

Legal Update Article

# **FAR Rule Implements EO-Mandated Use of Project Labor Agreements on Large Federal Construction Projects**

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## Meet the Authors



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The Federal Acquisition Regulatory Council (FAR Council) has issued a [final rule](#) establishing a project labor agreement (PLA) requirement for contracts that meet the definition of federal “large-scale construction projects” that are estimated to cost the U.S. government at least \$35 million. The new rule goes into effect Jan. 22, 2024.

### Executive Order 14063; Proposed Rule

On Feb. 4, 2022, President Joe Biden signed Executive Order 14063, [Executive Order on Use of Project Labor Agreements for Federal Construction Projects](#). That Order provided that, with certain exceptions, government contractors and subcontractors working on federal construction projects that meet the threshold of \$35 million must “become a party to a project labor agreement [PLA] with one or more appropriate labor organizations.” The Order explained that Biden issued it because PLAs “avoid labor-related disruptions on projects by using dispute-resolution processes to resolve worksite disputes and by prohibiting work stoppages, including strikes and lockouts.”

The Order directed the FAR Council to propose regulations implementing the provisions of the Order, evaluate public comments on the proposed regulations, and then promptly issue a final rule. By its terms, the Order was to apply to all contract solicitations issued on or after the effective date of the final regulations.

The FAR Council issued proposed regulations in August 2022. Thousands of comments from interested parties were submitted. Construction industry groups expressed some common objections to PLAs, such as the proposed regulations placing non-union contractors at a disadvantage and will likely lead to increased costs on projects.

### Final Rule Issued

On Dec. 22, 2023, the FAR Council issued its final rule, with minimal changes to its proposed regulations.

In announcing the final rule, the Biden Administration explained that, in its view, the new final rule promotes “economy and efficiency in Federal procurement” by eliminating the risk of delay associated with labor unrest, among other reasons.

The Executive Order and its final rule provide exceptions to be made case-by-case, such that some larger projects may end up not requiring PLAs. Nevertheless, construction employers should assume that large-scale federal projects that require coordination among various contractors and subcontractors across several trades will require a PLA that, at a minimum, complies with the Order’s requirements, including by providing guarantees against strikes and lockouts and dispute resolution procedures. Moreover, although the Order does not provide for any mandated wage rates on such projects, construction employers should assume that union officials negotiating these PLAs will strongly push for wage rates consistent with union collective bargaining agreements in the relevant area.

Jackson Lewis attorneys have extensive experience in navigating PLAs on state and federal projects, including for employers that are generally non-union. Please contact a Jackson Lewis attorney if you have any questions about this Order and the final rule.

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