

Preliminary Injunction of Recent DoD + GSA Memo Means Federal Contractors Must Continue to Comply with Biden-Era Project Labor Agreement EO + FAR

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May 27, 2025

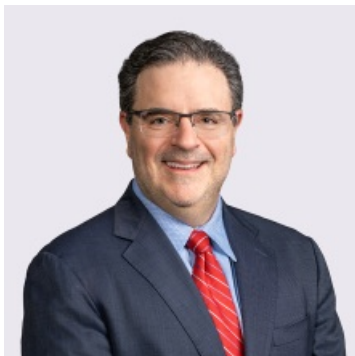
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Takeaways

- The injunction vacates federal agencies' memoranda exempting certain construction projects from mandatory PLA requirements.
- Executive Order 14063 (EO) and related Federal Acquisition Regulations requiring PLAs on large-scale federal construction projects remain in effect.
- Despite the injunction, the Trump Administration is likely to continue scaling back the use of PLAs on federally funded projects.

Related links

- [Use of Project Labor Agreements for Federal Construction Projects](#)(EO 14063)
- [Federal Acquisition Regulation: Use of Project Labor Agreements for Federal Construction Projects](#)
- [Additional Recissions of Harmful Executive Orders and Actions](#)(EO 14236)

Article

A D.C. federal judge granted the North America's Building Trades Union and Construction Trades Council's request to enjoin the recent memoranda exempting certain construction projects from Executive Order (EO) 14063. *North America's Building Trades Unions (NABTU) v. Department of Defense et al*, No. 1:25-cv-01070 (DDC May 16, 2025).

Executive Order 14063 is a Biden-era rule requiring every federal contractor to enter into a Project Labor Agreement on federal construction projects over \$35 million. The Federal Acquisition Regulatory Council implemented this rule in 2023 as a Federal Acquisition Regulation. In February 2025, the Department of Defense (DOD) and Federal General Services Administration (GSA) issued memoranda purportedly eliminating this requirement. The North America's Building Trade Union's filed suit seeking to enjoin the DOD and GSA memoranda.

The court held the two unions demonstrated a substantial likelihood of establishing that the memoranda are contrary to law and violate the Administrative Procedure Act in deviating from the EO requirements without "providing adequate justification or following the proper exception process." The court further noted that agencies are bound by EOs until they are "rescinded or overridden through lawful procedures." Accordingly, the DoD and GSA memoranda were vacated.

PLA Basics

A PLA is a pre-hire, collective bargaining agreement that contractors enter with one or more labor organizations establishing terms and conditions of employment for a specific construction project. The PLA can include dispute resolution procedures, wages, hours, working conditions and bans on work stoppages.

Under the EO, non-union contractors may bid for and work on covered federal PLA projects, but they must abide by the terms of the PLA (and the applicable terms of collective bargaining agreements referenced therein) for the duration of that project. For contractors already signatory to a union contract, the PLA is an additional layer to the existing union agreement. The non-union contractor need not sign on to union agreements for other work not covered by the PLA.

Executive Order 14063

Former President Joe Biden signed Executive Order 14063, [Use of Project Labor Agreements for Federal Construction Projects](#), on Feb. 4, 2022. 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 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.”

On Dec. 22, 2023, the FAR Council, after issuing a proposed rule and receiving public comment, issued its [final rule](#) implementing the EO, with minimal changes to its proposed regulations.

Trump Administration Impact

The lawsuit highlights ongoing legal challenges over the Biden Administration’s mandatory PLA requirements. Recently, in *MVL USA Inc. v. United States*, several construction companies filed a lawsuit in the U.S. Court of Federal Claims challenging the legal authority of federal agencies to mandate PLAs under the EO. 174 Fed. Cl. 437 (Fed. Cl. 2025). The court found in favor of the construction companies, holding the PLA mandate, as applied in those cases, violated full and open competition under the Competition in Contracting Act because it excludes responsible offerors declining to enter PLAs, even when the data indicates an exception should be made. While the D.C. Circuit noted in *NABTU v. DoD* that the holding was limited to the specific procurements in that case, the case will likely serve as precedent when future bidding challenges arise.

Nonetheless, President Trump is expected to make efforts to revoke or scale back the mandate during his administration. On March 14, 2025, for example, he issued [EO 14236](#) (Additional Rescissions of Harmful Executive Orders and Actions) which revoked Biden-era EO 14126 (Investing in America and Investing in American Workers) that encouraged federal agencies to prioritize projects involving PLAs, among other pro-labor agreements. EO 14236 does not impact the PLA mandate, but it does indicate the Trump Administration will, at the very least, minimize the use of PLAs going forward.

Although the district court decision is subject to appeal, the federal PLA mandate is still in effect. Construction employers should therefore anticipate that large-scale federal projects may require PLAs that comply with EO 14063’s requirements.

Please contact a Jackson Lewis attorney with any questions.

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