



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

July 10, 2009

M-09-22

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Peter R. Orszag
Director

SUBJECT: Implementation of the President's Executive Order on Project Labor Agreements (PLAs)

On February 6, 2009, the President issued Executive Order 13502 (the Order). In the Order, the President announced that it is the Federal Government's policy "to encourage executive agencies to consider requiring the use of project labor agreements in connection with large-scale construction projects [i.e., projects where the cost to the Federal Government exceeds \$25 million] in order to promote economy and efficiency in Federal procurement." By its terms, the Order applies "to all solicitations for contracts issued on or after the effective date of the action taken" by the Federal Acquisition Regulatory Council (FAR Council) to implement the Order.

This week, the FAR Council transmitted for publication in the Federal Register two notices that (1) repeal, effective immediately, a rule prohibiting agencies from requiring PLAs (this rule had implemented a prior executive order on PLAs that the President revoked), and (2) propose for public comment a new rule to implement the President's Order.

The Administration is committed to implementing the President's Order without delay, and the FAR Council will move expeditiously to review and consider the public's comments that it receives on the proposal and to prepare a final rule.

With the revocation of the prior executive order that had restricted the use of PLAs and with the FAR Council's rescission of its prior implementing rule restricting the use of PLAs, agencies are no longer prohibited from requiring the use of a PLA when permitted by law and when the agency determines that it is appropriate to do so. Accordingly, in light of the benefits that PLAs may offer to Federal agencies in construction projects, agencies are encouraged, during this interim period prior to the FAR Council's issuance of its final rule, to consider the value of PLAs on a project-by-project basis, and to require the use of PLAs in appropriate circumstances and to the extent permitted by law.

As noted above, the Administration seeks to implement the new FAR rule and the President's Order in a timely and effective manner. Therefore, please direct your agency to take all necessary actions so that, when the FAR Council issues its final rule, your agency will be prepared to promptly implement both the rule and the Order.

Finally, in order to gather information on how agencies use PLAs under the Order, agencies are asked to submit quarterly (on February 1, May 1, August 1, and November 1) a report indentifying all contracts awarded in connection with "large-scale construction projects," as defined in the Order, including the contract number, dollar value of the total contract award, and the product and service code describing the project. For each such contract, agencies should indicate whether a PLA was required in the solicitation, provide a brief explanation of the considerations in deciding whether a PLA was appropriate for the project, and specify at what organizational level the decision was made. Agencies should submit this information to PLA-Activity-Report@omb.eop.gov.