to be made clear to commissioners.*
- *Some agencies that require PLAs ... include targets for local hiring (turning the PLA into a Community Workforce Agreement, or CWA), set goals for apprenticeship utilization, FALSE. Some PLAs contain vague GOALS regarding the issue of "local hire" that have no force of law behind them as that would violate federal law. This is window dressing for PLA proponents to use to sell PLAs.*
- *Community Workforce Agreements, set goals for apprenticeship utilization, and codify goals for participation of disadvantaged workers to expand access to women and other workers underrepresented in the construction trades. Partially true. While PLAs and CWAs tout their local and disadvantaged worker participation goals, they are set at an easily attainable level - and we have found that they are often never verified by the*

unions or public agency to establish the effectiveness of the goals. And PLAs and CWAs routinely do not include penalties for failure to achieve goals.

What has not been included in your report from staff is what PLAs actually contain in them that seek to reduce participation from union-free firms thereby increasing costs:

- All workers must pay union dues.
- All workers must pay into union health, welfare and pension plans. If union-free workers do this and do not vest in those plans (likely) that money (more than \$20 per hour) is lost to them. This is wage theft.
- Union-free contractors are only allowed to use 3-6 of their own workers with the rest having to come from union hiring halls.
- All non-union apprentice programs are forbidden from being used on a PLA. So a young man or woman who is looking to get a start in the trades is told they are not welcome under a PLA should they be in a union-free program. Who would support this? Was staff aware of any of this? Why were these aspects of PLAs not made known to commissioners?

These implicitly and explicitly discriminatory provisions reduce the numbers of bidders on projects covered by PLAs, [something numerous studies have proven](#).

Please be advised that the Coalition for Fair Employment in Construction will be submitting a *Public Records Act* (PRA) request to you to find out where all of this disinformation came from (we can guess) and why it was staff chose to not conduct an even a basic Google search where it could easily have found just how controversial these “agreements” are.

You’re hired to be objective and professional. Start acting like it.

More information regarding PLAs can be found at our website below or by going to [www.thetruthaboutplas.com](http://www.thetruthaboutplas.com)

Eric Christen  
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Coalition for Fair Employment in Construction

[www.opencompca.com](http://www.opencompca.com)

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