

President Biden Signs Executive Order Directing Agencies to Prioritize Pro-Union and Union Neutrality Policies

Labor Relations Update on **September 13, 2024**

On September 6, 2024, President Biden signed an Executive Order on Investing in America and Investing in American Workers (the “[Order](#)”), that, among other things, aims to provide “incentives for federally assisted projects with high labor standards – including collective bargaining agreements, project labor agreements, and certain community benefits agreements.” Specifically, the Order directs federal agencies to prioritize projects that provide “high labor standards” for “Federal financial assistance,” which is defined as “funds obtained from or borrowed on the credit of the Federal Government pursuant to grants (whether formula or discretionary), loans, or rebates, or projects undertaken pursuant to any Federal program involving such grants, loans, or rebates.”

The Order expressly instructs agencies to prioritize projects that “provide a clear plan for efficient project delivery by promoting positive labor-management relations.” This includes project labor agreements, collective bargaining agreements, community benefits agreements, and other “agreements designed to facilitate first collective bargaining agreements, voluntary union recognition, and neutrality by the employer with respect to union organizing.”

In addition, the Order directs agencies to prioritize projects that: (i) “enhance worker productivity by promoting family-sustaining wages”; (ii) supply particular benefits, including paid leave (e.g., paid sick, family, and medical leave), healthcare benefits, retirement benefits, and child, dependent, and elder care; (iii) enact policies designed to combat discrimination that impacts workers from underserved communities; (iv) expand worker access to high-quality training and credentials that will “lead to good jobs” and strengthen workforce development; and (v) promote and protect worker health and safety. Per the Order, projects that use, among other things, union pattern wage scales, joint labor-management partnerships to invest in “union-affiliated training programs, registered apprenticeships, and pre-apprenticeship programs,” or policies that encourage worker and union participation in the design and implementation of workplace safety and health management systems, will assist in satisfying the goal of achieving “high labor standards” and should be prioritized.

To effectuate the Order’s priorities, agencies are instructed to consider including application evaluation criteria or selection factors that will prioritize those applicants for federal assistance that adopt or provide a specific plan to adopt the priorities set forth in the Order. Agencies also must consider, among other things, publishing relevant guidance, such as best practice guides, engaging more deeply with applicants prior to any award of federal assistance “to ensure that applicants understand the benefits of [the Order’s] priorities for key programs and projects,” and collecting relevant data to evaluate and monitor the progress of funding recipients in satisfying the Order’s goals.

The “implementing agencies,” or the agencies subject to the Order, are the Department of the Interior, the Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Housing and Urban Development, the Department of Transportation, the Department of Energy, the Department of Education, the Department of Homeland Security, and the Environmental Protection Agency.

Finally, the Order creates a task force, referred to as the Investing in Good Jobs Task Force, that will be co-chaired by the Secretary of Labor and the Director of the National Economic Council, or their designees, and will oversee implementation of the Order’s labor standards in funding decisions by the implementing agencies.

The White House also issued a Fact Sheet (available [here](#)) discussing the Order and President Biden's motivation for its enactment. It remains to be seen what impact the Order will have on the implementing agencies or how those agencies may alter their funding programs to comply with the Order. We will continue to monitor these developments and will keep you informed as to any new updates.

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