August 15, 2025

President Donald J. Trump
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

RE: Use of Project Labor Agreements for Federal Construction Projects

Dear Mr. President:

On behalf of the Associated General Contractors of America ("AGC"), thank you for your steadfast commitment to cutting government waste, enhancing efficiency, and strengthening our nation's infrastructure. Our 28,000-member firms stand ready to help you continue to grow the nation's economy, create well-paying jobs, and rebuild America. To that end, I write today to request a meeting with you and appropriate people in your administration to discuss improvements to the implementation of the project labor agreement ("PLA") mandate for federal construction projects. The current situation is not great. These improvements are essential to ensuring that federal construction can be delivered efficiently, competitively, and without unnecessary delays or cost increases.

AGC is the leading association in the construction industry, representing more than 28,000 firms, from small family-run businesses to America's leading general contractors and specialty-contracting firms. AGC is unique. Through a nationwide network of 87 chapters, AGC proudly represents both union- and open-shop contractors engaged in the construction of the nation's commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, levees, locks, dams, water conservation projects, defense facilities, multi-family housing projects, and much more.

AGC does not support or oppose contractors' *voluntary* use of PLAs. However, we strongly oppose any *government mandate or prohibition* of contractors' use of PLAs. AGC has long maintained a commitment to free and open competition for publicly funded work and believes that the government should not compel any firm to change its lawful labor policies or practices to compete for or perform public work, as PLAs effectively do. If a PLA would benefit the construction of a project, the contractors otherwise qualified to perform the work would be the first to recognize that fact and to adopt a PLA voluntarily. Accordingly, AGC maintains that President Biden's Executive Order 14063 (the "Biden EO") and the Biden implementing revisions to the Federal Acquisition Regulation (the "Biden FAR Rule") should be revoked in their entirety.

AGC recognizes that the alternative position the Administration has taken as expressed in Office of Management and Budget Memorandum M-25-29 dated June 12, 2025 ("OMB Memo M-25-29") is the most recent statement of administration policy. We appreciate the clarity that OMB Memo M-25-29 provides in confirming the continuing validity of the Biden EO and the availability of project-specific exceptions from the PLA mandate versus blanket deviations. AGC understands from this memo that the Administration supports the use of PLAs when practicable and cost-effective and that it prohibits agencies from issuing blanket deviations that preclude implementing a PLA requirement.

While we are disappointed that Administration policy as expressed in the memo does not align with AGC's view that the government should not put its thumb on the scale for PLAs, we are hopeful that we can work together with you and others in the administration to improve the implementation of the policy to render it more practicable for the government, its contractors, and American taxpayers. Since the OMB Memo M-25-29 is modifying a Biden EO and a Biden FAR Rule, there are still problems. We have heard time and again from our members that perform construction services for the federal government, or wish to do so, about the real world challenges that the PLA mandate presents. Given their day-to-day experience dealing with the mandate, they offer valuable insights that your Administration may find helpful in achieving your objectives of restoring common sense in federal procurement and in creating a more agile, effective, and efficient procurement system.

This letter details numerous ways that the PLA mandate has affected federal contractors and offers specific suggestions for change should you reject our continued appeal for revocation of the Biden EO and Biden FAR Rule. As explained further below, our recommendations include: directing agencies to consider alternative PLA submission timing options; giving contractors more time for negotiating a PLA; accepting certification of good-faith effort to negotiate a PLA; permitting exceptions after offers have been collected; allowing contractors to submit offers with and/or without a PLA; empowering officials responsible for the project with authority to grant exceptions; standardizing market research questionnaires; and publishing market research results for public access. These are pretty common-sense solutions to problems our members anticipated and experienced since the Biden EO, Biden FAR Rule, and implementing guidance went into effect,

1. **Direct Agencies to Consider PLA Submission Timing Alternatives, Extend Negotiation Periods, and Accept Good-Faith Efforts**

   The Biden FAR Rule provides contracting agencies with three options. They may require submission of an executed PLA when offers are due, by all offerors, which is the standard procedure; alternatively, they may require submission of a PLA prior to award by only the apparent successful offeror or after award by only the successful offeror. To AGC's knowledge, few agencies, if any, have chosen the alternative options on any projects covered by the Biden EO to date; every solicitation of which AGC is aware has followed the standard procedure of requiring a PLA at the offer stage.[1] It is easy to see that requiring all offerors to negotiate or execute a PLA when only one offeror's PLA will be used in practice is highly inefficient and unduly wasteful of both the offerors' time and resources, as well as those of the labor organizations faced with negotiating the PLAs with multiple offerors and of the contracting agencies faced with reviewing all of them.

