

**Congress of the United States**  
**Washington, DC 20515**

September 29, 2022

The Honorable Joseph R. Biden Jr.  
President of the United States  
The White House  
1600 Pennsylvania Ave, NW  
Washington, DC 20500

Dear President Biden:

We write to express our concern with the recent proposed rule entitled “Federal Acquisition Regulation: Use of Project Labor Agreements for Federal Construction Projects.”

On February 4, 2022, you published E.O. 14063 on Use of Project Labor Agreements for Federal Construction Projects, which mandates project labor agreements (PLAs) on federal construction contracts of \$35 million or greater. Since that announcement we have expressed strong opposition to this effort, which would undermine taxpayer investment in public works projects.

The stated goal of E.O. 14063 is to promote economy and efficiency in federal procurement, but it would undoubtedly have the opposite effect. A recent Associated General Contractors survey<sup>1</sup> found 73 percent of federal contractors would not bid on a federal construction contract that includes a government-mandated PLA. Eighty-eight percent of respondents stated E.O. 14063 would raise costs, while 0 percent of respondents stated it would lower costs.

In response to E.O. 14063, a Federal Acquisition Regulation Council proposed rule (FAR Case 2022-003) was published on August 19, 2022. While the proposed rule would have negative impacts nationwide, it would cause significant delays in the Midwest. There are simply not enough union-connected workers in our states to support the current robust demand for federal contractors. According to the U.S. Bureau of Labor Statistics<sup>2</sup>, 4 percent of employees in South Dakota were members of a union in 2021, while 6.5 percent were members in Iowa, 6.8 percent in Nebraska, and 5.4 percent in North Dakota.

The proposed rule would make it more difficult to find the local workers and local businesses needed to keep projects on schedule, especially during this historic shortage of skilled construction workers. Additionally, while the construction industry faces significant supply chain disruptions and unprecedented increases of input costs, which are up more than 40 percent since the beginning of the COVID-19 pandemic<sup>3</sup>, this proposed rule would only exacerbate ongoing inflation and costs for taxpayers. Many of our states have independently passed laws to prohibit government-mandated PLAs on state and state-assisted taxpayer-funded construction projects for this very reason.

Federal agencies themselves recognize that mandatory PLAs are unworkable. As you know, in the second month of the Obama administration, President Obama issued E.O. 13502 that allowed, and continues to allow, federal agencies to require PLAs for projects of \$25 million or greater on a case-by-case basis.<sup>4</sup> But since then, in validation that PLA mandates are inefficient and, in most every instance, not plausible, federal agencies have only required PLAs on 12

---

<sup>1</sup> [https://www.agc.org/sites/default/files/users/user21902/2022\\_PLA\\_Survey\\_FactSheet\\_F.pdf](https://www.agc.org/sites/default/files/users/user21902/2022_PLA_Survey_FactSheet_F.pdf)

<sup>2</sup> <https://www.bls.gov/news.release/union2.t05.htm>

<sup>3</sup> <https://www.abc.org/News-Media/News-Releases/entryid/19596/monthly-construction-input-prices-dip-in-august-but-are-up-17-from-a-year-ago-says-abc>

<sup>4</sup> <https://obamawhitehouse.archives.gov/realitycheck/the-press-office/executive-order-use-project-labor-agreements-federal-construction-projects>

out of approximately 2,000 eligible, large-scale construction projects from the issuance of this executive order in February 2009 through 2021.<sup>5</sup> While the administration uses this to justify its new rule, it shows how truly impractical this requirement would be for federal agencies to implement.

We oppose any efforts to continue with a final rulemaking process and request the proposed rule be rescinded. We appreciate your thoughtful consideration of our request to protect our economy and workforce and business owners throughout our states.

Sincerely,



John Thune  
United States Senator



Dusty Johnson  
Member of Congress



M. Michael Rounds  
United States Senator



Mariannette Miller-Meeks, M.D.  
Member of Congress



Deb Fischer  
United States Senator



Kelly Armstrong  
Member of Congress



John Hoeven  
United States Senator



Randy Feenstra  
Member of Congress

---

<sup>5</sup> <https://www.federalregister.gov/documents/2022/08/19/2022-17067/federal-acquisition-regulation-use-of-project-labor-agreements-for-federal-construction-projects>