



Construction Industry Round Table

Regulatory News

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5/21/09 – Expansive Use of PLAs Being Considered by Obama Administration

As part of the Obama Executive Order 13502 (“Use of Project Labor Agreements for Federal Construction Projects”) which “encourages executive agencies to consider requiring the use of project labor agreements” the Director of OMB and DOL were to provide “recommendations about whether broader use of the project labor agreements, with respect to both construction projects undertaken under Federal contracts and construction projects receiving Federal financial assistance,” should also be subject to the dictates of EO 13502.

In meetings with these administration officials -- representatives from the construction community, including CIRT, raised grave concerns about the impact such an unprecedented expansion would have on competitiveness, costs, non-union contractors, prevailing work rules, other voluntary PLAs entered into on private sector contracts, labor jurisdictional disputes, as well as the potential legal challenges such an expansion would invite. Currently, the law and court cases appear to make it clear that the federal government must be a party to the agreement (the Supreme Court concluded that the federal government must be acting as a “proprietor” and interacting with the private participants in the marketplace) otherwise it is outside of its authority to impose such a labor agreement.

It was explained that the delicate balance between labor and management can only be maintained in a competitive environment. When market forces are missing or supplanted (i.e., the federal government favoring PLAs) then the system is not going to produce “sound results” (and may even produce potentially harmful outcomes from a competitiveness/cost standpoint). If you have examples of PLAs that worked and why or how lack of market forces have resulted in bad PLAs or unworkable situations that could not be agreed upon – please forward them to CIRT by email.