

President Issues Executive Order Encouraging the Use of Project Labor Agreements on Federal Construction Projects

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In a sharp reversal of existing federal policy, and yet another move signaling the Obama Administration's policy shift to a stance that is far more friendly to unions than that of his predecessor, on February 6, 2009, President Obama issued Executive Order 13502, which encourages the use of project labor agreements (PLAs) on federal construction projects. Pursuant to an Executive Order issued by President Bush in 2001, the federal government had not been permitted to require any contractor on a federal construction project to enter into a PLA, or any other agreement, with one or more labor unions. The Executive Order is effective immediately, and its ramifications may be significant.

PLAs are pre-hire collective bargaining agreements that establish terms and conditions of employment – including wages, benefits and hours of work – for workers on a construction project, typically in exchange for the pledge of unions on the project not to strike. PLAs often have multiple union signatories covering most of the jobs on the project, and are binding on all contractors and subcontractors on a project.

The Executive Order encourages the use of PLAs on all "large-scale" construction projects, which the Executive Order defines as construction projects where the cost to the federal government is \$25 million or more, though it does not prohibit the use of PLAs on smaller projects. Although the Executive Order does not *require* the use of PLAs on covered projects, and only encourages executive agencies to do so, the expectation is that federal agencies, with generally pro-union Obama appointees at the helm, will most likely require the use of PLAs for those projects covered by the Executive Order.

This Executive Order is likely to have significant ramifications in the wake of the recently-passed \$787 billion stimulus package, a substantial portion of which is allocated to funding construction projects. As a result, many construction firms may be compelled to agree to PLAs on federally-funded construction projects for the first time. Not only will these firms face likely difficulties in navigating the uncharted waters of participating in the negotiations for a PLA, but they may also be forced to pay higher, union-level wages and benefits to their workers than they are otherwise accustomed to paying on projects.

For Further Information

If you have any questions regarding this Alert or would like more information regarding the issues presented above, please contact any [member](#) of the [Employment & Immigration Practice Group](#), any [member](#) of the [Construction Group](#), or the attorney in the firm with whom you are regularly in contact.