

March 14, 2019

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

Dear Mr. President:

The diverse group of undersigned construction and business associations appreciates efforts by the Trump administration to address the construction industry's skilled labor shortage and America's need for infrastructure improvements.

This is a serious challenge for the industry and the country's economic interests, which is why it is imperative to cut regulations that stand in the way of creating career pathways into the construction industry and eliminate policies that discourage the vast majority of qualified contractors and their skilled employees from competing for taxpayer-funded construction projects.

As you are aware, on Feb. 6, 2009, President Obama signed Executive Order 13502, which encourages federal agencies, on a case-by-case basis, to require project labor agreements 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 jobsite-specific 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 apprentices from union programs, 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 87.2 percent of the U.S. private construction industry workforce, according to the most recent U.S. Bureau of Labor Statistics data.²

Multiple studies of hundreds of taxpayer-funded school construction projects found that PLA mandates increase the cost of construction between 12 and 18 percent compared to similar non-PLA projects.³ 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.

Therefore, it makes little sense to continue a policy that artificially discourages the majority of skilled American construction workers and qualified contractors from competing to deliver to taxpayers the best possible product at the best possible price.

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 projected 10-year, \$2 trillion infrastructure investment gap, it would be prudent to eliminate the current pro-PLA Executive Order 13502 and replace it with a policy that will foster vigorous competition,

¹ Executive Order 13502, *Use of Project Labor Agreements for Federal Construction Projects*, signed Feb. 6, 2009 (<https://www.gpo.gov/fdsys/pkg/FR-2009-02-11/pdf/E9-3113.pdf>) and related FAR Case 2009-005, effective May 13, 2010 (<https://www.regulations.gov/docket?D=FAR-2009-0024>).

² See bls.gov *Union Members Summary*. Jan. 18, 2019, <https://www.bls.gov/news.release/union2.nr0.htm>.

³ For example, see multiple studies measuring the impact of PLAs on school construction in CT, MA, NY and OH by the Beacon Hill Institute at Suffolk University (<http://beaconhill.org/labor-economics/>), an October 2010 report by the New Jersey Department of Labor and Workforce Development, *Annual Report to the Governor and Legislature: Use of Project Labor Agreements in Public Works Building Projects in Fiscal Year 2008*, (https://www.nj.gov/labor/forms_pdfs/legal/2010/PLAReportOct2010.pdf), and a 2011 study by the National University System Institute for Policy Research, *Measuring the Cost of Project Labor Agreements on School Construction in California* (<http://www.nusinstitute.org/assets/resources/pageResources/Measuring-the-Cost-of-Project-Labor-Agreements-on-School-Construction-in-California.pdf>).

reduce costs, provide value for taxpayers and allow all Americans to work on construction projects in their own communities built with their own tax dollars.

We respectfully request that you rescind President Obama's Executive Order 13502 and replace it with Executive Orders 13202 and 13208.⁴ This critical reform will prevent federal agencies and state and local government recipients of 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 continue to 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 have passed similar measures allowing the free market—not the government—to determine if a PLA is appropriate for a construction project.

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.

We would welcome an opportunity to speak with the Office of White House Policy to discuss this issue in greater detail. We look forward to working with your administration and Congress as we continue to advocate for infrastructure improvements and enact critical regulatory reforms to build a stronger America together.

Sincerely,

American Fire Sprinkler Association
American Road & Transportation Builders Association
Associated Builders and Contractors
Business Coalition for Fair Competition
Construction Industry Round Table
Independent Electrical Contractors
National Association of Home Builders
National Black Chamber of Commerce
NFIB
National Ready Mixed Concrete Association
Small Business and Entrepreneurship Council
US Pan Asian American Chamber of Commerce

cc: Vice President Mike Pence
U.S. Department of Commerce Secretary Wilbur Ross
U.S. Department of Labor Secretary Alexander Acosta
U.S. Department of Transportation Secretary Elaine Chao
U.S. Department of Treasury Secretary Steven Mnuchin
Office of Management and Budget Director and White House Chief of Staff Mick Mulvaney

⁴ Executive Order 13202, *Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects*, signed Feb. 17, 2001, (<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 April 6, 2011, (<https://www.gpo.gov/fdsys/pkg/WCPD-2001-04-09/pdf/WCPD-2001-04-09-Pg584-2.pdf>).