



ACCNJ LEGAL & INSURANCE UPDATE

OCTOBER 2025

GOVERNMENT SHUTDOWN IMPACT

On October 1, 2025, the federal government officially shut down after Congress and the White House failed to agree on a continuing resolution to keep the government funded. This lapse in appropriations has created varying impacts across sectors, including construction and transportation.

Impact on Highway and Transportation Contractors:

Highway contractors should mostly be unimpacted because programs funded by the Infrastructure Investment and Jobs Act (IIJA) would continue and be uninterrupted. This includes programs funded by the Highway Trust Fund and advance appropriations for highways, airports, and transit.

Impact on Direct Federal Contractors:

For contractors that perform direct federal work like with the Army Corps, Naval Facilities Engineering Command, General Services Admin, etc. it is a little more nuanced. Construction contracts already awarded on a fixed-price basis should be substantially unaffected by the shutdown. However, for most cost-type contracts, time and materials contracts, IDIQ/MATOC/MACC contracts and those contracts which have yet to be awarded, the shutdown will likely suspend operations completely.

Although a federal government shutdown will not substantially affect existing fixed-price federal construction contracts, a shutdown may make performance more challenging because of the lack of support from agency personnel. Federal contractors should therefore work with their contracting officer and legal counsel to develop a protocol to determine which contracts will be affected, track costs associated with the shutdown, and recover such costs once the shutdown ends.

TRUMP ADMINISTRATION RETAINS PLA EXECUTIVE ORDER

As [previously covered](#), earlier this year, the U.S. Court of Federal Claims ruled that President Biden's Executive Order 14063 (requiring federal agencies to use project labor agreements (PLAs) on large-scale federal projects) violated federal procurement law in certain respects. However, subsequent guidance and preliminary injunctions have kept the mandate in effect while appeals and further litigation play out. In June, the Office of Management and Budget (OMB) released a memo to federal agencies in an attempt to clarify the Trump administration's stance on PLAs, which, in relevant part, states, "[t]he Trump Administration supports the use of PLAs when those agreements are practicable and cost effective, and blanket deviations prohibiting the use of PLAs are precluded."

Notably, the OMB's memo adds an exception to the mandate if, based on market research for a given project, two or more offerors express interest (or three bids for sealed bidding) but

prices are expected to be higher than the government's budget by more than 10 percent due to the PLA requirement. In these instances, the agency may use this finding to support a determination that fair and reasonable pricing cannot be achieved. With this added exception, federal agencies are now required to submit detailed reports on their use of PLAs and must coordinate with OMB before issuing any further policy deviations.

Taken together, these developments reflect an evolving and increasingly complex landscape for federal construction contracting. While the Biden-era PLA mandate remains in place, the Trump Administration's guidance signals a more flexible, market-driven approach that prioritizes cost efficiency and competitive pricing. As this legal and policy landscape continues to evolve, ACCNJ staff will closely monitor updates to ensure members are informed about both current mandates and emerging exceptions.

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