

January 12, 2023

Dear Senator/Representative:

The undersigned organizations, representing a diverse coalition of taxpayer, free market, and consumer groups, write to express our support of the Fair and Open Competition Act ([H.R. 1209](#) / [S. 537](#))—introduced by Rep. James Comer, R-Ky., and Sen. Todd Young, R-Ind. With the recent release of the final rule by the Biden administration, this legislation is more necessary than ever to preserve the efficient deployment of taxpayer funding.

This legislation would disallow federal agencies and grantees from creating requirements for contractors to sign project labor agreements (PLAs) as a condition of winning construction contracts with federal taxpayer funds attached.

Last year, the Department of Defense, General Services Administration, and National Aeronautics and Space Administration proposed amending the Federal Acquisition Regulation (FAR) to implement an Executive Order requiring costly PLAs on federal construction contracts in cases where the total estimated cost to the government is \$35 million or more, unless an exception applies. As of late December, this rule has become finalized and will threaten to slow project timelines, or cost taxpayers hundreds significantly more in labor costs. In addition, over **\$100 billion** worth of federal assistance to state and local government infrastructure projects have been subjected to pro-PLA language embedded in federal agency grant programs. These anti-competitive and inflationary policies were not enacted in law by Congress, but rather through administrative fiat.

PLAs require contractors to sign a collective bargaining agreement with workers in order to work on some taxpayer-funded construction projects. These agreements typically force contractors to adhere to union wage scales, hire union labor, follow union work rules, and pay into union benefit plans that other nonunion employees will be unlikely to tap into. As a result, experienced contractors who use nonunion workers and often make lower-cost bids are effectively locked out of the process.

The government has estimated that the total annual paperwork burden associated with FAR information collection requirements is between 24,180 and 86,321 hours. The overall cost would be much higher. For example, a 2021 RAND Corporation [study](#) found that PLAs raised the construction cost of a Los Angeles affordable housing project by 14.5 percent. For many projects, especially those in low-union population states or in rural areas, acquiring union labor could be either impossible or prohibitively expensive. Given that many of these PLA-required grant programs are intended to reach rural communities, such as broadband grants, it's clear that this will hamper progress on top of exceeding congressional intent.

As President Biden noted in his [Executive Order on Promoting Competition in the American Economy](#), the American promise of a broad and sustained prosperity depends on an open and competitive economy. The procurement of federal and federally assisted infrastructure projects should also be open and competitive. This is especially true at a time when America is facing the highest inflation levels in decades. We urge you to support this crucial legislation and protect taxpayer funds.

Sincerely,



Pete Sepp, President
National Taxpayers
Union



Saulius "Saul" Anuzis,
President
60 Plus Association



Phil Kerpen,
President
American
Commitment



Steve Pociask,
President / CEO
American Consumer
Institute



Brent Gardner,
Chief Government
Affairs Officer
Americans for
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Matthew Kandrach,
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Consumer Action
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Ryan Ellis,
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Timothy Lee,
Senior Vice
President of Legal
and Public Affairs
Center for
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Daniel Mitchell,
President
Center for Freedom
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Tom Schatz,
President
Council for Citizens
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Adam Brandon,
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David Williams,
President
Taxpayers
Protection Alliance