

STEPHEN E. SANDHERR, Chief Executive Officer



January 25, 2018

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

Dear President Trump:

The Associated General Contractors of America (AGC)—representing both union and open-shop contractors—urges you to rescind President Obama’s Executive Order (E.O.) 13502, Use of Project Labor Agreements for Federal Construction Projects, and replace it with a new order. That new order should ensure fair and open competition on federal construction contracts by preventing agencies from mandating contractors to sign a project labor agreement (PLA) as a condition for winning a federal or federally-assisted construction contract or by implementing a preference policy for bids with a PLA. Accordingly, AGC recommends that the Administration replace E.O. 13502 with former President George W. Bush’s E.O. 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors’ Labor Relations on Federal and Federally Funded Construction Projects as amended by E.O. 13208.

E.O. 13502 encourages federal agencies to mandate PLAs on projects valued at \$25 million or more. To date, this misguided Obama era E.O. remains in effect. Since taking effect, federal contracting agencies have affirmatively declined mandating PLAs in the vast majority of cases, undercutting proponents’ arguments that government-mandated PLAs increase efficiency and economy in federal contracting. In fact, federal agencies waste precious procurement time and resources—further delaying needed projects—to simply check the box to comply with this E.O.

Collective bargaining agreements between construction employers and unions are the product of the give and take of negotiations between parties who have legitimate but competing interests and reflect local market conditions and practices. Conversely, government mandated labor agreements interfere with that balance and may impose terms and conditions such as inefficient work rules, manning requirements and other inefficiencies that have been bargained away over the years in order to make union construction more competitive. They also compel an employer to work under a collective bargaining agreement that they had no ability to shape or influence as the agreement is negotiated by a government agency and a group of unions. Government mandates for PLAs can even hurt union contractors by disrupting the often complex relationships between union contractors and their counterparts in the building trade unions.

AGC neither supports nor opposes contractors’ voluntary use of PLAs on government projects, but strongly opposes any government mandate for contractors’ use of PLAs. If a PLA would benefit the construction of a particular project, the contractors otherwise qualified to perform the work are in the best position to decide whether a PLA should be used on a project and are the most qualified to negotiate such an agreement. Again, AGC is committed to free and open competition for publicly funded work, and believes that the lawful labor relations policies and practices of private construction contractors should not be a factor in a government agency’s selection process.

In light of growing momentum for an infrastructure bill, an effort AGC wholeheartedly supports, AGC urges swift rescission of E.O. 13502. The potential for increased federal infrastructure investment over the next decade should be eligible to all construction firms regardless of their lawful labor policies.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Sandherr". The signature is written in a cursive, slightly slanted style.

Stephen Sandherr