

May 30, 2012

U.S. House of Representatives
Washington, D.C. 20515

Dear Representative:

This diverse group of undersigned construction and business associations writes in strong support of Section 517 of the Military Construction, Veterans Affairs (MilCon/VA) Appropriations Bill for Fiscal Year 2013 (H.R. 5854). **We urge you to oppose the amendment offered by Rep. Michael Grimm (R-NY) and any other amendment that would strike Section 517 from the bill.**

Section 517 of H.R. 5854 ensures fair and open competition on federal construction contracts funded by this legislation. Specifically, Section 517 will prevent federal agencies from *requiring* contractors to sign a collective bargaining agreement with unions called a project labor agreement (PLA) *as a condition of winning a federal construction contract*. It also will prevent federal agencies from implementing a discriminatory PLA preference policy that discourages competition and results in needless waste and favoritism in the federal procurement process.

A *government-mandated PLA* is a union collective bargaining agreement specific to a construction jobsite that typically requires construction projects to be awarded *only* to companies that agree to recognize unions as the representatives of their employees on that job; use the union hiring hall to obtain workers; follow archaic and inefficient work rules; and pay into union benefit and multi-employer pension plans that nonunion employees will never be able 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 qualified workers to pay union dues or join a union if they want to receive union benefits and work on a PLA project.

As a result of these terms and conditions, government-mandated PLAs can unfairly *discourage competition* from nonunion contractors and their employees, who comprise 86 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 “advance the economy and efficiency in federal contracting.”

In contrast, recent government-mandated PLAs and PLA preferences on federal projects have resulted in increased costs, delays and discrimination. Likewise, 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.

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

Section 517 counteracts potential special interest favoritism by prohibiting federal agencies from *mandating* PLAs and implementing PLA preferences when issuing solicitations for construction services for projects funded by this bill. However, it also permits federal agencies to award contracts

to businesses that *voluntarily* enter into PLAs—a right guaranteed by the National Labor Relations Act and supported by established legal precedent.

Section 517 will curb waste and favoritism in the procurement of federal construction projects and ensure taxpayer dollars are spent wisely by letting contractors—and therefore the free market—determine if a PLA is appropriate. We ask that you take a stand against discrimination and special interest handouts in government contracting and **OPPOSE** the Grimm amendment and any other amendments that attempt to strike Section 517 from H.R. 5854.

Protecting Section 517 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 contracts throughout the construction industry, which suffers from a 14.5 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)
Independent Electrical Contractors (IEC)
Merit Elevator Contractors Association of America (MECAA)
National Association of Women in Construction (NAWIC)
National Black Chamber of Commerce (NBCC)
National Federation of Independent Business (NFIB)
Small Business and Entrepreneurship Council (SBEC)
U.S. Chamber of Commerce
Women Construction Owners & Executives, USA (WCOE, USA)