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Headquartered in Seattle with offices in Tacoma, Bellingham, Yakima, and Olympia, the AGC of Washington is a professional association of commercial contractors who join together to enhance the performance and representation of members, to promote the respect and integrity of the industry, and to improve the quality of life in our communities.

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Obama Signs Executive Orders Undoing Bush's Support for Open Shop

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By Judd Lees, Williams Kastner

During his two terms in office, President Bush did not make many friends of organized labor when he passed several Executive Orders which appeared to open up federally-funded projects to open shop contractors. One in particular did away with project labor agreements mandating the use of union hiring halls and payment of union wages and fringe benefits on federal projects. President Obama has wasted little time in responding to labor supporters by setting aside many of these Executive Orders. On January 30, 2009, President Obama signed three Executive Orders sought by organized labor and, on February 6, signed a fourth Executive Order encouraging federal agencies to consider requiring the use of project labor agreements on large-scale federal funded construction projects. The President justified his actions by announcing that "you cannot have a strong middle class without a strong labor movement."

The first Executive Order, entitled "Notification of Employee Rights under Federal Labor Laws," revokes the so-called Beck notice requirements and requires qualifying federal contractors to post a written notice advising employees of their rights to bargain collectively, to engage in freedom of association, and to designate a bargaining representative. The notice will be prepared by the Secretary of Labor within 120 days of the January 30 signing. The second Executive Order, entitled "Economy in Government Contracting," disallows reimbursement under federal cost-reimbursement contracts for employer costs associated with campaigning against union certification efforts. Such costs could include consultation with legal and management consultants as well as so-called employer "captive audience" speeches to employees. The new Executive Order will require participating non-union contractors to utilize accounting procedures to segregate these costs.

The third Executive Order is aimed at undermining the ability of non-union successors to federal service contracts to supplant union employees working under the old contracts. Under this Executive Order, all service contracts and solicitations for such contracts must include a provision requiring new contractors and subcontractors to offer rights of first refusal of employment to workers employed under the predecessor contract. Successor employers cannot bring in their own employees until such offers are made and refused. The Order is designed to avoid replacing union contractors with nonunion contractors on federal service contracts.

Last but not least, the President signed an Executive Order revoking Bush Executive Orders doing away with project labor agreements on federally funded projects and, instead encourages federal agencies to consider such agreements on a project-by-project basis for large-scale, federally funded construction projects of at least \$25 million. While the Order does not mandate project labor agreements, the Office of Management and Budget has been asked to provide recommendations as to whether the Order should be further broadened.

Judd Lees is an attorney with Williams Kastner and a member of the AGC Legal Affairs Committee.