

February 7, 2022

## AGC Memo: What Federal Contractors Should Know About the New PLA E.O.

### Background

On February 4, 2022, President Biden signed a new [Executive Order on Use of Project Labor Agreements For Federal Construction Projects \(PLA\)](#). When in effect, this Executive Order (E.O.) will require every prime contractor and subcontractor to engage in negotiation or agree to PLAs on federal construction projects valued at \$35 million or more. Rest assured, AGC of America will rigorously explore every possibly available legal option to push back against this E.O., as underscored in the association's recent [statement](#).

AGC of America neither supports nor opposes contractors' voluntary use of PLAs on government projects or elsewhere but strongly opposes any government mandate for contractors' use of PLAs. AGC is committed to open competition for publicly funded work. AGC has long

To that later point, according to an AGC of America analysis of data obtained via a [Construction Advocacy Fund](#) financed lawsuit under the Freedom of Information Act, the Department of Defense federal construction agencies which perform the lion's share of federal construction—rejected PLA mandates

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x Requirement-

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- o (c) "Large scale construction project means 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. The Federal Acquisition Regulatory Council (FAR Council), in consultation with the Council of Economic Advisers, may adjust this

#### Conclusion

There are important questions that remain unanswered, but this E.O. is clearly intended to pressure contracting officers, and other federal agency personnel, to mandate PLAs on federal construction projects. AGC will comment on the proposed regulation when it is issued and is assessing all options to oppose this E.O. from being implemented.

AGC strongly believes that the choice of whether to adopt a collective bargaining agreement should be left to the contractor-employers and their employees, and that such a choice should not be imposed as a condition to competing for, or performing on, a publicly funded project. Government mandates and preferences for PLAs can restrain competition, drive up costs, cause delays, lead to jobsite disputes and disrupt local collective bargaining. In cases where use of a PLA would benefit a particular project, the construction contractors otherwise qualified to perform the work would be the first to recognize that fact and to adopt a PLA voluntarily. They would also be the most qualified to negotiate the terms of such an agreement. Contractors should communicate with their contracting officer to determine which contracts will be affected.

#### Additional Information

- x [AGC of America's Website on its Opposition to Government Mandated Project Labor Agreements](#)
- x [AGC Guidebook: Government Mandated Labor Agreements in Public Construction: Their History and Factors to Consider](#)
- x [How Government Mandates for Project Labor Agreements Hurt Union Contractors](#)
- x [How Government Mandates for Project Labor Agreements Hurt Shop Contractors](#)