   Furthermore, contractors tell us that the timeframe for submitting an offer in response to a solicitation on a large-scale federal construction project is too short to allow them time to negotiate and settle the terms of a PLA. We note that recent solicitations have typically allowed contractors 30-40 days to prepare and submit responsive offers. During this compressed time, contractors must scramble to assemble all of the necessary information to prepare a responsive and competitive proposal, calling for detailed technical specifications, comprehensive cost analyses, and regulatory compliance documentation. Adding the need to negotiate a PLA during the limited time allowed compounds this already formidable task.

   Moreover, as you can imagine, the contractor has little control over how long PLA negotiation and settlement will take, or if settlement will occur at all. The union representatives on the other side of the

[1] In the preamble to the Biden FAR Rule, the Department of Defense, General Services Administration, and National Aeronautics and Space Administration assumed that each alternative will apply one third of the time – i.e., that one third of affected solicitations will require all offerors to provide a PLA, one third will require only the apparent successful offeror to provide a PLA, and one third will require only the awardee to provide a PLA. (See 88 Fed. Reg. 88724.) That assumption has turned out to be incorrect, to the detriment of competition.

negotiations often control the timing and can cause a delay either inadvertently or intentionally. Like the contractor, they too may be overwhelmed, busy dealing with area-wide collective bargaining agreement (CBA) negotiations, grievance processing, other CBA administration, and a host of other activities beside negotiating PLAs. They also are likely facing requests for PLA negotiations from several different contractors competing for the same federal project within the limited solicitation period. They may not have the ability to timely respond to every contractor that contacts them about PLA negotiation, or they may choose not to. Absent an established collective bargaining relationship with the contractor under Section 9(a) of the National Labor Relations Act ("NLRA"), unions have no legal obligation to negotiate with any particular employer nor any legal obligation to negotiate in a good-faith, nondiscriminatory, and timely manner. Thus, requiring offerors to negotiate an agreement with another party—a party with which the offeror has no authority to compel negotiations—effectively grants the other party (i.e., labor organizations here) the power to prevent certain contractors from submitting an acceptable offer.

Whether intentional or inadvertent, this gives some contractors an unfair advantage over others, likely putting those contractors without pre-existing, positive relationships with the local building trades at a disadvantage. In fact, several contractors have reported that the local unions will not negotiate with them and that, if they get a response at all, the unions present the contractors with a take-it-or-leave-it, labor-friendly PLA unilaterally written by the labor organization. The terms and conditions of such PLAs typically render the contractor non-competitive and/or undermine the government's interests of economy and efficiency in procurement.

Offerors that *have* been able to negotiate the terms and conditions of a PLA with labor organizations report that it often takes more time to complete negotiations than the solicitation deadline allows. This was anticipated by our members and was even identified as a problem in the preamble to the Biden FAR Rule. A respondent commenting on the proposed rule stated that negotiations take an average of 90 days. Like AGC, the commenter found that this leaves offerors insufficient time to submit a PLA with its offer, favors union-affiliated companies, disincentivizes other companies from submitting an offer, and reduces economy, efficiency, and government selection in a fair bidding process. (See 88 Fed. Reg. 88709.)

If one of the alternative procedures is used by the agency – requiring submission of a PLA by only the apparent or actual successful offeror – the undue influence over selection of government contractors accorded to labor organizations by the Biden EO is removed, but it is replaced with undue influence over the contractor's ability to fulfill the award requirements. Again, the successful offeror in this scenario still has no means to require labor organizations to respond to their request for negotiations, to engage in negotiations, or to negotiate in a timely or good-faith manner. Consistent with the mandates of the NLRA, parties involved in collective bargaining should never be required to reach an agreement but should be required only to engage in good-faith bargaining to impasse.

