

DAVID VITTER
LOUISIANA

DEPUTY WHIP

Armed Services

Banking, Housing, and Urban Affairs

Environment and Public Works

Small Business and Entrepreneurship

United States Senate

WASHINGTON, DC 20510

June 6, 2011

WASHINGTON, D.C.
HART SENATE OFFICE BUILDING
SUITE SH-516
WASHINGTON, DC 20510
(202) 224-4623
FAX: (202) 228-5061

BATON ROUGE
858 CONVENTION STREET
BATON ROUGE, LA 70802
(225) 383-0331
FAX: (225) 383-0952

Website with E-Mail Access:
vitter.senate.gov

Support Fair and Open Competition In Federal Contracting

Co-sponsor the Government Neutrality in Contracting Act (S. 119)

Dear Colleague:

As we continue to working to reign in government spending and reducing our deficit, we must also ensure that the taxpayer gets the most value for the dollar. That is why I introduced legislation that would prohibit executive agencies and recipients of federal funds from forcing contractors to agree to project labor agreements (PLAs) as a condition of winning a federal or federally assisted construction contract.

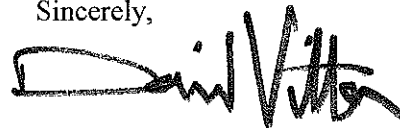
A government-mandated PLA is a contract that requires companies to enter into collective bargaining with a union, use the union hiring hall for workers, operate under inefficient union work rules, and pay union wages and into benefit and pension plans. Government-mandated PLAs drive competition away from nonunion contractors and hurt their workers – affecting almost 87 percent of the U.S. private construction workforce.¹

In 2009, President Obama signed Executive Order 13502, encouraging federal agencies to mandate union-favoring project labor agreements (PLAs) on federal construction projects exceeding \$25 million. Simply put, this was a kickback to Big Labor for their political support by steering lucrative federal construction contracts to unionized companies and their unionized workforces.

There have been numerous studies in diverse regions across the country proving that PLAs increase construction costs between 12 to 18 percent compared to similar non-PLA projects. Congress should be doing all it can to ensure fair and open competition on federal construction contracts, and help deliver to taxpayers the best possible construction product at the best possible price.

The Government Neutrality in Contracting Act (S. 119) will end this deal for special interests by increasing competition, reducing costs, creating construction jobs and restoring a level playing field for all qualified contractors to compete for public construction contracts. This bill is supported by numerous groups including the Associated Builders and Contractors (ABC), the National Federation of Independent Business (NFIB), the Associated General Contractors of America (AGC), the U.S. Chamber of Commerce, the National Black Chamber of Commerce, and several others. Please act today to restore fair and open competition in federal contracting. To learn more or to become a cosponsor, contact Michael Wong in my office at 224-4623, or Michael_Wong@vitter.senate.gov.

Sincerely,



David Vitter
United States Senate

¹ Union Members Summary. Bureau of Labor Statistics. Jan. 21, 2011. <http://www.bls.gov/news.release/union2.nr0.htm>

ACADIANA	CENTRAL LOUISIANA	NORTHEAST LOUISIANA	NORTHWEST LOUISIANA	SOUTHEAST LOUISIANA	SOUTHWEST LOUISIANA
800 LAFAYETTE STREET SUITE 1200 LAFAYETTE, LA 70501 (337) 262-6898 FAX: (337) 262-6373	2230 SOUTH MACARTHUR DRIVE SUITE 4 ALEXANDRIA, LA 71301 (318) 448-0169 FAX: (318) 448-0189	1217 NORTH 19TH STREET MONROE, LA 71201 (318) 325-8120 FAX: (318) 325-9165	920 PIERREMENT ROAD SUITE 113 SHREVEPORT, LA 71106 (318) 861-0437 FAX: (318) 861-4865	2800 VETERANS BOULEVARD SUITE 201 METAIRIE, LA 70002 (504) 589-2753 FAX: (504) 589-2607	3221 RYAN STREET SUITE E LAKE CHARLES, LA 70601 (337) 436-0453 FAX: (337) 436-3163

May 3, 2011

United States Senate
Washington, D.C. 20510

Dear Senator:

The diverse group of undersigned construction and business associations urges you to support the Government Neutrality in Contracting Act (S. 119), introduced by Senator David Vitter (R-La.). This legislation will curb waste and favoritism in the procurement of federal construction projects and ensure taxpayer dollars are spent responsibly. We ask that you take a stand against discrimination and special interest set-asides in government contracting and cosponsor this important legislation.

