

Mandatory Unionization at Large Federally-Funded Construction Projects

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The federal infrastructure law devotes billions of dollars to construction sites and other projects. When the law was initially proposed, there was skepticism and concern that the huge federal investment would come with consequences such as mandatory unionization. See our prior article [here](#). The infrastructure law itself does not require unionization, but President Biden recently issued an Executive Order mandating the use of project labor agreements on federally procured construction projects of more than \$35 million.

A project labor agreement (“PLA”) guarantees that work on a construction site is performed by unionized workers who are automatically covered by the PLA, a unique type of collective bargaining agreement. PLAs are not a novel pro-union tactic, but uniformly requiring them on large federally funded construction sites is a new, controversial step that mandates unionization on that site regardless of the employee’s choice.

Some senators have begun pushing back against President Biden’s Executive Order. They argue in part: “mandating PLAs will prevent qualified contractors from fairly competing for contracts.” And that PLAs “will also deny critical construction jobs to local workers and small businesses and increase construction costs.” Opposition from the senators will likely not convince the Biden Administration to change course. The Administration views PLAs as part of its overall push for “good-paying union jobs,” a theme promoted by Vice President Harris during her recent visit to North Carolina.

Unions and the Biden Administration contend that PLAs help by controlling strikes and pooling available construction workers. Even if true, however, PLAs restrict competition, increase labor costs, and cause complications during and after the project. The day-to-day implications of a PLA can be quite foreign for most non-union contractors. For example, PLAs make the union the exclusive spokesperson for employees, even those who prefer not to be unionized, impose inefficient work practices, generate workplace grievances, and result in possible liability for union pension problems.

In addition to imposing PLAs, the Biden Administration has announced other new requirements for federally funded construction projects, including:

- Raising the minimum wage for federal contractors to \$15.00 an hour;
- Proposing changes to calculating the “prevailing wage” rates set by the Davis-Bacon Act;
- Increasing audits of employers and related reports subject to the Davis-Bacon Act;
- Developing pro-union changes to the National Labor Relations Act and related regulations

Infrastructure investment comes at a price, particularly mandatory unionization on certain federally funded construction sites and other new requirements imposed on employers. For additional information about PLAs and other related developments, contact a member of Nexsen Pruet’s Labor and Employment Practice Group.