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Chairman James Inhofe
Senate Armed Services Committee
205 Russell Senate Office Building
Washington, D.C. 20510

Ranking Member Jack Reed
House Armed Services Committee
728 Hart Senate Office Building
Washington, D.C. 20510

Re: Amendments to the National Defense Authorization Act for FY 2021 - S.4049

Dear Chairman Inhofe and Ranking Member Reed:

As the U.S. Senate considers amendments to the S.4049, FY 2021 National Defense Authorization Act (NDAA), the Associated General Contractors of America (AGC) urges you to consider construction contracting industry's input bill. The Department of Defense (DOD) construction agencies preform tens of billions of dollars in military construction projects each year, as authorized under the NDAA. As such, AGC puts forth the industry's thoughts on provisions to include and exclude in a final NDAA that will help you in your efforts to ensure these projects are delivered on time and on budget.

AGC is the nation's leading association for the construction industry, representing both union and open-shop prime and specialty contractors. AGC represents more than 27,500 firms, including more than 6,500 of America's leading general contractors and more than 9,000 specialty contractors. More than 10,500 service providers and suppliers are also associated with AGC, all through a nationwide network of 88 chapters in all fifty states, the District of Columbia, and Puerto Rico. AGC contractors build the nation's factories, warehouses, schools, hospitals, retail centers, offices, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, dams, water conservation projects, defense facilities, multi-family housing projects, utility infrastructure, and more.

AGC Supports the inclusion of the following provisions:

- **Senate Amendment 1828** – Section 6083 of S.4049 – Reauthorization of Diesel Emissions Reduction. This section would reauthorize the DERA program and which provides greater financial assistance to the many equipment owner who seek a fair and effective way to reduce emissions from existing fleets of off-road equipment. DERA provides important grants and rebates to states and localities to upgrade or replace older diesel engines, including off-road construction equipment.
- **Senate Amendment 1840** – Waivers of certain conditions for progress payments under certain contracts during the COVID-19 national emergency. This section would the Secretary of Defense to waive section 2307(e)(2) of title 10 United States Code, with respect to progress payments during the National Emergency Act related to the COVID-19. Cash flow is critical to every construction business. This section will help give flexibility to ensure the ensuring payment for work is necessary for federal contractors and subcontractors to maintain mission readiness and ongoing operations.

- **Senate Amendment 2193** - Section 894 - Clarification of prohibition on contracting with entities that use certain telecommunications and video surveillance services or equipment. This amendment will help protect the supply chains of agencies, clarifying section 889 of the FY 2019 NDAA (P.L. 115-232), and defer by one year the effective date of section 889(a)(1)(B). Currently, the law goes into effect in 45 days, but critical issues for the both the private and public sector have yet to be resolved. This extended period of time will help resolve the uncertainties in the requirements before the law goes into effect, a mere 45 days away. Formal comments and related advocacy have not been possible because the rule to implement part B has not been released for public comment. AGC looks forward to continuing to work with Congress to reduce risks to our nation's supply chains and make section 889 achievable.

AGC Opposes the inclusion of the following provisions

- **Senate Amendment 1980** – Section 1085. Domestic sourcing requirements for aluminum. By altering the definition of what constitutes an American-made product by adding aluminum, companies who do business with the federal government will have to shift their supply chains as they are left to choose from a smaller list of acceptable products. Preferential treatment for American-made products here will encourage reciprocal action abroad. Contractors who do business overseas could lose business on projects they otherwise would have been competitive on.
- **Senate Amendment 2198** – Title LIV of S.4049 - Establishing beneficial ownership information reporting requirements. This amendment circumvents the normal legislative process by requiring new reporting requirements are duplicative and burdensome, especially to small and medium sized business. Millions of small businesses would be required to register personally identifiable information, and file additional updated reports within a year of any information changes, all under the penalty of law.
- **Senate Amendment 2199** – Section 894. Additional requirements related to mitigating risks related to foreign ownership, control, or influence of department of defense contractors and subcontractors. Similar to SA 2198 this provision will require additional reporting requirements that are duplicative and burdensome, especially to small and medium sized business.

Thank you for your consideration and for your work to produce a bipartisan, procurement reform-oriented authorization of our national defense in the FY 2021 NDAA.

Sincerely,



James V. Christianson
Vice President, Government Relations