The Government Neutrality in Contracting Act protects taxpayers and ensures fair and open competition on government construction contracts by prohibiting government-mandated project labor agreements (PLAs) on federal and federally assisted construction projects.

A government-mandated PLA is a contract that typically requires construction projects to be awarded only to companies that agree to recognize unions as the representatives of their employees on that job; use the union hiring hall to obtain workers; obtain apprentices exclusively from union apprenticeship programs; follow archaic and inefficient union work rules; and pay into union benefit and multi-employer pension plans that nonunion employees will never be able to access, forcing non-signatory employers to pay twice for retirement and healthcare benefits.

Government-mandated PLAs can unfairly discourage competition from qualified nonunion contractors and their skilled employees—who compose almost 87 percent of the U.S. private construction workforce.

President Obama's Feb. 6, 2009, Executive Order 13502 encourages federal agencies to require PLAs on federal construction projects exceeding \$25 million in total cost in order to allegedly "advance the economy and efficiency in federal contracting." The Obama order was widely criticized as a sweetheart deal for Big Labor as payback for generous political support in the 2008 presidential election and has resulted in federal agencies steering lucrative federal construction contracts to unionized contractors and their union workforces with little competition from qualified nonunion contractors.

The executive order has also resulted in increased costs. In December, an investigation by *The Washington Examiner* revealed that a recent PLA on a federal building in Washington, D.C., cost taxpayers an additional \$3.3 million. The added cost of the PLA was unsurprising, as several independent and academic studies indicate that government-mandated PLAs in numerous markets increase construction costs between 12 percent and 18 percent compared to similar non-PLA projects.

The Government Neutrality in Contracting Act puts an end to these special interest handouts and will result in more federal contracting opportunities for qualified small businesses and women- and-minority-owned businesses that traditionally are not unionized. It also will eliminate waste in federal contracting, which will create more construction jobs for all skilled tradespeople in an industry suffering from a 20 percent unemployment rate.

Senator Vitter's legislation will ensure that taxpayers get the best possible construction project at the best possible price. We strongly urge you to help eliminate waste and favoritism in federal construction procurement by cosponsoring Senator Vitter's Government Neutrality in Contracting Act (S. 119) in the 112th Congress.

To learn more about government-mandated PLAs, visit www.TheTruthAboutPLAs.com. For more information about this issue or legislation, contact Michael Wong in Senator Vitter's office at (202) 224-4623 or Michael.Wong@vitter.senate.gov.

Sincerely,

Associated Builders and Contractors (ABC)
Construction Industry Roundtable (CIRT)
Electronic Security Association (ESA)
Independent Electrical Contractors Association (IEC)
Merit Elevator Contractors Association of America
National Association of Minority Contractors (NAMC) – Philadelphia Chapter
National Association of Women in Construction (NAWIC)
National Black Chamber of Commerce (NBCC)
National Federation of Independent Business (NFIB)
National Ready Mixed Concrete Association (NRMCA)
National Utility Contractors Association (NUCA)
Small Business and Entrepreneurship Council
U.S. Chamber of Commerce
Women Construction Owners and Executives, USA (WCOE)



March 30, 2011

The Honorable David Vitter
516 Hart Senate Office Building
Washington, DC 20510

Dear Senator Vitter,

The Associated General Contractors of America (AGC) thanks you for your support for full and open competition in the bidding process for federal and federally funded construction projects and to oppose efforts to impose or favor the use of project labor agreements on such projects. On behalf of its members, AGC supports your legislation, the Government Neutrality in Contracting Act, which will ensure fairness in the procurement of federal and federally funded construction projects.

