

TESTIMONY BEFORE THE UNITED STATES CONGRESS  
ON BEHALF OF THE  
NATIONAL FEDERATION OF INDEPENDENT BUSINESS

**NFIB**  
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Testimony of John Ennis Jr.

House of Representatives Committee on Oversight & Government Reform

Subcommittee on Regulatory Affairs,  
Stimulus Oversight and Government Spending

“Regulatory Impediments to Job Creation:  
The Cost of Doing Business in the Construction Industry”

March 16, 2011

Good afternoon Chairman Jordan, and members of the Subcommittee. On behalf of the National Federation of Independent Business (NFIB), I would like to thank you for giving me the opportunity to speak with you today regarding the impact that Project Labor Agreements have on small businesses.

I am the owner and CEO of the Ennis Electric Company, located in Manassas, Virginia. Ennis Electric was incorporated in August of 1974 and for the last 37 years, has performed projects in and around the Washington beltway that range in size from \$10,000.00 to \$27,000,000.00. Many of these projects are with local, state and federal governments and we complete most projects as a subcontractor. We have the capacity to perform all aspects of electrical construction including but not limited to underground distribution systems, overhead distribution systems, site and sport lighting, normal and emergency power distribution systems, interior lighting and control systems, and specialty systems which include life safety, CCTV, security, sound and telecom. Our experience encompasses many special use facilities for both federal and local government agencies, with a special emphasis on historic renovations and public education facilities.

We employ over 120 individuals, many of whom have been in our employ for years. The benefits we provide are second to none and include, but are not limited to, top pay, medical, dental, life, disability, 401K, profit sharing, paid holidays and paid vacations. We strive to foster a loyal workforce by providing a safe, fair and enjoyable workplace while maintaining the highest possible quality and craftsmanship on our projects—to exceed the expectations of our customers. The longevity of employees, our minimal turnover, and our reputation with our customers is proof we are meeting these goals. With the simple philosophy of trying to be the best, and not the biggest, we have become an award-winning contractor and regularly receive accolades from our clients.

I'd like to talk a little about how we secure our contracts. The majority of the work we obtain is through the bid process. Most of these solicitations are awarded to the lowest bidder with varying levels of prequalification and/or technical proposals requiring previous work experience. In the past, these solicitations, which are funded by public dollars, have been free from discriminatory requirements, such as Project Labor Agreements or PLAs, and therefore, open to bidders who meet the technical requirements. However, recent federal policies have changed this practice, making it more and more difficult for small businesses, like Ennis Electric to fairly compete for these contracts.

The use of Project Labor Agreements is a discriminatory tactic that prevents non-union construction companies from working on government construction projects. The federal government's insistence on PLAs makes it much more difficult for a business like mine to bid on projects. Typically, PLAs are pre-hire contracts that require projects to be awarded only to contractors and subcontractors that agree to:

- Recognize unions as the representatives of their employees on that job;
- Use the union hiring hall to obtain workers;
- Obtain apprentices exclusively from union apprenticeship programs;

- Pay into union benefit plans; and,
- Obey costly, restrictive and inefficient work rules.

The U.S. Department of Labor's Bureau of Labor Statistics found in their annual report on union membership, that from 2009 to 2010 union membership fell from 14.5 percent to 13.1 percent of the U.S. private construction work force. If 86.9 percent of construction workers are non-union, the vast majority of construction companies are shut out of the bidding process. In addition, these PLAs increase the cost of construction by unfairly reducing the number of companies which can competitively bid. Consider the fact that the construction industry currently has an unemployment rate of over 20 percent: with one-fifth of workers in the industry unemployed, how can this Congress not acknowledge that PLAs and other regulations only serve as impediments to job creation?

In August 2010, Ennis Electric made offers to general contractors for three General Services Administration (GSA) projects in Washington, D.C. The projects were for the 1800 F Street Modernization, The Lafayette Building Modernization and St. Elizabeth's Adaptive Re-use. Ennis Electric was fully qualified to execute these projects and our company had more experience than our competition did in performing these particular jobs. Bidding on these types of projects is a very intensive process for small businesses, and it can take hundreds of man hours just to prepare an estimate prior to submitting a bid. My company spent 600 hours preparing our bids. And although the original solicitations for these three federal projects did not include any PLA verbiage, they were eventually amended to include them for the final submission.

On all three projects our company was listed, as required by the solicitation, as the electrical subcontractor for the Offerors non-PLA bid. It later came to our attention that all three of these projects were awarded on the basis that they adhere to a Project Labor Agreement. So despite being fully qualified to do the work, Ennis Electric was not selected for the subcontract electrical work because of a Project Labor Agreement. Further, because this change to the solicitation was made retrospectively, we lost innumerable man hours that were spent preparing bids on projects for which we were qualified but not considered because of our non-union status.

In this case, the impact of the unfair PLA requirement will be felt by our company for years: the three aforementioned subcontracts represented over \$30 million dollars of work over the next several years. As a result, we have been forced to layoff approximately 15% of our workforce and unless we can find some other opportunities we could end up laying off over 50% of our workforce. The decision to require discriminatory Project Labor Agreements on these three subcontracts could not have come at a more unfavorable time for Ennis Electric and our employees—not to mention the American taxpayers, who will have to pay for the increased costs associated with PLAs.

I want to be clear: I am not unsupportive of labor unions. They have played a meaningful role in our nation's history. However, the government's insistence that all government contracts of a certain size must use union labor – when a shrinking portion of the

workforce consists of union members – is nothing more than a payoff to union-organized companies, and a slap in the face of small businesses who are responsible for creating two-thirds of American jobs and keeping the market competitive.

The economic climate for small businesses is still very tough, especially in the construction industry. The national unemployment rate in the construction industry hovers around 20%, and we see few signs of things improving.

According to the NFIB Small Business Economic Trends report, small business optimism is on the rise, albeit in a very fragile state. In its latest report, NFIB found that small business hiring and future plans to hire were solid for the first time in months, and hopefully presage a string of steady job creation months this year. Still, only a net 9% of small business owners surveyed expect that business conditions will improve over the next six months, suggesting that the actions we take now will determine how our economy will fair in the next few years. For small business owners like me, it is the increased regulations and discriminatory hiring tactics like PLAs that make it impossible to have confidence to hire, make capital investments and grow my company. Congress must put a stop to practices that prevent small businesses from growing. Eliminating discriminatory PLAs is a good place to start.

Thank you for the opportunity to testify today on behalf of small business.

# CORE VALUES

We believe deeply that:

Small business is essential to America.

Free enterprise is essential to the start-up and expansion of small business.

Small business is threatened by government intervention.

An informed, educated, concerned, and involved public  
is the ultimate safeguard for small business.

Members determine the public policy positions of the organization.

Our employees and members, collectively and individually, determine the success of  
the NFIB's endeavors, and each person has a valued contribution to make.

Honesty, integrity, and respect for human and spiritual values are important  
in all aspects of life, and are essential to a sustaining work environment.

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