For the above reasons, AGC recommends directing contracting agencies to closely consider using one of the alternative provisions for the timing of PLA submission. We also recommend giving contractors more time to negotiate a PLA. In addition, we recommend giving contractors that are unable to secure a negotiated PLA the opportunity to satisfy the mandate's requirements by certifying that they have made a good-faith effort to do so.

2. Permit Post-Solicitation PLA Exceptions and Submissions with and/or without a PLA to Accurately Assess Cost Impact

OMB Memo M-25-29 states that, since issuance of the Biden FAR Rule and earlier OMB guidance implementing the Biden EO, contracting agencies subject to the PLA mandate "have expressed concerns regarding their ability to generate sufficient competition to achieve fair and reasonable pricing and further expressed concerns based on their market research of large potential future cost increases if PLAs

are required." This comes as no surprise to AGC and is consistent with information we have received from contractors and with statements we've made to the government over many years.

Most notably, OMB's findings are consistent with the findings of an AGC survey conducted April-May 2022. Among the survey respondents that self-identified as prime contractors or subcontractors that were performing or recently performed federal construction projects, a whopping 88% expressed the belief that the Biden EO would raise costs, while 0% expressed the belief that it would lower costs. Moreover, 73% of all respondents reported that they are not interested in bidding on federal construction projects with a PLA requirement. (Additional information about and from the survey is found here and here.)

Given its findings, OMB amended its earlier guidance to agencies on exercising the exception to the PLA mandate where a PLA would inhibit competition. Specifically, OMB Memo M-25-29 amends Section 2.b.ii of OMB Memo M-24-06 by adding the following text:

> If, based on market research for a given project, two or more offerors express interest (or three bids for sealed bidding) but prices are expected to be higher than the government's budget by more than 10 percent due to the PLA requirement, the agency may use this finding to support a determination that fair and reasonable pricing cannot be achieved.

AGC greatly appreciates OMB's well-intended effort to expand the basis for agencies to exercise an exception to the PLA mandate when market research indicates that requiring a PLA 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. However, AGC questions the practicability of this opportunity. Section 5 of the Biden EO and FAR Section 22.504(d)(3) clearly provide that exceptions must be granted no later than the solicitation date. Given that market research takes place prior to solicitation and does not entail collecting actual price information and given that contracting agencies do not have true price information until the end of the solicitation period, how can the government ever know whether prices are expected to be higher than its budget by the solicitation date?

Furthermore, even if exceptions were permitted following the offer due date, once all offers are received, how would the government know that above-budget cost is "due to the PLA requirement?" In order for this to be known, the agency would need to allow offerors to submit offers with a PLA and/or without a PLA so that it can compare the price of offers including and excluding PLAs and identify the price impact attributable to PLA inclusion. While this was a practice by the General Services Administration under Pres. Obama's Executive Order 13502, we are not aware of any agencies following such a practice under the Biden EO. Under the Biden EO and Biden FAR Rule, this practice is only viable when a contracting agency chooses to use one of the alternate clause options that allow submission of a PLA after the solicitation period closes. But, as noted above, every, or nearly every, solicitation covered by the Biden EO has followed the standard procedure of requiring all offerors to submit a PLA with their offers – providing the government with no meaningful way to identify the price implication of the PLA.

Accordingly, in addition to our recommendation to direct contracting agencies to consider using one of the alternative options for PLA submission (with the added option of certifying a good-faith effort to negotiate a PLA when a PLA cannot be submitted), we recommend revising the mandate and guidance as needed to allow exceptions to be granted after all offers are collected and to allow offerors to submit offers with and/or without a PLA.

