

February 5, 2018

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Chuck Schumer  
Minority Leader  
United States Senate  
Washington, DC 20510

The Honorable Paul Ryan  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Ryan, and Minority Leader Pelosi:

As leading associations in the construction industry, we write to express our support for urgent and necessary reforms to our nation's broken immigration system and to thank you for your leadership in prioritizing this issue in the 115<sup>th</sup> Congress. We are encouraged by the momentum that is building on Capitol Hill and in the White House to pursue key reforms that enhance our security and promote America's economic prosperity. However, border security measures must also be accompanied with broader and bipartisan reforms to immigration policy that addresses the workforce needs of our nation's employers.

The recovery of the United States' economy and renewed investment in residential, commercial, and infrastructure development over the last few years has been a welcome change for construction businesses. However, this turnaround is exacerbating already significant labor challenges in the industry. Systemic labor shortages rank at the top of companies' lists of most significant problems and are already contributing to rising costs in construction. Despite our efforts to recruit and train American workers, the construction sector faces a very real growth and affordability crisis if work is increasingly delayed or even cancelled due to a lack of domestic labor.

Our organizations unequivocally oppose illegal immigration, and for almost two decades have repeatedly asked Congress to address the problems in the legal immigration system in the U.S. to create a sensible and practical way for our industry to access legal foreign-born workers. True immigration reform must include a mechanism for construction industry employers to get the temporary foreign workers they need when American workers are unavailable. Our industry must be able to access a program where we can hire legal, foreign-born workers in order to supplement the U.S. construction workforce when the economy needs them.

Nowhere is the worker shortage more starkly illustrated than in the hurricane recovery efforts taking place in Texas, Florida, Puerto Rico, United States territories in the Caribbean, and in the wake of devastating fires and mudslides in California. Unfortunately, current temporary worker programs such as H-2B offer almost no support to the construction industry, and do not reflect the real needs of an industry that operates year-round in the United States. As a solution, we strongly urge Congress to establish a new market-driven visa for temporary foreign workers to enter the United States when the economy needs them, and fewer when our economy contracts. A successful guest worker program will help alleviate the current labor shortage in the construction sector, quicken our ability to rebuild

communities and infrastructure from a spate of natural disasters, and support the overall economic growth of this nation.

We also recognize the need to establish a fair, efficient and workable national employment verification system that provides confirmation of the work authorization status of prospective employees but that also ensures liability protections for employers who comply in good faith. A workable verification system will provide one set of rules for employers to follow no matter their location in the United States, will give robust liability protection to employers who use the system in good faith, and will ensure that all U.S. employers are held responsible for the work authorization status of their direct employees. Our organizations continue to strongly support the reintroduced *Legal Workforce Act*, which recognizes the concerns of the business community by including strong safe harbor protections for employers and, of significant importance to companies operating in the construction field, continues the requirements of current law by mandating all employers be held responsible for the work authorization status of their direct employees, maintaining current liability for employers who knowingly use subcontract labor to circumvent immigration law. We urge both the House and Senate to support the *Legal Workforce Act* as a part of any effort to expand employment verification requirements in the U.S.

At the same time, Congress must address the presence of the undocumented population in a respectful, common-sense manner that aids – not exacerbates – the workforce needs of industry sectors like construction. We believe there is an opportunity to create an earned path toward legal permanent status or citizenship for undocumented workers who meet certain requirements, particularly those “Dreamers” who were brought here as children and have voluntarily come out of the shadows to pursue an education, establish careers, and serve our country in uniform.

Other foreign-born workers have been granted provisional legal status and work authorization that has allowed them to remain in the United States for decades, but their ability to continue doing so is in jeopardy. An estimated 51,000 individuals holding temporary protected status (TPS) from countries including El Salvador, Haiti, and Nicaragua work in the construction industry and have filled a small part of larger workforce shortage gaps. With TPS designation for these countries set to expire soon, the sudden exodus of legally authorized workers from the construction sector will only exacerbate existing labor shortages and lead to project delays at a cost to taxpayers and consumers. Congress has the opportunity to act now to ensure these hardworking individuals continue to participate in the American workforce at a time when they are most needed. We urge Congress to work with the administration to find an opportunity to extend TPS status for deserving nations, and to provide an opportunity for TPS designees who are productive members of the workforce to remain in the United States.

Our industry recognizes and supports efforts by lawmakers to address the nation’s interest and needs in the area of border security. However, we are greatly concerned with political moves and government threats to put hard-working American companies in the middle of the political fight on the issue. Border security measures that include the construction of a wall on the southern border must protect construction contractors from discrimination or retaliation by government officials intent on highlighting their displeasure about the underlying policy. Recently, state and local governments have introduced efforts to discourage federal contractors from building a southern border wall by blacklisting firms from future state or local public works contracts. This would set a dangerous precedent and, unless unchecked, emboldened state and local officials could further discriminate and retaliate against companies that perform any number of critical, national security tasks for the federal government. These proposals undermine the constitutional supremacy of the federal government and federal

immigration legislation must ensure necessary protections for fair and open competition when it comes to U.S. government contracts.

Each of the aforementioned issues and reform proposals are important in their own right, but must all be a part of a broader effort to successfully address our nation's persisting immigration challenges while preserving our growing economy. Our organizations stand ready to work with you on advancing immigration reform that enhances security and also addresses our country's workforce needs.

Thank you for your consideration of our views.

Respectfully,

Associated Builders and Contractors

Associated General Contractors

Leading Builders of America

National Association of Home Builders