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GSA Office of Governmentwide Policy

SPE Memo SPE-2025-05

MEMORANDUM FOR ALL PBS CONTRACTING ACTIVITIES AND HEADS OF CONTRACTING ACTIVITY

FROM: JEFFREY A. KOSES  
 SENIOR PROCUREMENT EXECUTIVE  
 OFFICE OF ACQUISITION POLICY (MV)

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SUBJECT: Class Exception to Requiring a Project Labor Agreement for Land Ports of Entry

**1. Purpose.** The purpose of this memorandum is to notify the Public Buildings Service (PBS) of the Senior Procurement Executive's (SPE) decision to grant a "class exception" from the Federal Acquisition Regulation [22.503\(b\)](#) requirements to mandate the use of project labor agreements (PLAs) for all Land Port of Entry (LPOE) construction projects.

**2. Background.** The FAR requires PLAs in large-scale construction projects with an estimated cost of \$35,000,000 or more. However, if at least one of the three available exceptions at FAR [22.504\(d\)](#) applies with respect to a contract<sup>1</sup>, the SPE may grant an exception by providing a specific written explanation.

**3. Basis for Granting Class Exception.** Based on recent historical projects and anticipated expedited timelines, I have determined that this class exception for GSA LPOE projects meets the requirement of FAR 22.504(d) as follows.

*a. The agency's need for the project is of such an unusual and compelling urgency that a project labor agreement would be impracticable (FAR 22.504(d)(1)(i)(D)).*

Requiring a PLA on LPOE projects would not advance the Federal Government's interests in achieving economy and efficiency in Federal procurement because the need for LPOE modernizations is of an unusual and compelling urgency and requiring a PLA would be impracticable.

A current administration priority is to remedy the emergency on the United States

<sup>1</sup> As this SPE exception documents, not only do these conditions exist with respect to one contract, but GSA, via the Public Buildings Service, has documented that multiple conditions exist continually on GSA LPOE projects and there is no expectation that these conditions will end.

borders. [Executive Order \(E.O.\) 14165](#) provides, in relevant part<sup>2</sup>,

“[a] nation without borders is not a nation, and the Federal Government must act with urgency and strength to end the threats posed by an unsecured border” and

“[i]t is the policy of the United States to take all appropriate action to secure the borders of our Nation through the following means [including]: (a) Establishing a physical wall and other barriers monitored and supported by adequate personnel and technology [and] (b) Deterring and preventing the entry of illegal aliens into the United States.”

The GSA LPOE projects are essential to helping ensure legal entry into the United States. LPOE construction not only modernizes international bridges but also updates the federal buildings in which federal agencies such as the U.S. Customs and Border Protection, U.S. Department of State, and the U.S. Food and Drug Administration stand ready to protect the nation's borders. GSA has found that including a PLA requirement for projects in remote rural locations, without strong existing union presence, causes delays such as the need for additional outreach and industry communication to explain PLAs (e.g., extensive bidder conferences and FAQs on PLAs, tri-agency PLA informational sessions, GSA senior and political leader engagements in various forums, matchmaking sessions). These delays allow additional time for potential contractors to develop internal capacity to manage PLAs, but also increase risk of bid protests (see the [Associated Builders and Contractors response to U.S. Court of Federal Claims decision on PLAs](#)).

- b. *Market research indicates that requiring a project labor agreement on the project would substantially reduce the number of potential offerors to such a degree that adequate competition at a fair and reasonable price could not be achieved (FAR 22.504(d)(1)(ii)).*

Market research for recent LPOE projects indicates a high probability for substantial reduction in the number of potential offers and a substantial increase in price for future projects along the Northern and Southern borders due to the very limited labor pool and even lower unionization rates in these geographic areas. Historically these areas only receive one or two responses. According to PBS PLA market research, there is an average of 3-4 respondents to GSA's Request for Information on LPOE procurements. However, the actual number of offers received by PBS was much lower. In addition, in a recent procurement, when using an existing indefinite-delivery/indefinite-quantity (IDIQ) construction contract vehicle, there was a lack of interest by IDIQ vendors and that reduced competition is directly related to the inclusion of the PLA requirement with an already limited pool of unionized labor available for construction projects in remote areas. In this instance, only one viable offer was available for GSA's consideration. The proposed order amount was considerably higher than the GSA estimate and required

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<sup>2</sup> See E.O. 14165, Sections 1 and 2.

extensive negotiations (and therefore delays) with the offeror during contract negotiations.

Based on GSA's experience, applying the PLA requirement in LPOE project locations along the Northern and Southern borders substantially increases the likelihood that GSA will not receive adequate competition.

**4. Authority.** Federal Acquisition Regulation (FAR) [22.504\(d\)](#).

**5. Policy.** This memorandum removes the requirement for GSA's contracting activities to implement FAR [subpart 22.5](#) and [36.104\(c\)](#). Contracting officers are not required to include the following in LPOE procurements.

- All language requiring the use of project labor agreements including evaluation criteria associated with PLAs;
- FAR provision [52.222-33](#), *Notice of Requirement for Project Labor Agreement*, and its Alternates;
- FAR clause [52.222-34](#), *Project Labor Agreement* and its Alternates.

**6. Applicability.** This class exception applies to large scale construction projects for LPOE construction projects. The timing of this class exception meets the requirements of FAR 22.504(d)(3).

**7. Effective Date.** This class exception is effective immediately and remains in effect until rescinded.

**8. Point of Contact.** Any questions regarding this memorandum may be directed to [GSARPolicy@gsa.gov](mailto:GSARPolicy@gsa.gov).