Project Labor Agreements and Executive Order 14063

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A project labor agreement (PLA) is a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project. A PLA generally requires that all contractors and subcontractors on a project are governed by the same standards. Section 8(f) of the National Labor Relations Act (NLRA), codified at 29 U.S.C. § 158(f), permits employers in the construction industry to enter into such agreements. In authorizing the use of PLAs, Congress intended to accommodate employment conditions unique to the construction industry, such as the short-term nature of building projects and the challenges associated with post-hire collective bargaining.

Although PLAs have reportedly been used for publicly funded construction projects since the 1930s, the federal government has alternated approaches to their use on federal construction projects. Between 1992 and 2022, different U.S. presidents issued executive orders that either encouraged or discouraged their use. In 2022, President Biden issued Executive Order (EO) 14063, which generally requires a PLA for large-scale, federal construction projects in the United States. EO 14063 remains in place, but a rule implementing the order and Office of Management and Budget (OMB) guidance have been challenged in court.

This In Focus examines EO 14063 and *Associated Builders and Contractors Florida First Coast Chapter v. General Services Administration*, an April 2026 decision by the U.S. Court of Appeals for the Eleventh Circuit (Eleventh Circuit) that affirmed a lower court decision declining to enjoin the rule that implements the order and the related OMB guidance. The In Focus also reviews legislative efforts to either restrict or promote the use of PLAs on federally funded construction.

Executive Order 14063 and Past Executive Action

On February 4, 2022, President Biden issued EO 14063, "Use of Project Labor Agreements for Federal Construction Projects," to "promote economy and efficiency in the administration and completion of Federal construction projects." The order maintains that PLAs are often effective in preventing problems that arise when multiple employers perform work at a single location: "A lack of coordination among various employers, or uncertainty about the terms and conditions of employment of various groups of workers, can create friction and disputes in the absence of an agreed-upon resolution mechanism. These problems threaten the efficient and timely completion of construction projects undertaken by Federal contractors."

Executive orders issued prior to EO 14063 took different approaches to the use of PLAs on federal construction projects. In 1992, President George H. W. Bush issued EO 12818, which prohibited agencies from requiring the use of PLAs. In 1993, President Clinton issued EO 12836, revoking EO 12818. Later, in 1997, President Clinton issued a memorandum that encouraged agencies to consider PLAs "as another tool … to achieve economy and efficiency in Federal construction projects." The memorandum encouraged the use of PLAs for "large and significant projects," which were defined as federal construction projects with a total cost to the federal government of more than $5 million.

EO 12836 and the 1997 presidential memorandum were subsequently revoked by EO 13202, issued by President George W. Bush in 2001. EO 13202 stated that it sought to promote government neutrality toward labor relations on federal construction projects. EO 13202 was later amended, however, by EO 13208 to allow the continued operation of PLAs that were in effect at the time EO 13202 was issued.

In 2009, President Obama issued EO 13502, which revoked EO 13202 and EO 13208. EO 13502 encouraged, but did not require, the use of PLAs on "large-scale federal construction projects." The order characterized such projects as those where the total cost to the federal government was $25 million or more. EO 13502 noted the challenges associated with construction projects that involve multiple employers at a single location and emphasized that a PLA may prevent problems from developing by providing structure and stability to larger projects.

EO 13502 remained in effect until it was revoked by EO 14063. Unlike EO 13502, EO 14063 requires contractors and subcontractors engaged in large-scale federal construction projects to agree to negotiate or become party to a PLA with one or more labor organizations. The order defines a "large-scale construction project" to mean "a Federal construction project within the United States for which the total estimated cost of the construction contract to the Federal Government is $35 million or more." PLAs executed pursuant to EO 14063 are to, among other requirements, guarantee against strikes, lockouts, and similar job disruptions and establish mutually binding procedures for resolving labor disputes that arise during the term of the agreement.

While EO 14063 generally requires the use of a PLA on large-scale federal construction projects, it allows an agency's senior officials to grant an exception from the requirement if one of three circumstances exists: (1) a PLA would not advance the federal government's interests in achieving economy and efficiency in federal procurement; (2) based on an inclusive market analysis, a PLA would substantially reduce the number of potential bidders and frustrate full and open competition; (3) a PLA would otherwise be inconsistent with statutes, regulations, executive orders, or presidential memoranda.

In granting an exception, senior agency officials are required to provide a specific written explanation of why at least one of the circumstances exists.

Associated Builders and Contractors Florida First Coast Chapter v. General Services Administration

In 2023, the agency members of the Federal Acquisition Regulatory Council—the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration—issued a final rule to implement EO 14063. The rule amended the Federal Acquisition Regulation to revise existing definitions and solicitation regulations consistent with EO 14063. In 2023, OMB also issued guidance for federal agencies on exercising the exceptions from the PLA requirement.

