May 24, 2016

The Honorable Tim Walberg
Chairman
Committee on Education and the Workforce
Subcommittee on Workforce Protections
U.S. House of Representatives
Washington, DC 20515

Re: AGC Concerns with OSHA’s Improved Tracking of Workplace Injuries and Illnesses

Dear Chairman Walberg:

The Associated General Contractors of America (AGC) thanks you for holding the hearing, “Promoting Safe Workplaces Through Effective and Responsible Recordkeeping Standards,” which looks at the Occupational Safety & Health Administration’s (OSHA) final rule – Improved Tracking of Workplace Injuries and Illnesses. This rule will significantly limit how employers are able to enforce policies that have been established to ensure timely reporting of incidents, as well as implement and enforce other safety and health policies.

Employers trying to comply with the rule have to make substantial changes to their current safety and health policies. Many of the safety policies that could be prohibited by this proposal are commonplace in today’s businesses and promote a safe and healthy workplace. The policies are not designed to discourage injury or illness reporting.

The rule suggests that post-accident drug testing could be considered a practice that would discourage employees from reporting work-related injuries or illnesses; however, nothing could be further from the truth. While OSHA states that the final rule does not ban employee drug testing, the rule does create a system where employers may be apprehensive to do so. The rule also places employer safety incentive programs in jeopardy. OSHA claims that safety incentive programs might dissuade a reasonable employee from reporting an injury. However, AGC has evidence that these programs have proven track records of improving the safety and health of workers in the industry.

The rule’s creation of more data and reporting will lead to an inappropriate misallocation of resources that will detract from efforts to advance workplace safety and health in the construction industry to one focused on data collection. AGC views the rule as flawed and urges Congress to evaluate mechanisms to urge OSHA to place resources in compliance assistance and other initiatives to improve workplace safety rather than data collection.

Sincerely,

Jeffrey D. Shoaf
Senior Executive Director, Government Affairs