

Date: February 13, 2025

From: Executive Director, Office of Acquisition and Logistics (003A), and Senior Procurement Executive

Subj: Federal Acquisition Regulation (FAR) Class Deviation from FAR Parts 22, 36, and 52 – Waiver of Project Labor Agreement Requirements

To: Heads of the Contracting Activities

1. Purpose. To issue a class deviation in accordance with Federal Acquisition Regulation (FAR) 1.404, to waive the requirements for project labor agreements implemented at FAR subpart 22.5, Use of Project Labor Agreements for Federal Construction Projects, FAR 36.104(c), Policy, FAR 52.222-33, Notice of Requirement for Project Labor Agreement, and FAR 52.222-34, Project Labor Agreement.

2. FAR Part Impacted: FAR parts 22, 36, and 52.

3. Effective Date. Immediately.

4. Expiration Date. This deviation expires when incorporated into the FAR or is otherwise rescinded.

5. Applicability. This class deviation applies to all VA contracting activities.

6. Exceptions. None.

7. Background

a. Current FAR Policy. Currently, FAR subpart 22.5 prescribes policies and procedures to implement Executive Order (E.O.) 14063 Use of Project Labor Agreements for Federal Construction Projects, dated February 4, 2022.

b. Need for Deviation. On January 19, 2025, the Court of Federal Claims (the Court) issued an opinion and order in *MVL USA, Inc., et al. v. The United States*. In the decision the “*Court grants consolidated plaintiffs’ Motions for Judgment on the Administrative Record and denies the government’s Cross-Motion for Judgment on the Administrative Record.*” The Court found that the agencies’ 2024 implementation of E.O. 14063, specifically, “*the functionality of the mandate as applied to the individual contracts in this case stifles competition and violates the statutory directive that agencies must promote “full and open competition” in federal procurements unless a statutory justification is properly invoked.*” No injunction relief was included in the order.

c. New Policy. Due to the Court of Federal Claims decision, effective immediately, contracting officers shall not use project labor agreements for large-scale construction projects, implemented at Federal Acquisition Regulation (FAR) subpart 22.5 and 36.104(c). The FAR clauses at FAR 52.222-33, Notice of Requirement for Project Labor Agreement, and FAR 52.222-34, Project Labor Agreement, shall not be enforced in any solicitation.

8. Required Action. Contracting officers shall amend solicitations to remove project labor agreement requirements, including the provision at 52.222-33, Notice of Requirement for Project Labor Agreement, and the clause at 52.222-34, Project Labor Agreement, as prescribed at FAR 22.505.

9. Additional information. Send questions to va.procurement.policy@va.gov.

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Attachment - Federal Acquisition Regulation (FAR) Class Deviation from FAR Parts 22, 36, and 52 – Waiver of Project Labor Agreement Requirements