

January 24, 2018

President Donald J. Trump
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Trump,

The diverse group of undersigned construction and business associations looks forward to working with you and Congress as you continue to develop policies to rebuild America's infrastructure.

In order to deliver the highest quality projects at the best cost to taxpayers, any infrastructure package should be free from government-mandated project labor agreements (PLAs) on federal and federally assisted projects, allowing all qualified contractors and Americans to fairly compete to build and work on these taxpayer-funded projects.

As you are aware, on February 6, 2009, President Obama signed Executive Order 13502, which encourages federal agencies, on a case-by-case basis, to require PLAs on federal construction projects exceeding \$25 million in total value, and permits states and localities to mandate PLAs on federally assisted projects.¹

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 most or all construction labor, exclusively hire union apprentices, 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 places firms opposed to these costly provisions at a significant competitive disadvantage. In addition, PLAs typically force construction workers to pay union dues and/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. In addition, they unfairly discourage competition from quality nonunion contractors and their employees, who comprise 86 percent of the U.S. private construction industry, according to the most recent Bureau of Labor Statistics data.

Currently, the construction industry faces a skilled labor shortage of almost 500,000 people. If the construction industry grows at a modest two to three percent rate over the next few years and an infrastructure bill resulting in an additional \$1 trillion worth of construction is added into the equation, the industry could need to fill an additional one million more jobs as early as 2020. Therefore, it makes little sense to continue a policy that artificially restricts the vast majority of skilled American labor and qualified contractors from competing to deliver to taxpayers the best possible product at the best possible price.

Multiple studies of hundreds of taxpayer-funded school construction projects found PLA mandates increase the cost of construction between 12 percent and 18 percent compared to similar non-PLA projects. In addition, recent government-mandated PLAs on federal and federally assisted projects have resulted in litigation, reduced competition, increased costs, needless delays and poor local hiring outcomes.

At a time when American taxpayers and private enterprise must find efficiency and value in every dollar invested in infrastructure to meet our country's needs, it would be prudent to abandon the current pro-PLA regulations and replace it with a policy that will foster vigorous competition, reduce costs and provide value for taxpayers.

We respectfully request that you consider rescinding President Obama's Executive Order 13502 and replace it with Executive Orders 13202 and 13208.² This critical reform will prevent federal agencies and recipients of

¹ Executive Order 13502, *Use of Project Labor Agreements for Federal Construction Projects*, signed 2/6/09 (<https://www.gpo.gov/fdsys/pkg/FR-2009-02-11/pdf/E9-3113.pdf>) and related FAR Case 2009-005, effective 5/13/10 (<https://www.regulations.gov/docket?D=FAR-2009-0024>).

federal assistance from requiring contractors to sign an anti-competitive and costly PLA as a condition of winning a federal or federally assisted construction contract. Executive Orders 13202 and 13208 and similar policies have already been upheld in the highest courts of the land and would allow federal agencies to award contracts to contractors that voluntarily enter into PLAs without government interference, an industry practice permitted by the National Labor Relations Act. A total of 24 states—22 since 2011—have passed similar measures allowing the free market—not the government—to determine if a PLA is appropriate for a construction project.

Simply put, this crucial regulatory reform 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 entire construction industry.

America deserves efficient, accountable and effective investment in infrastructure free from special-interest handouts. The Trump administration can create the conditions to make America great again by rescinding President Obama’s failed policy and replacing it with a common-sense approach that encourages fair and robust competition and benefits all Americans.

Sincerely,

American Council of Engineering Companies (ACEC)
American Fire Sprinkler Association (AFSA)
American Road & Transportation Builders Association (ARTBA)
Associated Builders and Contractors (ABC)
Business Coalition for Fair Competition (BCFC)
Construction Industry Round Table (CIRT)
Independent Electrical Contractors Association (IEC)
National Association of Government Contractors (NAGC)
National Association of Home Builders (NAHB)
National Black Chamber of Commerce (NBCC)
National Federation of Independent Business (NFIB)
National Ready Mixed Concrete Association (NRMCA)
Small Business and Entrepreneurship Council (SBEC)
U.S. Chamber of Commerce

cc: Vice President Mike Pence
U.S. Department of Transportation Secretary Elaine Chao
U.S. Department of Commerce Secretary Wilbur Ross
Office of Management and Budget Director Mick Mulvaney

² Executive Order 13202, *Preservation of Open Competition and Government Neutrality Towards Government Contractors’ Labor Relations on Federal and Federally Funded Construction Projects*, signed 2/17/01 (<https://www.gpo.gov/fdsys/pkg/FR-2001-02-22/pdf/01-4622.pdf>) and Executive Order 13208, *Amendment to Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors’ Labor Relations on Federal and Federally Funded Construction Projects*, signed 4/6/11 (<https://www.gpo.gov/fdsys/pkg/WCPD-2001-04-09/pdf/WCPD-2001-04-09-Pg584-2.pdf>).