AGC strongly supports free, open, and competitive bidding for all federal and federally-funded work – among all qualified firms, without regard to their lawful labor policies. Government-mandated PLAs effectively compel both union and open shop contractors to alter their hiring practices, work rules, job assignments, and benefits in order to compete for or to perform work on publicly funded projects. This not only constitutes inappropriate government interference with private labor relations, it amounts to an unfair government preference that can significantly impact the cost of public works.

Project owners have many ways to ensure that their construction contractors complete their projects in a timely manner, and there is no reliable evidence that project labor agreements improve the performance that an owner can expect in the absence of such an agreement. Quite to the contrary, project labor agreements can give rise to jurisdictional disputes that would not otherwise occur.

Once again, thank you for your efforts to keep in place the well-settled patterns of labor-management relations in the construction industry and the cost-effective construction of public works.

Sincerely,

Stephen E. Sandherr
Chief Executive Officer

112TH CONGRESS
1ST SESSION

S. 119

To preserve open competition and Federal Government neutrality towards the labor relations of Federal Government contractors on Federal and federally funded construction projects.

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To preserve open competition and Federal Government neutrality towards the labor relations of Federal Government contractors on Federal and federally funded construction projects.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Government Neutrality
5 in Contracting Act”.

6 **SEC. 2. PURPOSES.**

7 It is the purpose of this Act to—

1 (1) promote and ensure open competition on
2 Federal and federally funded or assisted construc-
3 tion projects;

4 (2) maintain Federal Government neutrality to-
5 wards the labor relations of Federal Government
6 contractors on Federal and federally funded or as-
7 sisted construction projects;

8 (3) reduce construction costs to the Federal
9 Government and to the taxpayers;

10 (4) expand job opportunities, especially for
11 small and disadvantaged businesses; and

12 (5) prevent discrimination against Federal Gov-
13 ernment contractors or their employees based upon
14 labor affiliation or the lack thereof, thereby pro-
15 moting the economical, nondiscriminatory, and effi-
16 cient administration and completion of Federal and
17 federally funded or assisted construction projects.

18 **SEC. 3. PRESERVATION OF OPEN COMPETITION AND FED-**
19 **ERAL GOVERNMENT NEUTRALITY.**

20 (a) PROHIBITION.—

21 (1) GENERAL RULE.—The head of each execu-
22 tive agency that awards any construction contract
23 after the date of enactment of this Act, or that obli-
24 gates funds pursuant to such a contract, shall en-
25 sure that the agency, and any construction manager

1 acting on behalf of the Federal Government with re-
2 spect to such contract, in its bid specifications,
3 project agreements, or other controlling documents
4 does not—

5 (A) require or prohibit a bidder, offeror,
6 contractor, or subcontractor from entering into,
7 or adhering to, agreements with 1 or more
8 labor organization, with respect to that con-
9 struction project or another related construction
10 project; or

11 (B) otherwise discriminate against a bid-
12 der, offeror, contractor, or subcontractor be-
13 cause such bidder, offeror, contractor, or sub-
14 contractor—

15 (i) becomes a signatory, or otherwise
16 adheres to, an agreement with 1 or more
17 labor organization with respect to that con-
18 struction project or another related con-
19 struction project; or

20 (ii) refuses to become a signatory, or
21 otherwise adheres to, an agreement with 1
22 or more labor organization with respect to
23 that construction project or another related
24 construction project.

1 (2) APPLICATION OF PROHIBITION.—The provi-
 2 sions of this section shall not apply to contracts
 3 awarded prior to the date of enactment of this Act,
 4 and subcontracts awarded pursuant to such con-
 5 tracts regardless of the date of such subcontracts.

6 (3) RULE OF CONSTRUCTION.—Nothing in
 7 paragraph (1) shall be construed to prohibit a con-
 8 tractor or subcontractor from voluntarily entering
 9 into an agreement described in such paragraph.

