

Good morning, Chairman Metcalfe, Chairman Bradford and members of the House State Government Committee. My name is Mark Eckman, and I am President of J.D. Eckman, Inc., a family-owned road and bridge construction company started in 1945 by my grandfather. Based out of Atglen, Pennsylvania, J.D. Eckman performs tens of millions of dollars' worth of road and bridge work for the Pennsylvania Department of Transportation (PennDOT) annually. In fact Eckman has completed nearly a billion and a half dollars of work for PennDOT in its history. We are also members of the Associated Builders & Contractors (ABC), a national construction trade association with more than 20,000 members across the United States and nearly 2,000 in Pennsylvania alone. ABC is dedicated to promoting, protecting, and defending free enterprise and open and fair competition in the construction industry and has preserved the rights of thousands of merit shop companies like J.D. Eckman.

On behalf of J.D. Eckman, Inc. and the Associated Builders & Contractors, I would like to offer our support for House Bill 1849, or the Public Works Contracting Act. This legislation would not only ensure that all of Pennsylvania's contractors have an equal opportunity to bid and perform public work, but it would also protect taxpayer funds by ensuring that the most efficient process is utilized for selecting public works contractors. Simply put, HB 1849 would prohibit the use of pre-hire collective bargaining agreements, known as Project Labor Agreements, that are negotiated by a project owner and labor unions to exclude non-union contractors from the bidding process.

My comments this morning primarily concern Project Labor Agreements in regards to PennDOT work as that is the area I am most familiar with. As I am sure you are aware, PennDOT has advertised a project in Montgomery County for Phase 2 of Markley Street Reconstruction that requires a union only Project Labor Agreement, or PLA as they are commonly referred to.

PLA's are discriminatory as they restrict non-union companies from fairly participating in the procurement of public works contracts. These agreements, included in bid documents for projects, mandate that prospective bidders must utilize a labor force from pre-determined labor halls, rather than

using their own employees. PennDOT has taken the position that Eckman and other non-union companies can bid projects with PLA's. Respectfully, we cannot do so. We could not use any of our own workforces but would have to bid and complete the project with the union supplied workforce. I would say that is akin to you being asked to write legislation but be restricted from using your own staff, and required to use staff supplied by the opposing party. I think you can determine for yourself what quality of people you would get and how interested they would be in helping you complete the project. It would be impossible for non-union contractors to fairly and competitively bid projects requiring PLA's. PLA's restrict competition and ultimately cost the Pennsylvania taxpayer money. As I mentioned earlier PennDOT has advertised a project in Montgomery County for phase 2 of the Markley Street Reconstruction that requires a PLA. One needs look no further than phase 1 of the Markley Street project to see the higher cost of requiring union only contractors. JD Eckman was the low bidder on the project with a bid of \$20,825,701. The second bidder was Road-Con with a bid of \$21,351,343. Road-Con is signatory to the United Steel Workers of America Union. The USWA were not part of the original PLA advertised for the second phase of the Markley Street Project. However, the recent rebid of the project allows USWA bidders to use their own workforce, but does not allow non-union contractors to do so. The third bidder on the Markley Street project was Highway Materials which is a contractor signatory to the unions in the PLA, with a bid of \$22,344,214. The difference between Eckman's non-union low bid and Highway's trades union bid is over \$1.5 million. This is a million and a half dollars the Commonwealth would have spent on just one project had it insisted on a PLA union contractor. Multiply that by dozens of projects and you can see how costly this will become.