Associated Builders and Contractors (ABC), a national construction industry trade association, and its Florida affiliate, ABC Florida First Coast Chapter, challenged the order, rule, and guidance, arguing that they violate various federal laws, including the Competition in Contracting Act (Competition Act) and the Federal Property and Administrative Services Act (Property Act). The group also argued that the rule infringed on its freedom of association under the First Amendment, was arbitrary and capricious in violation of the Administrative Procedure Act (APA), and violated sections of the Office of Federal Procurement Policy Act (OFPPA) and the NLRA. ABC and ABC Florida First Coast Chapter members are not signatories to collective bargaining agreements, and their employees have chosen not to unionize.

In March 2024, the U.S. District Court for the Middle District of Florida denied the plaintiffs' motion for a preliminary injunction, ruling that they would not suffer irreparable harm under the Competition Act because they could file individual bid protests with the U.S. Court of Federal Claims, or their harm was too speculative. The court's decision did not consider whether the plaintiffs might be entitled to an injunction based on the other alleged violations.

In April 2026, a three-judge panel for the Eleventh Circuit upheld the district court's denial of the injunction in *ABC Florida First Coast Chapter*, but on different grounds. Although the panel found that the district court should have considered the possibility of irreparable harm with respect to each of the plaintiffs' claims before denying injunctive relief, under Eleventh Circuit precedent, the panel indicated that it could affirm the lower court's decision on any ground supported by the record, regardless of whether that ground was previously relied upon or considered. At the urging of the plaintiffs and the government, the panel considered whether the plaintiffs' facial challenge was likely to succeed on the merits.

The panel determined that the plaintiffs were unlikely to succeed on the merits of each of their claims. The panel rejected the plaintiffs' argument that the PLA requirement was facially invalid under the Competition Act because it violated the law's mandate of full and open competition. Noting the availability of exceptions to the PLA requirement in EO 14063, the panel observed, "Assuming agencies take these exceptions seriously, it is impossible for the order to conflict with the Competition Act because the exceptions incorporate the Act by reference."

The panel similarly rejected the plaintiffs' claim that President Biden lacked the authority under the Property Act to issue EO 14063. The panel indicated that the law authorizes the President to "prescribe policies and directives that the President considers necessary to carry out [the law]," and the President has substantial discretion to identify conditions he considers necessary. In this case, the court noted that President Biden had determined that PLAs promote efficient and timely procurement by the federal government by providing structure and stability on large-scale construction projects.

The panel further held that the plaintiffs were unlikely to succeed on their First Amendment and APA claims. The panel found that the plaintiffs not only failed to establish that their members were engaged in protected activities under the First Amendment but also did not explain how the PLA requirement would restrict these activities. The panel reasoned that "[a]bsent a 'significant' impediment to 'some form of expression,' we cannot conclude that the mandate to enter into project labor agreements violates the freedom of association." Examining the rule to implement EO 14063, the panel determined that it was not arbitrary and capricious in violation of the APA, contending that the agencies were "not at liberty to disregard lawful directives from the President." The panel also concluded that the plaintiffs were unlikely to succeed on their claims under the OFPPA and NLRA.

ABC and ABC Florida First Coast Chapter continue to challenge the PLA requirement as of this writing. In June 2026, the plaintiffs filed a petition for rehearing by the full Eleventh Circuit.

Project Labor Agreement Legislation

Like the varying executive orders issued between 1992 and 2022, recent legislation involving PLAs has attempted to either limit or encourage their use. H.J. Res. 132 was introduced in the 118th Congress to invalidate the 2023 PLA rule pursuant to the Congressional Review Act. The Fair and Open Competition Act (S. 1064/H.R. 2126) was introduced in the 118th and 119th Congresses to "maintain Federal Government neutrality towards the labor relations of Federal Government contractors." If enacted, the bill would require agency heads to ensure bid specifications, project agreements, or other controlling documents do not mandate or prohibit a bidder, offeror, contractor, or subcontractor from entering into, or adhering to, agreements with one or more labor organizations, with respect to a federal construction contract.

Other bills would require the use of a PLA on specified construction projects or would prioritize projects that use a PLA when awarding federal funds. The All Aboard Act of 2025 (H.R. 4790/S. 2520) would establish a new grant program to enable or improve electrified rail operations. Projects funded by a grant would be required to use a PLA. If enacted, the Next Generation Shipping Act (H.R. 9454/S. 4935) would direct the Secretary of Transportation to establish a new program to support the development and deployment of zero-emission vessel technology and charging or fueling infrastructure. To implement the program, the bill would allow the Secretary to provide financial assistance to projects that conduct research on such technology and infrastructure. Projects that engage in specified activities, such as "utiliz[ing] a project labor agreement," would be given priority for funding.

Jon O. Shimabukuro, Legislative Attorney

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