

CIANBRO

Testimony of:

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Cybersecurity, Information Technology, and Government Innovation**

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Cutting Competition in Contracting:

The Administration's Pricey Project Labor Agreement Mandate

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Chairwoman Mace, Ranking Member Connolly and members of the Subcommittee on Cybersecurity, Information Technology, and Government Innovation,

Thank you for the invitation to testify this afternoon and for the opportunity to discuss the impact of the Biden administration's policies promoting project labor agreements, or PLAs, on federal and federally assisted construction projects.

My name is Aric Dreher, and I am vice president and general manager of Cianbro Corporation ("Cianbro"), a full-service contractor that delivers industry-leading construction services for complex civil infrastructure projects throughout the country. Founded in 1949, Cianbro is one of America's largest 100% employee-owned, open shop construction and construction services companies, operating in more than 40 states and employing over 4,000 team members.

Our teams have completed some of the company's most innovative and challenging infrastructure projects, including the phased development of District Wharf in Washington, D.C., construction of the 175-foot-tall Capital Wheel at National Harbor, the U.S. Airforce Memorial overlooking the Pentagon, the Thames River Bridge in Connecticut and Merrimack River Bridge repairs in Massachusetts, as a few examples. Currently, we have projects underway supporting our national security with the construction of new Submarine Dry Docks and Refueling Complexes for the U.S. Navy and coastal resiliency projects for both the Navy and National Park Service.

As a merit shop contractor, Cianbro is very concerned about President Joe Biden's rule directing federal agencies to mandate PLAs on federal construction projects that are \$35 million or more in total value. This mandate is overreaching and unfair.

Since 2020, Cianbro has bid on and been awarded numerous federal projects exceeding \$35 million dollars. President Biden's PLA mandate is already having a negative impact on our company. Due to the PLA mandate, we have been unable to pursue opportunities to secure work on federal projects, such as the recently advertised U.S. Navy Pier 31 Extension at Naval Submarine Base New London in Groton, Connecticut. Unfortunately, Cianbro's internal tracking and analysis of upcoming federal and federally assisted construction projects scheduled for solicitation suggests that Cianbro will be unable to bid on many upcoming projects due to current PLA requirements. If the same projects were to be solicited without PLA requirements, as they have been in the past, Cianbro would be willing and able to bid on these upcoming projects.

The U.S. construction industry needs policies that are inclusive and offer all qualified contractors and their skilled workforces the opportunity to pursue projects without dictating how the company must be run. Union and open shop contractors should have

the equal right to pursue these opportunities and perform the work the way that best suits their organizations.

Cianbro believes that President Biden's PLA mandate policy will significantly harm our company because it prevents us from having a fair opportunity to compete to win contracts to build federal projects. Provisions in PLA mandates are not in alignment with Cianbro's values, infringe on our team members' freedom of association and do not make sense for our efficient company operations.

In addition to the Biden PLA rule, Cianbro is concerned about other Biden administration policies encouraging state, local and private recipients of federal dollars and assistance to require PLAs.

In the Northeast, there are many federally assisted projects that are now subject to PLA requirements implemented by state and local governments. We are disappointed by these policies, independent of the Biden PLA rule on federal contracts, as the policies also hurt our company and employees.

Cianbro employs multiskilled tradespeople that can perform work across many craft disciplines. The employment of versatile tradespeople is a win-win for both Cianbro and our craft professionals as it allows for enhanced labor productivity, continued skill development and increased workforce retention. In addition, Cianbro, like many other well-respected American open shop contractors, provides competitive compensation and benefits packages to its team members. Cianbro hires and develops its own employees utilizing government-registered apprenticeship programs as well as an in-house workforce development programs and meets the industry's ever-changing needs.

Unfortunately, typical government-mandated PLAs undermine all these investments in our team and business model. Since Cianbro's humble beginnings when four brothers returned home after serving our country in World War II to start what is today Cianbro, we have believed in and continue to fight for open, fair and competitive bidding on public works projects.