Another example of PLA's costing taxpayers money is the recently started Scudder Falls bridge, which traverses the Delaware River from Bucks County, PA to New Jersey. This project is administered by the Delaware River Joint Toll Bridge Commission (DRJTBC), a federal compact that incorporates input from both Pennsylvania and New Jersey. This is a project that Eckman considered bidding. With a budget of \$325 million, the project involves the intricate reconstruction of a 6-lane concrete span, incorporating

numerous technical and environmental concerns. When the project was bid last year, the Commission insisted on using a PLA, for many of the reasons that Secretary Richards highlighted in her testimony last year. As a result of the PLA, the Commission received a single bid – Trumbull Construction based out of Pittsburgh. The bid was for \$396 million, more than \$70 million over budget. Ultimately, the Commission accepted the grossly inflated bid and had to restructure financing to ensure the project's payment.

In addition, I would argue that PLA's are unnecessary for PennDOT as they already have a prequalification system. A contractor must be prequalified with PennDOT to bid on their contracts. Prequalification includes proving you have successfully completed the type of work before and that you have the financial capacity to do the work. As part of the prequalification system, Eckman has provided PennDOT financial statements, evidence of credit lines, lists of equipment owned, and history of projects completed. PennDOT has prequalified Eckman for virtually every type of work and has deemed Eckman to have unlimited financial capacity when it comes to the amount of contracts it can execute with PennDOT. This prequalification system ensures PennDOT contracts with capable, experienced, financially sound contractors and makes the need for PLA's unnecessary.

Transportation Secretary Richards has put forth the argument that PLA's are valuable in that they provide an adequate supply of skilled labor, prevent work stoppages, and can assist in having projects completed on time and under budget. This is a prime example of finding problems to fit their solution. None of these reasons provide sufficient evidence of the need for a PLA. PennDOT's prequalification system ensures it contracts with companies that have adequately skilled labor. Eckman has nearly 500 skilled, trained and experienced workers. Adequate supply of labor is not an issue. To my knowledge there has never been a work stoppage on a PennDOT project due to labor issues. I am certain there never has been one on an Eckman project. Lastly, I see no legitimate correlation between costs or time overruns in regards to union versus non-union contractors. Secretary Richards has put forth a spreadsheet that purports to show that union contractors finish projects more on time and on budget than non-union

contractors. This list was hand chosen by the department to justify an already made decision to implement PLA's. Any conclusion drawn from this small sample size of projects would be unfounded. As Secretary Richards accompanying letter indicates, the time and cost overruns listed are done so, and I quote, "without regard for cause". Three of the ten listed non-union contracts on this sheet are Eckman projects. I could bore you with the details of the causes for time delays and cost overruns, and have included specifics in my written submission, but will not read them to you this morning. In summary, though, all delays on these projects were at the request of the department or due to changes in scope of work the department requested. All additional costs were for additional work requested by the department, not for contractor issues. Extra work included the rehabilitation of two bridges not originally included in the scope of work and the addition of 2.25 miles of paving. No PLA or union contractor would have prevented these department approved changes in time and money.

Bucks County, SR 132 Resurfacing- This project was bid July 17, 2014 with a completion date of July 3, 2015. Our bid was 8.3% less than the second bid (Union). Essentially a mill and pave project on Street Road but it contained a Design/Build element for 106 curb cut ramps which required time for design by our chosen consultant engineer, review by PennDOT, and ultimately construction by our subcontractor. The schedule was discussed at the pre-construction meeting and the lead manager for PennDOT, Lou Calvanese (since retired) told us not to even submit any designs that fall as the Department had let multiple projects with both the same types of work and schedules and that the Department would not even look at any submissions until winter. Additional work doing extensive extra milling and paving was added to the contract by PennDOT, changes were made to the scope of electrical/signal work, and Warrington Township installed a sanitary sewer line through the construction area which prompted Eckman to request, and the Department to grant, a time extension of 167 calendar days. Final PennDOT approval of curb cut ramp designs occurred May 26, 2015. Once that approval had been granted traffic signal plans needed to be updated to include the new design information for the intersections. A time extension of 307 days was requested by Eckman, granted by the Department, and