3. Empower the Officials Responsible for the Project with Authority to Grant Project-Specific Exceptions

Section 5 of the Biden EO authorizes any "senior official within an agency" to grant an exception from the PLA mandate for a particular project. In implementing that provision, the Biden FAR Rule authorizes "the senior procurement executive" to grant such an exception. But senior procurement executives sit at the apex of an agency's acquisition hierarchy. They are responsible for broad policy and oversight, rather than day-to-day project decisions. Requiring their direct involvement in individual exception determinations can introduce bottlenecks and inappropriate choices regarding potential exceptions, especially given the volume and diversity of federal construction projects subject to the PLA mandate. AGC speculates that this is a contributing factor as to why (at least to AGC's knowledge) no exceptions have been granted – and possibly none have been requested by contracting officers – to date, despite market research often supporting an exception.

AGC has a simple improvement to offer: revise the FAR to authorize warranted contracting officers or their managers at the district, regional, and/or program level to grant exceptions, or at least issue guidance to agencies advising them that their senior procurement executive should expressly delegate authority accordingly. Given their greater knowledge of local conditions and specific project needs, and their more immediate responsibility for efficiently delivering a project to completion, these officials are best positioned to assess project-specific circumstances justifying an exception.

Such a delegation is also consistent with longstanding federal acquisition policy, which encourages decisions to be made at the "lowest level within the System, consistent with law" to promote efficiency and context-specific judgment. (See FAR 1.102-5.) It aligns with broader federal acquisition reform efforts that emphasize empowering front-line procurement professionals and reducing bureaucratic delays that ultimately increase project costs and timelines. This targeted delegation would support timely, informed, and effective procurement decisions without compromising regulatory intent or accountability.

4. Standardize Market Research Questionnaires to Collect Better Data and Make Better-Informed Decisions

Agencies conducting market research in advance of issuing a sources sought notice typically publish a questionnaire and invite stakeholders to respond. These questionnaires vary considerably in content, sophistication, and format, not only across agencies but within agencies. This is not only inefficient for stakeholders and agency officials, it creates confusion among them and leads to inconsistent data collection, uneven application of criteria, and potential disparities in how PLA determinations are made.

To promote consistency, transparency, and fairness, the federal government should standardize the market research questionnaires for all agencies and projects. A standardized questionnaire would establish uniform expectations, facilitate clearer communication with stakeholders, and create a more level playing field for offerors. This uniformity would also support better data collection and analysis, enabling agencies to make more informed and defensible decisions about the appropriateness of a PLA or an exception for a particular project, as well as long-term comparisons across projects.

In developing a standard list of survey questions, the government should undertake meaningful consultation with a broad range of stakeholders, including contractors (both union and open shop), contractor associations, labor representatives, contracting officers, and federal labor and procurement attorneys. This would ensure that the questionnaire addresses concerns from all perspectives and captures appropriate criteria from both a business and legal perspective. It would enhance the credibility and acceptance of the questionnaire and improve its effectiveness and reliability.

5. Require All Agencies to Publish Market Research Results to Provide Greater Transparency to the American Public

Presently, the results of agency-conducted market research related to the PLA mandate are not readily available to the public. This lack of public access to the market research findings limits the ability of stakeholders to understand the rationale behind PLA decisions, assess their impact on competition and pricing, and provide meaningful feedback. This is out of step with your stated goals of ensuring that government spending is transparent and that government employees are accountable to the American public, along with your stated goal of ensuring efficiency in government operations and spending.

To bring practices in line with these goals, AGC recommends requiring all agencies to promptly publish anonymized results of market research on a publicly accessible website. Such transparency is essential to ensure accountability, foster fair competition, and support informed public oversight. It would: discourage contractors from filing agency-straining and project-delaying bid protests when PLA requirements are well-supported; equip agency staff with broader knowledge of construction markets and PLA-related issues; encourage potential offerors to participate in future surveys and provide more useful responses; and empower the public to do its part to advance your goals of reducing waste in government spending.

Thank you for your attention to the points outlined above and for your dedication to protecting the interests of American businesses and workers. We look forward to a meeting where we can delve deeper into these issues with you and explore how we can collaborate to achieve our shared goals of economy, efficiency, and fairness in government procurement.

Sincerely,

Jeffrey D. Shoaf
Chief Executive Officer

cc: Russell Vought, Director, Office of Management and Budget