FOR IMMEDIATE RELEASE
Wednesday, January 10, 2024

CONTACT: Brian Turmail
(703) 459-0238, turmailb@agc.org

ASSOCIATION SUES TO BLOCK BIDEN ADMINISTRATION'S UNLAWFUL EFFORT TO MANDATE PROJECT LABOR AGREEMENTS FOR MAJOR FEDERAL CONSTRUCTION PROJECTS

President Lacks Legal Authority to Impose Such Sweeping Labor Policy, Especially When the Government's Own Data Shows Imposing Project Labor Agreements Fail to Produce Contracting Efficiencies, Association Notes

The Associated General Contractors of America and its Louisiana AGC chapter filed suit today in federal court to block the Biden Administration's unlawful effort to mandate project labor agreements for major federal construction projects. Association officials noted that President Biden lacks the legal and constitutional authority to impose such sweeping labor policies that undermine current labor agreements for union firms and discriminate against open shop contractors.

"This new regulation is an unlawful solution in search of a nonexistent problem," said Stephen E. Sandherr, the chief executive officer of the Associated General Contractors of America. "Current law prohibits the president from unilaterally imposing labor and employment terms that would disrupt existing agreements for union contractors and exclude open shop firms from competing for federal projects."

The association and its chapter filed the lawsuit in the U.S. District Court for Western Louisiana in response to the administration's efforts to implement the new project labor agreement regulation. This regulation seeks to impose what are known as project labor agreements for all federal construction projects that are valued at or above $35 million. Government-mandated project labor agreements require a contractor to negotiate with unions – regardless of whether they have ongoing relationships with those unions – and gives the unions immense leverage to set the terms and conditions of agreements because the contractor is required to have an agreement as a condition of being awarded the project. This allows unions to impose more costly work rules and practices.

In its legal filing *(add link to final document)*, the association noted that the president's project labor agreement regulation is beyond the scope of executive authority. Current laws governing federal procurement do not provide the president with the authority to impose labor policies as a precondition for securing projects. The complaint also notes that the regulation contradicts, among other things, the Procurement Act, the Competition in Contracting Act and the National Labor Relations Act in terms of limits that can be placed on competing for federal work and decisions of requiring union participation in the workforce.

The association also noted that an analysis it conducted of federal procurement data since President Obama issued an executive order required federal agencies to "consider" imposing project labor agreements found that federal procurement officials disfavor PLAs. Specifically, in 99.4 percent of federal defense-related construction projects, procurement officials found no benefit to mandating a project labor agreement. This analysis is backed up by the administration's own analysis, stating that only 12 PLAs were used out of a possible 2,000 eligible federal projects.

The association is seeking to have the court order the administration to halt its efforts to impose the president's new project labor agreement mandate. In requesting the court action, the association noted that, without legal intervention, the new and unlawful regulation would undermine existing collective bargaining agreements for union contractors, prohibit open shop construction firms from competing for federal projects and reduce efficiencies in the delivery of federally funded infrastructure projects. The association does not oppose project labor agreements that are voluntarily negotiated between employers and unions, however.

"This regulation punishes firms that have already entered into a collective bargaining agreement with construction unions, discriminates against open shop firms and their employees and deprives taxpayers of the benefits of open competition," Sandherr added.

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