

CHANGE REQUEST COVER SHEET

Change Request Number: 10-75

Date Received: 6/8/2010

Title: Project Labor Agreement Guidance

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Policy OR Guidance: Guidance

Section/Text Location Affected: T3.6.2A.20 (new)

Summary of Change: Addition of guidance regarding the use of project labor agreements on large- scale construction projects

Reason for Change: Consistency with Executive Order 13502 issued 2/6/09 encouraging agencies to implement such agreements when appropriate, plus a new AMS provision and clause

Development, Review, and/or Concurrence: Acquisition Policy Division; Legal; and Contracting Organizations at FAA HQ, Centers, and Regions (ARC)

Target Audience: FAA Contracting Workforce and Program Offices

Potential Links within FAST for the Change: None

Briefing Planned: No

ASAG Responsibilities: None

Potential Links within FAST for the Change: None

Links for New/Modified Forms (or) Documents (LINK 1) [null](#)

Links for New/Modified Forms (or) Documents (LINK 2) [null](#)

Links for New/Modified Forms (or) Documents (LINK 3) [null](#)

SECTIONS ADDED:

Procurement Guidance:

T3.6.2 - Labor Laws

Labor-Related Laws

Section 20 : Project Labor Agreements [\[New Content\]](#)

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Labor-Related Laws

Section 20 : Project Labor Agreements

a. Definitions.

- (1) Labor organization: a labor organization as defined in 29 U.S.C. 152(5);
- (2) Large-scale construction project: a construction project where the cost to FAA of all contracts associated with the project is \$25M or more; and
- (3) Project Labor Agreement: a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project, and is an agreement as described in 29 U.S.C 158 (f).

b. *Determination.* Consistent with Executive Order 13502, dated February 6, 2009, for all large-scale construction projects, the CO in consultation with the program office and/or COTR may require that every contractor and subcontractor engaged in construction on the project agree, for that project, to negotiate a project labor agreement with one or more labor organizations if they determine that a project labor agreement will:

- (1) Advance FAA's interest in achieving economy and efficiency in procurement, producing labor-management stability, and ensuring compliance with laws and regulations governing safety and health, equal employment opportunity, labor and employment standards, and other matters; and
- (2) Be consistent with the law.

The determination whether to enter into a project labor agreement must be documented in the contract file.

c. Requirements. All project labor agreements must:

- (1) Bind all contractors and subcontractors engaged in construction on the construction project to comply with the project labor agreement;
- (2) Allow all contractors and subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;

- (3) Contain guarantees against strikes, lockouts, and other job disruptions;
- (4) Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement;
- (5) Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health;
- (6) Fully confirm to all statutes, regulations, and Executive Orders; and
- (7) Include any additional requirements deemed necessary to meet the needs of FAA.

d. *Additional Criteria.* Additional factors that may be considered in this determination whether to use a project labor agreement include but are not limited to the following:

- (1) The size and complexity of the project;
- (2) The importance of the project and the need to adhere to a particular timeline;
- (3) The risk of labor unrest on the project and the circumstances that may lead to a heightened risk of labor disruption. Examples of such circumstances are the history of labor unrest in the area, the anticipated working conditions on the project related to the environment or work schedules, and the expiration of one or more collective bargaining agreements that could lead to jurisdictional disputes;
- (4) The impacts of a labor disruption to the users, the operation of the facility, and the region;
- (5) The costs of a delay should a labor disruption occur; and
- (6) The available labor pool relative to the particular skills required to complete the project.

e. *Implementation.* When a project labor agreement is required, FAA has the following submittal options:

- (1) When offers are due. The screening information request (SIR) must fully specify all requirements for the project labor agreement;
- (2) From the apparent successful offeror prior to award. The SIR must require that once the apparent successful offeror has been determined, the apparent successful offeror must submit a proposed project labor agreement to the CO; and
- (3) After award. The SIR must require that the project labor agreement be negotiated within a certain number of days after contract award, and that a copy of the negotiated agreement must be submitted to the CO.

f. Possible submittal requirement considerations include but are not limited to the following:

- (1) A large number of anticipated offerors could render each offeror having to negotiate a project labor agreement in advance a burden that could delay the submittal of offers;
- (2) Requiring submittal of a project labor agreement from all offerors in advance might reduce cost risk in that the costs of such an agreement may be more accurately factored into an offeror's proposal; and
- (3) Post-award execution of a project labor agreement could undercut the benefits of such an agreement as the work on the overall project will have already started.