

January 10, 2017

President-elect Donald J. Trump
Presidential Transition Headquarters
1800 F Street, NW, Room G117
Washington, DC 20270-0117

Dear President-elect Trump:

Congratulations on your historic victory. The diverse group of undersigned construction and business associations looks forward to working with you, Vice President-elect Mike Pence and other members of your administration to advance policies that create economic growth and jobs for all Americans.

As you and your team develop policies to make America's infrastructure great again, we call your attention to a controversial Obama administration policy that discourages competition and results in delays, waste and favoritism during the procurement of taxpayer-funded construction projects.

President Obama's Feb. 6, 2009, Executive Order 13502 encourages federal agencies, on a case-by-case basis, to require project labor agreements (PLAs) on federal construction projects exceeding \$25 million in total value.

As you know from your extensive real estate and construction experience, 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 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 places firms opposed to these costly provisions 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 86.8 percent of the U.S. private construction workforce, according to Bureau of Labor Statistics data.

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.

Unfortunately, the Obama executive order and related Federal Acquisition Regulatory (FAR) Council rules 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, leading to waste, fewer infrastructure improvements and less construction industry job creation for America.

We respectfully request that you consider rescinding Obama's Executive Order 13502 and replace it with Executive Orders 13202 and 13208. This new policy will prevent federal agencies and 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. These measures have already been upheld in the courts and would allow federal agencies to award contracts to contractors that voluntarily enter into PLAs, an industry practice permitted by the National Labor Relations Act. A total of 22 states—20 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 new policy 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 construction spending and investment in infrastructure free from special-interest handouts. Your 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 competition and benefits all Americans.

Sincerely,

Associated Builders and Contractors (ABC)
Associated General Contractors (AGC)
U.S. Chamber of Commerce
National Federation of Independent Business (NFIB)
National Association of Home Builders (NAHB)
National Black Chamber of Commerce (NBCC)
Small Business & Entrepreneurship Council (SBEC)
Independent Electrical Contractors (IEC)
American Council of Engineering Companies (ACEC)
Business Coalition for Fair Competition (BCFC)
Construction Industry Round Table (CIRT)
Electronic Security Association (ESA)

cc: Vice President-elect Mike Pence