July 13, 2016

The Honorable Hal Rogers Chairman, House Committee on Appropriations U.S. Capitol Washington, DC 20515 The Honorable Nita Lowey Ranking Member, House Committee on Appropriations U.S. Capitol Washington, DC 20515

Dear Chairman Rogers and Ranking Member Lowey:

On behalf of Associated Builders and Contractors (ABC), a national construction industry trade association with 70 chapters representing nearly 21,000 chapter members, I write in regards to the July 13 markup of the FY 2017 Labor, Health and Human Services, Education and Related Agencies Appropriations Bill. ABC commends you for including several important policy provisions and encourages the Committee to adopt an amendment dealing with the Department of Labor's (DOL) controversial "persuader" rulemaking.

The first provision included in the underlying bill would address the NLRB's final rule establishing "ambush" elections (Representation-Case Procedures, 79 Fed. Reg. 74307). The rule significantly changes the union representation election process by reducing the amount of time between when a union files a representation petition and an election takes place from a median 38 days to as few as 10 to 14 days. The rule also seeks to "streamline" the process by deferring or eliminating long-held employer rights. In addition, the rule requires employers to hand over their employees' names, home addresses, phone numbers, email addresses, work locations, shifts and job classifications to union organizers.

The second provision included in this bill stops the NLRB from invalidating the existing joint employer standard. On May 12, 2014, the NLRB issued an invitation to the public to file amicus briefs in the *Browning Ferris Industries* case, on whether the Board should revisit its 30-year-old joint employer standards. The unprecedented changes the Board is considering would redefine who qualifies as a "joint employer" under the NLRA, potentially imposing unnecessary barriers to and burdens on the contractor and subcontractor relationship throughout the construction industry. Contractors may find themselves vulnerable to increased liability—making them less likely to hire subcontractors, most of which are small businesses, to work on projects.

While we are grateful the committee included language addressing these important issues, we are disappointed that other issues of great concern to our members were not.

The first of those policies is OSHA's Crystalline Silica Final Rulemaking. On Sept. 12, 2013, OSHA issued its proposal to s

consideration of our members' concerns, and looks forward to working with you as funding levels and priorities are set for the 2017 fiscal year.

Sincerely,

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Kristen Swearingen Vice President, Legislative & Political Affairs