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**AGC of America**  
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA  
**Quality People. Quality Projects.**



April 29, 2011

President Barack H. Obama  
The White House  
1600 Pennsylvania Ave, NW  
Washington, DC 20500

Dear President Obama:

We are very concerned about the implications of the draft Executive Order entitled “Disclosure of Political Spending by Government Contractors.” We believe strongly that it is unnecessary; it would be complex to implement, difficult to police and it has significantly more possibility to harm the Federal procurement process rather than improve the integrity of Federal contracting.

The proposed Executive Order is unnecessary because there is no evidence that political contributions are now influencing the award of federal contracts. We have not seen an epidemic of political favoritism that would require the issuance of an Executive Order like this. The vast majority of political spending is already disclosed in a government database. The draft Executive Order is allegedly designed to ensure contracting “decisions are merit based and in order to deliver the best value for tax payers.” Unfortunately, the introduction of this information in the Federal procurement process would actually create the mechanism for enforcing a political litmus test on government contractors rather than prohibiting the consideration of political contributions.

Under current law there are prohibitions against government contractors making contributions or promises of contributions in exchange for government contracts and there is already a federal database of legal contributions made by all individuals and Political Action Committees. The proposed Executive Order is complex. It would require coordination, cataloguing, and constant upkeep of legal personal contributions made by individuals working for government contractors and their affiliates. It also would require the disclosure of additional information about contributions made to third party entities “with the reasonable expectation those contributions would be used to make independent expenditures or electioneering communications.” This would require not only the tracking of expenditures of the company but also the tracking of third party groups and the policing of not only the contributions, but also the intent of the contractor and a third party group when contributions are made, both of which would be difficult.

Also these disclosure requirements will only apply to companies that make bids on government contracts. It does not apply to other areas of Federal decision making where there could be similar concerns that decisions about federal funds “are merit-based in order to deliver the best value for the taxpayer.” The draft Executive Order does not apply to federal employee unions that negotiate contracts for their members worth many times the value of most government contracts. Also, the recipients of hundreds of millions of dollars of federal grants are also not covered by the draft Executive Order. This incomplete application makes the intent of draft questionable.

AGC members respect the integrity of Federal procurement officials. In our view, the draft Executive Order is attacking a problem that does not exist. It will be difficult to comply and to police the complex web of personal contributions and third party political activities contemplated by the draft Executive Order. It is difficult to understand why a contracting official would need to have this information in an environment where the government is to award to a responsive, responsible contractor based on quality and value to the government.

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Finally, it cannot be ignored that the process outlined in the draft Executive Order would make it much easier for government officials to use the political activities of government contractors as a factor when awarding contracts. We believe there should be a separation between politics and procurement. This Executive Order would jeopardize this separation and introduce rather than exclude politics from government contracting. For all of these reasons we urge you to not issue this draft in final form and to instead make sure that if there is concern about government contracting decisions that they are swiftly and thoroughly investigated and prosecuted.

Sincerely,

A handwritten signature in black ink, appearing to read 'SANDHERR', with a long horizontal flourish extending to the right.

Stephen E. Sandherr  
Chief Executive Officer