

February 22, 2013

The Honorable Charles Schumer
United States Senate
Washington, DC 20510

Dear Senator Schumer,

As leading associations in the construction industry, we want to thank you for your leadership on immigration reform. We are encouraged by the momentum that is building on reform efforts, and we find that many of our priorities are consistent with the overall goals of both the Administration and Congress.

The undersigned construction associations represent thousands of employers and hundreds of thousands of workers in all facets of construction—from home building, to road construction, to heavy industrial production, to specialty trade contractors and material suppliers. Together, we believe that in order to be successful in fixing America's broken immigration system, any viable remedy must do four things: strengthen our national security, create a role for employers in an employment system that functions in a fair, efficient and workable way, address the realities of future workforce needs in the less-skilled sectors, and find a reasonable, rational way of dealing with the current undocumented population in the United States.

As the economy recovers, companies in the construction sector will face a shortage of qualified workers—both craft professionals and laborers. For decades, the immigrant workforce has played a vital role in the growth and sustainability of our industry, and we are proud to note that for many legal immigrants, jobs in the construction sector have provided them with a key opportunity to gain a foothold in the American middle class. Unfortunately, current immigration laws—which all but ignore the needs of sectors that utilize less-skilled immigrant workers—disproportionately affect construction companies because of their fluctuating work needs.

A major deficiency in the 1986 immigration law was its lack of a legal program to address the issue of a pathway for foreign workers to enter the United States to work. Because the 1986 law did not create a legal system, foreign workers drawn to the United States' dynamic economy came into the country illegally. To resolve this problem going forward, any future immigration law must include a program to provide a legal path for foreign workers to enter the United States when the economy needs them, with fewer entering when the U.S. economy contracts.

A successful future guestworker program must include:

- An annual visa cap that fluctuates based on a demand-driven system that reflects the real economic needs of the nation;
- An opportunity for employers to petition for an approved slot that allows them to hire visa-holding foreign workers, and replace those workers if/when they move onto another approved job slot;
- A time period for job slot approvals, and approved visas, that reflects a long enough time period to ensure that the training investment made by employers is not lost;
- A program that requires employers to treat these legal foreign workers in the same manner as U.S. workers—with all of the same benefits, workforce protections and wage rates as similarly-situated workers at the same location;

- A dual-intent process that allows some foreign workers who have demonstrated a commitment to their jobs and their communities to choose to petition for a change of status to a permanent legal status in the United States, while also incentivizing most foreign workers to return to their home country at the end of their visa period.

Additionally, the construction community supports the implementation of an efficient, practical and accurate employment verification system that provides ample protection from liability for employers who comply with the system in good faith. This system should be phased in according to company size, and should not burden employers either financially or functionally. Importantly, like other employers in other sectors, the construction industry firmly believes that any employment verification system should hold all U.S. employers accountable for the work authorization status of their direct employees, and not create vicarious liability by holding employers accountable for the hiring decisions made by entities with whom they have a contract, subcontract, or exchange.

In the 112th Congress, our organizations supported the Legal Workforce Act (H.R. 2885), introduced by then-Chairman of the House Judiciary Committee, Rep. Lamar Smith (R-TX). We believed that this legislation was the first step in creating an employment eligibility verification system that is workable for both employers and employees. We particularly appreciated this legislation's efforts to address our concerns and provide strong safe harbor protections for employers against prosecution and penalties when acting in good faith, along with providing protection from any vicarious cross-liability that could be imposed on employers.

Finally, we support the efforts of lawmakers to craft an earned pathway to legal status for current undocumented workers who meet qualifying criteria. In the past few decades, the robust U.S. economy has revealed a shortage of specialized and educated workers in the United States. As a result, the gap created by a lack of U.S. workers, a lack of legal immigration programs for less-skilled workers, and a growing American economy has been filled by undocumented workers. A seamless pathway to permanent legal status for those who have filled jobs otherwise left open by U.S. citizens will help American companies continue to prosper and expand as our lagging economy improves—helping ultimately to provide more job opportunities for U.S. workers. Any program geared to earned legalization for the current population of undocumented workers should also include a fix to the employment-based immigrant visa process and numerical limitations.

We have a unique opportunity before us to reform our immigration policies to enhance our security, protect our economy, and continue our heritage as a welcoming country of immigrants. We urge you to continue working together to craft a reasonable and balanced approach to addressing America's immigration problems in a way that resolves the issue for the long-term. We look forward to working with you, and with the House and the Administration, to craft and support immigration reform legislation that can be considered and passed by Congress this year.

Thank you for your consideration of our views.

Respectfully,

Associated Builders & Contractors
Associated General Contractors
Leading Builders of America
National Association of Home Builders
National Roofing Contractors Association