



TRI - REGIONAL JETS 2025





Project Labor Agreements:

Navigating Opportunities and Challenges in Federal Construction



Panelists:

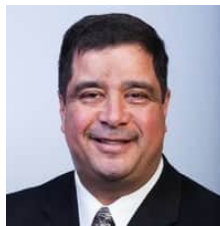
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Project Labor Agreements: Background

- In February 2022, President Biden issued **Executive Order 14063**, which directed federal agencies to require PLAs on federal construction contracts estimated at \$35 million or more, unless an exception applied.
- To implement that EO, the Federal Acquisition Regulatory (FAR) Council promulgated a final rule (published December 22, 2023) amending FAR Subpart 22.5 (and implementing clauses such as FAR 52.222-33 / 52.222-34).
- Under the FAR rule, any “large-scale construction project” (i.e. \$35 million or more) is required to include a PLA, **unless an exception is granted** under criteria laid out in FAR 22.504(d).
- The rule became effective on **January 22, 2024** for new solicitations.
- The PLA mandate is in place for new federal construction solicitations $\geq$ \$35 million (subject to exceptions).

Legal Challenges

- **Court of Federal Claims decision (January 2025)**
 - In *MVL USA, Inc. v. United States*, Judge Ryan Holte ruled that the PLA mandate (as implemented via FAR) violated the **Competition in Contracting Act (CICA)** by excluding potential offerors who might not want to or be able to comply with union-oriented terms.
 - The court held that the executive branch lacked authority to impose such a requirement without statute.
 - Importantly, the court's ruling was not accompanied by a nationwide injunction. Thus, for now, solicitations that include the PLA requirement must still be followed unless and until further court order or revision.
- **Preliminary injunctions against agency memos attempting to exempt certain projects**
 - In May 2025, a D.C. federal judge granted an injunction that vacated Department of Defense (DoD) and GSA memoranda which sought to exempt certain projects from the PLA requirement, ruling that those memoranda were inconsistent with the EO and lacked appropriate justification under the exception procedures.
 - As a result, agencies remain bound by EO 14063 and the associated implementing FAR provisions in the absence of further judicial rulings.
- **Agency deviations & withdrawals**
 - The Department of Defense (in early 2025) issued a class deviation to cease mandating PLAs on large-scale projects — essentially attempting to remove the requirement — though this was arguably in conflict with the FAR and EO regime.
 - The Department of Veterans Affairs (VA) also reportedly banned PLAs in some contracts following the court decision, although the VA later reversed the ban in at least one case.
 - The General Services Administration (GSA) has not entirely dropped the requirement but has issued at least one project-level exception (e.g., a land port of entry) from PLA requirements.
- **Industry commentary & legal analyses**
 - Several legal alerts and industry sources assert that the PLA mandate is, for now, “unlawful” or in serious jeopardy.
 - Some firms argue that contracts already executed under FAR 52.222-34 should still be honored, unless and until the rule is invalidated or rescinded.

Current Practical Status

- Given the above mix of regulation, court rulings, and agency deviations, here's where things stand currently (mid-2025):
 - **In theory**, the PLA requirement is still part of the Federal Acquisition Regulation for new federal construction solicitations $\geq$ \$35 million (unless an exception applies).
 - **In practice**, enforcement is uncertain and contested. Contractors may see PLA clauses in solicitations, but the legal requirement may be challenged in each case.
 - Agencies are experimenting with deviations or exemptions in certain projects, especially in light of the court ruling.
 - Because the CFC decision did not issue a broad injunction, there is still ambiguity whether future solicitations with PLA clauses will stand or be protested successfully.
 - Some industry stakeholders advise continuing to comply with PLA clauses in contracts where they appear, until there is clearer legal resolution.

Panel Discussion and Q&A





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