



December 2, 2020

Mr. Chris Lu
Fiscal Note
Senior Strategy Advisor
1201 Pennsylvania Ave NW
Washington, D.C. 20004

Dear Mr. Lu:

Thank you for devoting your time and energy in leading the Biden-Harris Department of Labor (DOL) Agency Review Team. On behalf of The Association of Union Constructors (TAUC), I would respectfully offer our organization's policy recommendations to strengthen the unionized construction industry.

TAUC is the largest multi-craft union contractor association in the nation, representing over 1,800 union construction firms engaged in providing high-quality industrial construction and maintenance services to our customers. The Association's mission is to serve as an advocate for signatory contractors who utilize union labor and to enhance cooperation between the three entities involved in the successful completion of construction and industrial maintenance projects: the contractor, the building trade unions, and the owner-client (the company for which the work is being completed). This "tripartite dialogue," facilitated by TAUC, delivers the cost-effective, high-quality construction demanded by our members' owner-clients.

To accomplish this objective, our contractor members employ skilled union craft personnel on construction and maintenance projects. These men and women, who build and maintain the most critical elements of our nation's industrial infrastructure, are among the most well-trained and productive construction industry professionals in the world.

We look forward to working to assist President-elect Biden and Vice President-elect Harris in identifying policies and enforcement activities that will recognize the investments TAUC members make in training the unionize construction workforce, health care and retirement security union craftworker, and providing safe, highly productive job sites.

As the DOL Agency Review Team develops recommendations to ensure that the Biden-Harris Administration can start working on behalf of working Americans on day one, we urge you to consider the following policies that will allow the union construction and maintenance industry to continue to provide a pathway to the middle class for tens of thousands of American workers:

- ***Modernize Multiemployer Retirement Plan Options by Authorizing the Voluntary Use of Composite Plans*** — TAUC’s members remain committed to maintaining the pension benefits and retirement security for the men and women they employ to construct and maintain the nation’s industrial infrastructure. Unfortunately, uncertainty and risk in the current multiemployer pension system threaten its overall long-term sustainability.

Market volatility and defaults by other employers create unpredictable and unacceptable risk. The resulting unfunded liabilities generate withdrawal liability, which leads to lending and bonding issues for construction industry employers. This unquantifiable risk serves as a barrier to new employers entering the system and creates an incentive for current employers to leave the system, further destabilizing both the individual plans and the entire multiemployer pension system.

While much of the policy discussions to date have focused on the few systematically significant multiemployer pension plans facing insolvency, we believe that any multiemployer pension reform effort should include provisions to strengthen the entire system and address the needs of healthy plans and the signatory contractors who contribute to them.

To this end, we strongly support the authorization of the voluntary use of hybrid-composite plans. If voluntarily implemented by the joint labor-management plan trustees, composite plans would provide plan participants with reliable lifetime annuity benefits while reducing risks for contributing employers by ensuring predictability for employer contributions. Composite plans would provide a solution that would not require government funding and would be designed to keep the current funding crisis from occurring again in the future.

- ***Strengthen Registered Apprenticeships and Expand Workforce Training Opportunities*** — The union craftworkers employed by TAUC members are among the most well-trained and highly skilled construction industry professionals in the world. They ensure our members provide the safest, highest-quality and most cost-effective construction services to their customers. These workers attain their high level of proficiency by participating in rigorous joint labor-management registered apprenticeship programs.

As you know, these joint labor-management apprenticeship programs are privately funded by signatory construction contractors and do not rely on taxpayer dollars. TAUC members and other union construction contractors jointly operate with their labor partners over 1,100 apprenticeship training centers nationwide and make private investments of approximately \$1.3 billion annually in workforce training and apprenticeship programs.

We urge the Biden-Harris Administration to continue to support policies that recognize the unique nature of the existing, rigorous construction industry apprenticeship program and the investment TAUC members have made in their workforce.

We support policies to expand access to and strengthen these privately funded registered apprenticeship programs, as well as to provide consistent quality standards and worker protections across all registered apprenticeship programs. Modernizing apprenticeship and expanding training opportunities does not require Federal taxpayers to subsidize contractors who make little or no investment in their workforce. Any policy changes to modernize apprenticeship programs and expand training opportunities should build on the existing privately funded, joint labor-management registered apprenticeship and training system.

- ***Protect and Strengthen Prevailing Wage Laws*** — For over 80 years, Davis-Bacon prevailing wage requirements have ensured that companies pay fair wages and workers receive fair compensation for work based on regional wage rates actually paid on local, private projects. Prevailing wage discourages artificially low bids that undercut local workforce standards and frequently lead to claims, disputes and project delays. Established industry and project owner practices in both the private and public sectors recognize that high workforce standards deliver superior project outcomes. Moreover, prevailing wage standards promote the use of local blue-collar labor forces for public works projects and support hundreds of thousands of jobs that provide middle class family wages.
- ***Close Employee Misclassification Loophole*** — We also urge the DOL Agency Review Team to consider policies to strengthen the Wage and Hours Division’s enforcement of laws and regulations to combat payroll fraud and the willful misclassification of workers as independent contractors.

Studies clearly document that willful misclassification and payroll fraud is rampant in the construction industry. Construction is a head-to-head bid industry and companies that deliberately misclassify their workers have a strong competitive advantage in the marketplace. Because TAUC members properly classify their craftworkers, they are responsible for submitting Social Security and FICA taxes, paying minimum wage and overtime and paying into workers’ compensation funds, all while observing the appropriate recordkeeping requirements. Ethical employers also must abide by other federal employment laws, including those regarding discrimination and harassment, the Family and Medical Leave Act, and requirements to hold job positions for employees who are called to active military duty.

To protect construction workers from abuse and defend lawful, responsible contractors from unfair competition due to willful misclassification, we urge you to provide the resources necessary to strengthen enforcement of wage and hour laws.

- ***Continued Support for the Use of Project Labor Agreements*** — TAUC also supports maintaining the Executive Order providing federal agencies the flexibility to consider Project Labor Agreements (PLAs) on a project-by-project basis. PLAs have proven a cost-effective tool for federal agencies to ensure high quality construction projects are completed on-time and on budget.

We support the consideration and use of PLAs when deemed to be in the best economic interest of the project owner on behalf of the taxpayer. This greatly reduces the potential for cost

overruns. PLAs minimize the risk of labor disputes and promote on-schedule and on-budget completion of projects, reducing overall costs and minimizing risks to taxpayers. In short, PLAs are good for business, good for the government, and good for taxpayers. Unnecessary executive branch action to interfere with the current proprietary choice would promote regressive federal procurement policy.

Thank you for your consideration of these important national policies that will enable TAUC members to continue to invest in their workforce and to provide good-paying middle-class jobs to the highly skilled craftworkers they employ. If you have any questions or need additional information, please contact TAUC's Vice President of Industry Innovation and Government Affairs Todd Mustard via e-mail at tmustard@tauc.org.

Very truly yours,

A handwritten signature in black ink, reading "Stephen R. Lindauer". The signature is fluid and cursive, with the first name "Stephen" being the most prominent.

Stephen R. Lindauer
Chief Executive Officer