

May 7, 2014

The Honorable Howard McKeon  
Chairman  
House Armed Services Committee  
2310 Rayburn House Office  
Washington, D.C. 20515

The Honorable Adam Smith  
Ranking Member  
House Armed Services Committee  
2264 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman McKeon and Ranking Member Smith:

We, the undersigned construction industry trade and professional organizations representing tens of thousands of firms and individuals engaged in architecture, engineering, surveying and mapping, prime contracting, subcontracting, specialty trade contracting, supplying, and surety and bond production, strongly urge you to include and support language in the National Defense Authorization Act of 2015 based on H.R. 2750, the Design-Build Efficiency and Jobs Act, H.R. 2751, the Common Sense Construction Contracting Act of 2013—in Section 815 of the Chairman’s Mark—and H.R. 776, the Security in Bonding Act. These bipartisan bills provide a framework for growth in the construction industry and for more efficient federal government procurement through simple, *no-cost* to the government solutions. Specifically, these bills would:

- **Make the Design-Build Construction Process More Competitive**
  - Absent any degree of certainty as to how many design/construction teams will participate in design-build contract competitions, many qualified teams—especially small businesses—cannot risk the high cost of producing complete design and engineering technical proposals and, consequently, do not to compete.
  - According to a recent survey, between 2007 and 2011 architecture firms in teams that competed for public- and private-sector design-build projects spent a *median* of \$260,000, by submitting detailed plans and other materials.
  - H.R. 2750 would spur more design-build competition by allowing a predictable number of design/construction teams to submit those expensive technical proposals.
- **Instate Lessons Learned from Reverse Auction Procurement of Construction Services**
  - Procuring design and construction services is different than procuring off-the-shelf, manufactured commodities. In 2004 after several failed experiments, the U.S. Army Corps of Engineers (USACE)—the largest and most experienced construction agency—determined that procuring design and construction services through reverse auctions “should be the very rare exception and not the rule—if used at all.”
  - However, several federal agencies continue to use reverse auctions for construction. According to a 2013 GAO report, agencies conducted over 3,600 reverse auctions where only one vendor submitted only one bid.
  - H.R. 2751—Section 815 of the Chairman’s Mark—would prohibit federal agencies from procuring design and construction services through reverse auctions and apply the lessons learned from USACE.
- **Prevent Fraud in the Individual Surety Construction Bond Marketplace**
  - Statutory surety bond requirements provide vital financial security to protect the federal government by assuring that interested contractors have been prequalified by a corporate surety to perform the construction contract.
  - Individual sureties, however, neither are subject to the same regulatory oversight as corporate sureties, nor are they required to relinquish the custody and control of the assets that they pledge to secure their bonds on federal construction contracts.
  - H.R. 776 would help prevent fraud by providing financial certainty to assets that support individual surety bonds.

Again, we urge you to include and support language in the National Defense Authorization Act of 2015 based on these critically important bills to the construction industry. Thank you for your consideration.

Sincerely,

American Council of Engineering Companies  
American Institute of Architects  
American Subcontractors Association  
Associated General Contractors of America

Independent Electrical Contractors  
Management Association for Private Photogrammetric Surveyors  
National Association of Surety Bond Producers  
National Society of Professional Surveyors  
Surety & Fidelity Association of America

CC: House Armed Services Committee Members