

January 11, 2016

The Honorable Jason Chaffetz  
Chairman  
Committee on Oversight and Government Reform  
United States House of Representatives

The Honorable Elijah Cummings  
Ranking Member  
Committee on Oversight and Government Reform  
United States House of Representatives

Dear Chairman Chaffetz and Ranking Member Cummings:

The diverse group of undersigned construction and business associations writes in strong support of Rep. Mick Mulvaney's (R-S.C.) Government Neutrality in Contracting Act (H.R. 1671) ensuring fair and open competition on federal and federally assisted construction contracts.

H.R. 1671 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 general contractors and all subcontractors 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. This forces employers to pay "double benefits" into existing plans and union plans, and it places them 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 86.1 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 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.

Finally, the order has resulted in a sharp increase in government-mandated PLAs on billions of dollars worth of state, local and private projects receiving federal assistance. In response to the threat of the Obama administration's pro-PLA actions, 20 states have enacted legislation or executive orders restricting PLA requirements and preferences on state and local projects since 2011. To date, a total of 22 states have measures that guarantee fair and open competition on taxpayer-funded construction projects.

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 using PLA preferences. However, it also would permit federal agencies to award contracts to businesses that *voluntarily* enter into PLAs, which is protected by the National Labor Relations Act and related case law.

H.R. 1671 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 supporting H.R. 1671.

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 federal and federally funded contracts throughout the entire construction industry.

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 Women in Construction (NAWIC)  
National Black Chamber of Commerce (NBCC)  
National Federation of Independent Business (NFIB)  
Small Business & Entrepreneurship Council (SBEC)  
U.S. Chamber of Commerce

cc: House Oversight and Government Reform