

Section 7 of the Executive Order calls upon the Office of Management and Budget (OMB) to make recommendations *in the future* about whether broader use of project labor agreements would be helpful on construction projects receiving federal financial assistance. Such projects could include state and local projects. However, OMB has not yet made any recommendations in response to this Section, and there is again nothing in this provision that requires state or local governments to impose projects labor agreements as a condition of receiving federal financial assistance, either now or in the future.

Section 8 of the Executive Order revokes President Bush's Executive Order No. 13202 (as further amended in E.O. No. 13208). President Bush's Order had, among other things, *prohibited* state and local governments from imposing union-only PLAs on any federally assisted construction project. By revoking President Bush's Order, Executive Order No. 13502 can be said to have removed the federal prohibition against state or local PLAs; nevertheless, the new Executive Order clearly did not thereby *require* any state or local action on federally assisted projects. Indeed, Executive Order No. 13502 does not direct or authorize state or local governments to do anything with regard to union-only PLAs, and the imposition of such anti-competitive bidding requirements remains subject to challenge under most state competitive bidding laws.

In conclusion, nothing in Executive Order No. 13502 requires (or even authorizes) any state or local government to impose a union-only PLA on any federally assisted construction projects.²

² The Federal Acquisition Regulation Council has recently issued a proposed rule implementing Executive Order No. 13502 (to be published in the Federal Register on July 14, 2009), and OMB has issued a guidance memo to federal agencies on the Order and the proposed rule. See 131 Daily Labor Report (BNA) A-16 (July 13, 2009). Consistent with the above analysis, **neither document imposes any obligations whatsoever on state or local governments with regard to union-only PLAs.**