10 (b) RECIPIENTS OF GRANTS AND OTHER ASSIST-
 11 ANCE.—The head of each executive agency that awards
 12 grants, provides financial assistance, or enters into cooper-
 13 ative agreements for construction projects after the date
 14 of enactment of this Act, shall ensure that—

15 (1) the bid specifications, project agreements,
 16 or other controlling documents for such construction
 17 projects of a recipient of a grant or financial assist-
 18 ance, or by the parties to a cooperative agreement,
 19 do not contain any of the requirements or prohibi-
 20 tions described in subparagraph (A) or (B) of sub-
 21 section (a)(1); or

22 (2) the bid specifications, project agreements,
 23 or other controlling documents for such construction
 24 projects of a construction manager acting on behalf
 25 of a recipient or party described in paragraph (1) do

1 not contain any of the requirements or prohibitions
2 described in subparagraph (A) or (B) of subsection
3 (a)(1).

4 (c) FAILURE TO COMPLY.—If an executive agency,
5 a recipient of a grant or financial assistance from an execu-
6 tive agency, a party to a cooperative agreement with an
7 executive agency, or a construction manager acting on be-
8 half of such an agency, recipient, or party, fails to comply
9 with subsection (a) or (b), the head of the executive agency
10 awarding the contract, grant, or assistance, or entering
11 into the agreement, involved shall take such action, con-
12 sistent with law, as the head of the agency determines to
13 be appropriate.

14 (d) EXEMPTIONS.—

15 (1) IN GENERAL.—The head of an executive
16 agency may exempt a particular project, contract,
17 subcontract, grant, or cooperative agreement from
18 the requirements of 1 or more of the provisions of
19 subsections (a) and (b) if the head of such agency
20 determines that special circumstances exist that re-
21 quire an exemption in order to avert an imminent
22 threat to public health or safety or to serve the na-
23 tional security.

24 (2) SPECIAL CIRCUMSTANCES.—For purposes
25 of paragraph (1), a finding of “special cir-

1 cumstances” may not be based on the possibility or
 2 existence of a labor dispute concerning contractors
 3 or subcontractors that are nonsignatories to, or that
 4 otherwise do not adhere to, agreements with 1 or
 5 more labor organization, or labor disputes con-
 6 cerning employees on the project who are not mem-
 7 bers of, or affiliated with, a labor organization.

8 (3) ADDITIONAL EXEMPTION FOR CERTAIN
 9 PROJECTS.—The head of an executive agency, upon
 10 application of an awarding authority, a recipient of
 11 grants or financial assistance, a party to a coopera-
 12 tive agreement, or a construction manager acting on
 13 behalf of any of such entities, may exempt a par-
 14 ticular project from the requirements of any or all
 15 of the provisions of subsections (a) or (c) if the
 16 agency head finds—

17 (A) that the awarding authority, recipient
 18 of grants or financial assistance, party to a co-
 19 operative agreement, or construction manager
 20 acting on behalf of any of such entities had
 21 issued or was a party to, as of the date of the
 22 enactment of this Act, bid specifications, project
 23 agreements, agreements with one or more labor
 24 organizations, or other controlling documents
 25 with respect to that particular project, which

1 contained any of the requirements or prohibi-
2 tions set forth in subsection (a)(1); and

3 (B) that one or more construction con-
4 tracts subject to such requirements or prohibi-
5 tions had been awarded as of the date of the
6 enactment of this Act.

7 (e) FEDERAL ACQUISITION REGULATORY COUN-
8 CIL.—With respect to Federal contracts to which this sec-
9 tion applies, not later than 60 days after the date of enact-
10 ment of this Act, the Federal Acquisition Regulatory
11 Council shall take appropriate action to amend the Fed-
12 eral Acquisition Regulation to implement the provisions of
13 this section.

14 (f) DEFINITIONS.—In this section:

15 (1) CONSTRUCTION CONTRACT.—The term
16 “construction contract” means any contract for the
17 construction, rehabilitation, alteration, conversion,
18 extension, or repair of buildings, highways, or other
19 improvements to real property.

20 (2) EXECUTIVE AGENCY.—The term “executive
21 agency” has the meaning given such term in section
22 133 of title 41, United States Code, except that such
23 term shall not include the Government Account-
24 ability Office.

1 (3) LABOR ORGANIZATION.—The term “labor
2 organization” has the meaning given such term in
3 section 701(d) of the Civil Rights Act of 1964 (42
4 U.S.C. 2000e(d)).

○