

May 15, 2012

Chairman Harold Rogers
Appropriations Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Rogers,

The diverse group of undersigned construction and business associations writes in strong support of Representative Jeff Flake's amendment ensuring fair and open competition on federal construction contracts funded by the Military Construction, Veterans Affairs (MilCon/VA) Appropriations Bill for Fiscal Year 2013.

Specifically, the Flake amendment will prevent federal agencies from **requiring** contractors to sign an anti-competitive and costly 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 contract 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.”

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 increased costs, delays and discrimination.

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 Flake amendment counteracts potential special interest favoritism by prohibiting federal agencies building projects authorized by this bill from **mandating** PLAs and implementing PLA preferences. However, it also permits federal agencies to award contracts to businesses that **voluntarily** enter into PLAs in accordance with the National Labor Relations Act.

The Flake amendment will curb waste and favoritism in the procurement of federal 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 and **SUPPORT** Rep. Flake's amendment to the FY 2013 MilCon/VA Appropriations bill.

The Flake amendment 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 & Entrepreneurship Council (SBEC)
U.S. Chamber of Commerce
Women Construction Owners & Executives, USA (WCOE, USA)

cc: United States House Appropriations Committee Members