



July 10, 2023

The Honorable James Comer  
Chairman  
Committee on Oversight and Accountability  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jamie Raskin  
Ranking Member  
Committee on Oversight and Accountability  
U.S. House of Representatives  
Washington, DC 2051

Dear Chairman Comer, Ranking Member Raskin and members of the U.S. House Committee on Oversight and Accountability:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 68 chapters representing more than 22,000 member companies, I write in strong support of the Fair and Open Competition Act (H.R. 1209/S. 537) introduced by Chairman James Comer and Sen. Todd Young. **ABC urges members of the House Committee on Oversight and Accountability to vote in support of FOCA during the Committee's July 12 markup.**

FOCA protects federal and federally assisted construction contracts from anti-competitive and inflationary government-mandated project labor agreements and will allow merit shop contractors to have a fair chance at competing to rebuild America. With 88.3% of the U.S. private construction workforce choosing not to belong to a union, PLA mandates discourage experienced contractors and their employees from competing to win taxpayer-funded contracts to rebuild their communities through the \$1.2 trillion Infrastructure Investment and Jobs Act.

**While FOCA would prohibit federally mandated PLAs and ensure a level playing field for competition during the procurement of taxpayer-funded construction projects, it would still allow federal agencies to award contracts to businesses that voluntarily enter into a PLA.** According to the [Congressional Research Service](#), the legislative language “would not prevent private contractors on federal or federally funded projects from voluntarily entering into a PLA. Although not identical, the language in H.R. 436 is similar to the language in President Bush’s EO 13202. The U.S. Court of Appeals for the District of Columbia maintained that the President’s EO did not prohibit or require contractors from entering into PLAs.”

President Joe Biden’s February 2022 Executive Order 14063 requires federal general contractors and subcontractors to enter into a PLA as a condition of winning a contract to perform services on a federal construction project worth \$35 million or more. In addition, ABC has identified a significant number of [federal agency grants](#)—totaling more than \$250 billion for infrastructure projects procured by state and local governments—that are now subject to language and policies promoting PLA mandates and preferences. Those grants will prevent the merit shop construction industry from fairly competing to build projects in their communities.

Additionally, policies promoting or mandating PLAs will needlessly increase construction costs by 12% to 20% and result in fewer infrastructure projects and jobs created by federal investment in America’s roads, bridges, schools and water and energy infrastructure.

All of America’s workers and qualified contractors should be provided the opportunity to compete to build long-lasting, quality projects at the best price for hardworking taxpayers. Please support fair and open competition on future infrastructure projects by supporting FOCA during the U.S. House Committee on Oversight and Accountability’s July 12 markup.

Sincerely,

Kristen Swearingen  
Vice President, Legislative & Political Affairs