



January 7, 2014

The Honorable Hal Rogers
Chairman
House Committee on Appropriations
Washington, DC 20515

The Honorable Nita Lowey
Ranking Member
House Committee on Appropriations
Washington, DC 20515

The Honorable Jack Kingston
Chairman, Subcommittee on Labor,
Health and Human Services, Education, and
Related Agencies
House Committee on Appropriations
Washington, DC 20515

The Honorable Rosa DeLauro
Ranking Member, Subcommittee on Labor,
Health and Human Services, Education, and
Related Agencies
House Committee on Appropriations
Washington, DC 20515

Dear Chairmen Rogers and Kingston and Ranking Members Lowey and DeLauro:

On behalf of Associated Builders and Contractors (ABC), a national trade association with 70 chapters representing 22,000 member firms from more than 19,000 construction and industry-related companies, I am writing to highlight existing proposed regulatory and sub-regulatory actions from the U.S. Department of Labor (DOL) and the National Labor Relations Board (NLRB) that have or will have negative impacts on job growth and economic recovery in the construction industry. ABC urges the Committee on Appropriations to carefully examine these concerns and ensure they are addressed in the upcoming omnibus appropriations package for fiscal year 2014.

U.S. Department of Labor

“Persuader” Reporting Rulemaking

In March 2014, DOL plans to finalize drastic changes to how the Labor-Management Reporting and Disclosure Act (LMRDA) is interpreted and enforced under the Labor-Management Reporting and Disclosure Act; Interpretation of the “Advice” Exemption (76 Fed. Reg. 36178). Section 203 pertains to federal reporting and disclosure requirements for individuals and entities hired by employers “to persuade employees to exercise or not exercise or persuade employees as to the manner of exercising, the right to organize...” Employers and true “persuaders” have long been required to file disclosure reports with DOL. However, when attorneys or consultants do not communicate directly with employees, but instead simply advise the employer, they have not been required to disclose. DOL’s proposal virtually eliminates this exemption, resulting in the drastic expansion of the types of circumstances that will trigger reporting—including communications between attorneys and their clients. If finalized, the proposal will deny employers their rights to free speech, freedom of association and legal counsel, and



implications such a policy would have on the safety and integrity of their worksites. ABC supports any language preventing the Occupational Safety and Health Administration (OSHA) from implementing these alarming sub-regulatory policy revisions.

NLRB

“Ambush” Elections Rulemaking

ABC has been outspoken in its opposition to the NLRB’s “ambush” elections proposal (Representation-Case Procedure, 76 Fed. Reg. 36811), which, if implemented, will drastically reduce the amount of time between a union filing a representation petition and a representation election taking place from the current average of approximately 40 days

While it is true that existing procedures for elections call for secret ballot elections, these procedures must be protected from misguided politically motivated attempts by the NLRB to curtail, circumvent and ultimately eliminate them through regulation. What was true in the days of the ironically named Employee Free Choice Act (EFCA) is true today—the secret ballot is one of the cornerstones of the democratic process, and deserves the utmost protection from those who wish to eliminate it.

ABC supports the protection of workers' right to anonymous, secret ballot elections when deciding whether to be represented by a union, and the implementation of policies that mandate so-called "card check" campaigns.

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Amid today's economic challenges, DOL and NLRB should be helping employers get workers back on the job, and creating opportunities for businesses to grow. Unfortunately, many of the current priorities of these agencies will unquestionably do the opposite. ABC appreciates the Committee's####