

April 16, 2013

United States Senate
Washington, D.C. 20510

Dear Senator:

The diverse group of undersigned construction and business associations writes in strong support of Sen. David Vitter's (R-La.) Government Neutrality in Contracting Act (S. 109) ensuring fair and open competition on federal and federally assisted construction contracts.

S. 109 would prevent federal agencies and recipients of federal assistance from **requiring** contractors to sign an anti-competitive and costly project labor agreement (PLA) **as a condition of winning a federal or federally assisted construction contract**. It also would eliminate discriminatory PLA preference policies that discourage competition and result in needless waste and favoritism in the procurement of taxpayer-funded construction projects.

A PLA is a collective bargaining agreement unique to the construction industry that typically requires companies to agree to recognize unions as the representatives of their employees on that job; use the union hiring hall to obtain workers; follow union work rules; and pay into union benefit and multi-employer pension plans that nonunion employees will be unlikely to access—forcing employers to pay “double benefits” into existing plans and union plans and placing firms opposed to these costly provisions at a significant competitive disadvantage. In addition, PLAs typically force construction workers to pay union dues or join a union if they want to receive union benefits and work on a PLA project.

When mandated by government agencies, PLAs can interfere with existing union collective bargaining agreements and unfairly **discourage competition** from nonunion contractors and their employees, who comprise 87 percent of the U.S. private construction workforce.

President Obama's Feb. 6, 2009, Executive Order 13502 encourages federal agencies to require PLAs on federal construction projects exceeding \$25 million in total cost on a case-by-case basis “in order to promote the economy and efficiency in federal procurement.”

However, studies of construction projects subject to prevailing wage laws found PLA mandates increase the cost of construction between 12 percent and 18 percent compared to similar non-PLA projects. Recent government-mandated PLAs on federal projects have resulted in litigation, reduced competition, increased costs and needless delays.

In addition, the executive order and related FAR regulations have exposed agency procurement officials to intense political pressure from special interest groups and politicians to mandate PLAs on federal projects even when they are not appropriate.

The Government Neutrality in Contracting Act seeks to counteract potential special interest favoritism by prohibiting federal agencies and recipients of federal assistance from **mandating** PLAs and implementing PLA preferences. However, it also would allow federal agencies to award contracts to businesses that **voluntarily** enter into PLAs, which is permitted by the National Labor Relations Act.

S. 109 will curb waste and favoritism in the procurement of construction projects and ensure taxpayer dollars are spent responsibly by letting the market determine if a PLA is appropriate. We ask that you take a stand against discrimination and special interest carve-outs in government contracting by cosponsoring S. 109.

The Government Neutrality in Contracting Act will create a level playing field in the procurement of government construction contracts, increase competition, help small businesses grow, curb construction costs and spread the job-creating benefits of federally funded contracts throughout the construction industry, which suffers from a 14.7 percent unemployment rate.

Sincerely,

American Council of Engineering Companies (ACEC)
Associated Builders and Contractors (ABC)
Associated General Contractors (AGC)
Business Coalition for Fair Competition (BCFC)
Construction Industry Round Table (CIRT)
Electronic Security Association (ESA)
Independent Electrical Contractors (IEC)
National Association of Home Builders (NAHB)
National Association of Minority Contractors (NAMC) – Philadelphia Chapter
National Association of Women in Construction (NAWIC)
National Black Chamber of Commerce (NBCC)
National Federation of Independent Business (NFIB)
National Ready Mixed Concrete Association (NRMA)
National Utility Contractors Association (NUCA)
Small Business & Entrepreneurship Council (SBEC)
U.S. Chamber of Commerce

cc: United States Senate