

AGC Persuades Corps of Engineers to Withdraw PLA Requirement

August 18, 2010

Solicitations requiring bidders on certain U.S. Army Corps of Engineers (USACE) construction projects to submit an executed project labor agreement (PLA) prompted AGC to write and call agency officials expressing strong concern. On August 18, the agency called AGC to announce that it was withdrawing the PLA requirement and to thank AGC for educating them on the issue.

On August 12, AGC sent a [letter](#) to the USACE's Mobile District demanding information about the agency's justification for including a PLA mandate in a solicitation for the construction of an Air Force Technical Applications Center at Patrick Air Force Base in Florida. The letter questioned how it determined that the conditions listed in President Obama's [executive order](#) on PLAs were present. The requirement, along with similar mandates by other contracting agencies and information about pressure from higher in the Administration, also prompted AGC to send a [letter](#) calling on President Obama to protect contracting officers from such political pressure, and to send an "unmistakable and public" message that political appointees should not cross the line between politics and procurement.

AGC's letter to the USACE pointed out that the executive order leaves the agency free to refrain from requiring a PLA on the Patrick Air Force Base project and that it permits the agency to require a PLA only if the USACE has determined that all of the following conditions exist:

1. The project will cost the federal government \$25 million or more;
2. Use of a PLA on the project will advance the federal government's interest in achieving economy and efficiency in federal procurement;
3. Use of a PLA on the project will advance the federal government's interest in producing labor-management stability;
4. Use of a PLA on the project will advance the federal government's interest in ensuring compliance with laws and regulations governing safety and health, equal employment opportunity, labor and employment standards, and other matters; and
5. Use of a PLA will be consistent with law.

The six-page letter sets out a number of specific issues that the agency should have considered in making its determination and points out the practical implications of government mandates for PLAs. The letter also points out the possible repercussions of the agency's decision to require all offerors to negotiate and execute a PLA prior to submitting a bid on the project.

AGC raised similar issues in a [second August 12 letter](#) sent to high-ranking officials at USACE headquarters. The letter urges the agency to exercise the broad latitude granted to it by the executive order and its [implementing regulations](#) to refrain from imposing any PLA mandates, and to direct its division and district commands to follow suit. Given the political pressure to consider PLAs, AGC also provided the agency with a recommended approach for conducting a thorough, fact-based analysis of particular criteria for determining the appropriateness of a PLA mandate, demonstrating the many complications inherent in such mandates and the impediments that they present to achieving economy and efficiency in government procurement.

The letters are the latest of AGC's continuing efforts to educate government agencies about PLA issues and implications. While AGC neither supports nor opposes PLAs in general, AGC strongly opposes *government mandates* for PLAs on publicly funded construction projects. AGC is committed to free and open competition in all public construction markets and believes that publicly funded contracts should be awarded without regard to the lawful labor relations policies and practices of the government contractor.

Best,
Marco

Marco A. Giamberardino, MPA
Senior Director
Federal and Heavy Construction Division
The Associated General Contractors of America
2300 Wilson Boulevard
Suite 400
Arlington, VA 22201
(p) 703/837-5325
(f) 703/837-5407
giamberm@agc.org
Quality People. Quality Projects.

To browse the threaded discussion board, click [here](#) . For a complete list of rules, click [here](#) .
To unsubscribe from the **execnet** list, click [here](#) .