

July 11, 2023

The Honorable James Comer  
Chairman, Committee on  
Oversight & Accountability  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Jamie Raskin  
Ranking Member, Committee on  
Oversight & Accountability  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Comer and Representative Raskin:

On behalf of the Construction Employers of America (CEA) and the 15,000 signatory contractors and 1.4 million employees we represent, we are writing to express our opposition to the “Fair and Open Competition Act” or “FOCA” (H.R. 1209), legislation that is scheduled for a markup in the House Oversight and Accountability Committee this week. This bill would upend the structure and stability that project labor agreements (PLAs) provide to large-scale construction projects, facilitate the misclassification of employees as independent contractors, and have the effect of depressing wages for American workers.

The CEA is made up of seven employer associations that represent construction firms that utilize union craftworkers. Our members adhere to the highest standards and provide superior wages and benefits—including health insurance, pensions, and investments in worker safety and training—and are committed to working to strengthen the construction industry and provide opportunities for our workers. Our members’ efforts help provide the best value to project owners while securing high-value compensation and benefits for workers, their families, and their communities. A [recent study of 1,550 U.S. construction projects of all sizes by Independent Project Analysis](#)—an international, independent, non-partisan construction project cost consulting firm—conclusively documented the benefits of union construction. The study found that all-union capital construction projects are 14% more productive than exclusively non-union projects, are overall 4% more cost effective than exclusively non-union projects, and are 40% less likely than exclusively non-union projects to face cost overruns and scheduling delays.

In February 2022, President Biden issued E.O. 14063 that reiterated the policy of his two predecessors that federal agencies should use PLAs to “promote economy and efficiency” on large-scale construction projects. The E.O. and its implementing regulations did not mandate the use of PLAs, despite the fact that the use of these pre-negotiated agreements between project owners, contractors, and subcontractors protects taxpayer-provided funds by guaranteeing project deadlines and ensuring high standards for quality, safety and health, and fair compensation for workers. E.O. 14063 also did not discriminate against non-signatory contractors or prevent them from bidding on projects, nor did it create an uneven playing field between signatory and non-signatory contractors. Rather, it provided a more level playing field between construction companies that fully honor their commitment to treat their workers as employees and those attempting to reduce their labor costs and depress wages by evading their obligation to pay overtime, health and retirement benefits, and even employment taxes.

The simple fact is that the use of PLAs for public construction projects will ensure the federal government realizes the same benefits that the private sector and large U.S. corporations have known about for decades: PLAs help save money in the long run by providing structure and stability to projects that involve multiple employers and hundreds of skilled tradespeople. It is for these reasons that we urge the Committee to reject H.R. 1209 and enable federal agencies to utilize PLAs when they are deemed in the best economic interest of the project owner on behalf of the taxpayer.

Sincerely,

The Construction Employers of America  
[www.constructionemployersofamerica.com](http://www.constructionemployersofamerica.com)

FCA International  
International Council of Employers of Bricklayers and Allied Craftworkers  
Mechanical Contractors Association of America  
National Electrical Contractors Association  
Sheet Metal & Air Conditioning Contractors' National Association  
Signatory Wall and Ceiling Contractors Alliance  
The Association of Union Constructors