work progressed based on the new designs. PennDOT added 2.25 miles of additional milling and paving work, to include more curb ramps and their subsequent design. Eckman requested an additional 188 days to perform this extra work which was granted by PennDOT. To sum it up, the Department put several projects out to bid late in the 2014 year with the intention of having the milling and paving work done before winter. They knew the curb ramps could not be designed, reviewed, and constructed within the dates set forth in the contracts. In addition no adequate engineering was performed for these projects beyond scoping the physical limits of the work. Due to this fact any unidentified work was left to Eckman's and the Department's field people to deal with in regards both time and money. Final contract was approximately 15% beyond the bid amount due to extensive extra pavement repairs directed to be performed by the Department. The overruns and delays were attributable only to the actions of PennDOT, not Eckman.

Chester County, SR 1035 Group H- This project was bid March 26, 2015 and was to be completed by November 30, 2015. Our bid was 9.5% less than the second bid (Union). This project required the rehabilitation of two bridges, one over the Schuylkill River in Chester County and another over Chester Creek in Delaware County. In addition it included approximately \$700,000 for "on demand" bridge repairs to be directed by the Department when and where most needed. Work on the largest bridge, over the Schuylkill River, was completed on time. The second smaller site required the unforeseen water line replacement by the local Water Company pushing the completion date back by 144 calendar days. Two additional structures were added to the contract via the "on demand" items of work, Burnt Mill Road and Gravel Pike. This prompted a time extension of 174 days to perform this additional work based on a pre-construction evaluation. Upon receipt of final design parameters another 60 day time extension for Burnt Mill Road was approved. Final costs for this contract reflected work directed by the department in excess of that amount originally set forth for the "on demand" repair work resulting in approximately \$1,000,000 more than originally scheduled for added bridge work.

Delaware County, SR 0 Chester Creek Trail- This project was done for Delaware County, managed by the Department, and turned a section of Septa rail bed into a pedestrian/bike trail. It was bid January 8, 2015 with a schedule completion date of November 10, 2016. Our bid was 11% less than the second bid (Union). A time extension of 53 days was requested by Eckman, and granted by the Department, due to a delay in issuing the notice to proceed. This project was built with minimal changes, plus and minus, and will ultimately end up within 1% of the original contract amount.

One project not listed is the aforementioned Markley Street Phase 1 project. Eckman completed this project one year ahead of schedule. Let me repeat that, this project which is perhaps the best project to use in comparison to the advertised Markley Street Phase 2 project, was completed a year ahead of schedule by a non-union contractor without a PLA. Secretary Richards herself came to the ribbon cutting and lauded the early completion of this project.

Clearly there is no correlation between project overruns in cost and time and a company's union status. Almost all cost overruns and delays are the result of unforeseen conditions in the plans or additional work requested by the owner. Had these delays or extra work items been the fault of Eckman, we would not have received the time extensions and payments for extra work that we did. It is misleading and fraudulent for PennDOT to purport this document is evidence of the necessity for PLA's.

In conclusion, I know that PennDOT has tried to portray this PLA project as a pilot, a one off to test its results. I question what viable information can come from this one project? What are they going to compare it to – Markley Street Phase 1 which didn't have any of the issues they say PLA's could eliminate? If we are totally honest, everyone in this room knows that the true reasons for implementing PLA's has nothing to do with the stated reasons that I already debunked. The true reasons are to strengthen and further the political support for this administration from the trades unions. To Eckman employees this strikes at the very heart of their livelihoods. Eckman and its employees were signatory to the USWA until 2004, when they voluntarily and through their own choice decided to abandon the union

and pursue the free enterprise system. Now PennDOT takes the position they are no longer qualified to work on these projects because they don't subscribe to being represented by Philadelphia union bosses?

I urge you to vote in favor of House Bill 1849 not because it will change the construction bidding process in Pennsylvania, but because it will preserve the current construction bidding process in place. A process that favors open competition, best pricing for the commonwealth, and the interests of all Pennsylvania workers. Thank you.