The FAR PLA rule does not force federal agencies to create a PLA and attach it to the solicitation, as is the typical case with state and local government PLA mandates. In contrast, the Federal Acquisition Regulation Council's PLA rule forces every contractor to create and negotiate a new PLA with labor unions in conformance with minimum standards outlined in the rule. However, the fact that contractors must execute a PLA with labor unions to win a contract gives labor organizations maximum leverage to insist on PLAs that are harmful to nonunion contractors and their workforce. The following damaging provisions are common in typical PLAs:

- Recognition of unions as the unelected representatives of all employees on projects covered by the PLA

- Use of the union hiring hall to obtain most or all the construction workforce
- Obtainment of apprentices exclusively from union apprenticeship programs
- Payment into union benefits plans
- Adherence to costly, restrictive and inefficient union work rules.

Unfortunately, such government-mandated PLAs drive up costs of construction by 12% to 20% by reducing competition and effectively excluding merit shop contractors and their skilled team members from building projects paid for by their own tax dollars.

It is important to note that Cianbro is not opposed to working alongside union workers; we can and do work shoulder to shoulder with union workers and unionized companies to deliver projects safely and without incident. However, Cianbro believes that all contractors should have the right to win work opportunities regardless of whether they agree to be bound by an agreement with unions that do not represent the contractor's employees.

Because the construction industry is faced with a skilled labor shortage of half a million people in 2024 alone, there is no need to mandate PLAs, given that nearly 90% of the construction workforce does not belong to a union.

Cianbro is doing our part to meet the skilled labor shortage. Our apprenticeship programs provide team members with ongoing classroom and hands-on instruction and continuous on-the-job learning where they can apply their education. In each of these programs Cianbro utilizes the recognized National Center for Construction Education and Research curriculum, which leads to nationally recognized, portable credentials.

Cianbro offers apprenticeship opportunities in several trades, including electrical, millwright, pipefitter, ironworker, carpenter, substation technician and power line worker. Upon completion, team members will become NCCER-certified, journey-level tradespeople, making competitive wages with zero debt, and many are qualified to sit for state level licenses and certifications.

Cianbro also offers "earn-while-you-learn" educational programs, such as pre-apprenticeship, to support those who are interested in the trades but have little to no experience.

By mandating PLAs, the Biden administration is effectively sidelining our industry-leading workforce on projects funded by the federal government and all taxpayers.

In the past, PLA mandate advocates have alleged that PLAs ensure safe workplaces, insinuating that nonunion construction companies have less-safe workplaces. This is not true. Cianbro has achieved the highest level of achievement in ABC's STEP Safety Management System.[®] Companies at the STEP Diamond level, the highest possible, are 576% safer than the U.S. Bureau of Labor Statistics industry average and have an

83% lower total recordable incident rates than the U.S. Bureau of Labor Statistics average for the construction industry. The truth is, it takes leadership commitment and cultural transformation to achieve industry-leading safety results, not PLAs.

For these reasons, Cianbro has submitted an affidavit in support of Associated Builders and Contractors and its Florida First Coast chapter in filing a lawsuit in federal court in Jacksonville, Florida, to stop the Biden administration's unlawful scheme to mandate PLAs on construction contracts procured by federal agencies.

Our affidavit details the harm caused by the rule and the lawsuit asserts that President Joe Biden lacks the legal authority to impose a new federal regulation harming economy and efficiency in federal contracting and illegally steering construction contracts to certain unionized contractors and union labor.

Cianbro is optimistic that a hearing on the motion for preliminary injunction will be held this summer and a decision will be made on the merits of the case. But justice delayed is justice denied, especially when billions of dollars' worth of federal construction contracts are in the pre-solicitation and solicitation phases right now.

We need Congress and the Biden administration to champion policies that are inclusive and encourage all qualified contractors and their skilled workforces to compete to build long-lasting, quality projects throughout America.

In closing, I ask all of you to consider the negative effects of the Biden administration's PLA policies on our firm, our industry partners and our skilled and qualified craft professionals. Thank you for supporting efforts to shed light on this inflationary policy and help create opportunities for all qualified contractors who build America.