



**Associated General Contractors of America**  
**Top Priorities for FY 2024 NDAA**  
Senate and House (S.2226 / H.R.2670)

**SENATE** (S.2226)

- **Support Senate Section 325 – Dashboard of funding relating to perfluoroalkyl substances and polyfluoroalkyl substances.** This section would create an online dashboard for information pertaining to all activities of the Department of Defense (DoD) relating to perfluoroalkyl substances and polyfluoroalkyl substances. This vital information will allow federal agencies and industry be more informed about the locations and projects that may contain these “forever chemicals.” AGC urges Congress to make this information available in a manner that is easily accessible for contractors to access information about potential contamination on DoD projects.
- **Support Senate Section 820 – Prohibition on requiring defense contractors to provide information relating to greenhouse gas emissions.** This section would prohibit requiring defense contractors from reporting information relating to greenhouse gas emissions (GHG). Currently, there are multiple proposed federal regulations that will soon dramatically increase reporting and compliance with GHG standards. The technology and expertise currently do not exist to support these proposed rules on a large scale. AGC urges Congress to include language to make it clear that the regulatory agencies cannot require contractors to pay a fee to circumvent this prohibition of funding.
- **Oppose Senate Section 851 – Increase in Governmentwide goal for participation in Federal contracts by small business concerns owned and controlled by service-disabled veterans.** This section would increase the small business goals for procurement contracts awarded to service-disabled veteran-owned small businesses from three percent to five percent. According to a recent report by the Congressional Research Services, federal agencies and prime contractors consistently have difficulty meeting the small business goals. Arbitrarily increasing the small business goals will not increase small business participation.
- **Support Senate Section 1041 – Extension of admission to Guam or the Commonwealth of the Northern Mariana Islands for certain nonimmigrant H-2B workers.** This section will extend the current admissions of H-2B workers in Guam until 2029. The H-2B program currently has strict labor and wage protections that construction contractors who utilize the program must stringently abide by. AGC encourage Congress to extend H-2B worker status in all areas of the country to address the severe workforce shortage in the construction industry.
- **Support Senate Section 2802 – Ordering authority for maintenance, repair, and construction of facilities of Department of Defense.** This section will allow maintenance and repair of a facility of the Department of Defense or for a minor military construction project, including allowing contingency expenses up to exceed 10 percent of the cost of the project. This authority will allow construction agencies to more easily cope with the rising cost of



construction materials and reduce the need for these agencies to go back to Congress for additional funding on ongoing projects.

- **Oppose Senate Section 2877 – Requirement that all material types be considered for design-bid-build military construction projects.** This section seems to be a solution in search of a problem. DoD construction agencies are already required to evaluate Best Value procurement methods. In addition, requiring SES-level certification of every design-bid-build will likely cause needless delays on an already lengthy construction procurement process.

### HOUSE OF REPRESENTATIVES (H.R.2670)

- **Support House Section 332 – Prizes for development of technology for thermal destruction of perfluoroalkyl substances or polyfluoroalkyl substances.** This section would create a grant program for research and development relating to PFAS-free alternatives for currently unavoidable (i.e., essential) uses of perfluorooctanesulfonic acid (PFOS). There are approximately 5,000 PFAS in use in a wide variety of common commercial products like cosmetics, apparel, carpeting, sealants, and fire-retardants. Environmental Protection Agency is focusing most of its efforts on a handful of PFAS, chiefly perfluorooctanoic acid (PFOA) and PFOS that are considered ubiquitous, meaning that trace amounts are found nearly everywhere. This section will provide support for efforts to find commonsense solutions for products often considered hazardous.
- **Oppose House Section 804 – Pilot program on payment of costs for denied Government Accountability Office bid protests.** This section will explore making permanent the current pilot project that requires a contractor that has revenue over \$250 million and who files a protest with the Government Accountability Office (GAO) to allow that agency to withhold costs incurred possessing a protest. Those costs would be released to the contractor if it wins the protest or the solicitation is canceled. Provisions such as this creates a conflict of interest and perverse incentive where GAO will make money for its own operations if it rules against a contractor. Congress should reject any policy that requires contractors to pay for what amounts to *due process* in the federal construction market.
- **Support House Section 829 – Modification and extension of temporary authority to modify certain contracts and options based on the impacts of inflation.** This section will allow for the extension of a temporary program to provide economic relief to industry until 2024. However, any guidance from DoD has been slow and Congress did not provide sufficient funding for this authority. AGC urges DoD to implement guidance and for Congress to robustly fund this important temporary authority.
- **Support House Section 830 – Modification of contracts and options to provide economic price adjustments.** Like Section 829, this provision will allow for relief to contractors by relaxing the strict requirements for receive economic price adjustments for certain contracts. AGC urges Congress to robustly fund this authority.



- **Support House Section 1822 – Limitation on funds relating to Federal contractor disclosure of greenhouse gas emissions and climate-related financial risk.** This section will restrict funding proposed regulations requiring contractors to disclose greenhouse gas emissions levels, climate-related financial risk, greenhouse gas emissions reductions targets, and other climate metrics. Currently, there are multiple proposed federal regulations that will soon dramatically increase reporting and compliance with greenhouse gas emissions standards. The technology and expertise currently do not exist to support these reporting requirements on a large scale. AGC urges Congress to include language to make it clear that the regulatory agencies cannot require contractors to pay a fee to circumvent this prohibition of funding.
- **Oppose House Section 2807 – Certification of consideration of certain methods of construction for military construction projects and annual report.** Similar to Senate Section 2807, this section appears to be a solution in search of a problem. Currently, there is no required design decisions for DD Form 1391, which is used by DoD to submit requirements and justifications in support of funding requests for military construction to Congress. DoD construction agencies are required to evaluate Best Value procurement methods. In addition, requiring SES-level certification of every design-bid-build will likely cause needless delays on an already length procurement process.
- **Support House Section 2831 – Improvements relating to access to military installations in United States.** AGC supports the standardization of access to military installations but is concerned about aspects of requiring screening not less than 24 hours and not more than 48 hours prior to the time of such delivery will have. One of the major factors military construction contractors needed to address is how to allow large delivery trucks access to drop off their material when they arrive from across the country to deliver materials, but do not have Defense Biometric Identification System (DBIDS). Understanding this is a voluntary program for base commanders. AGC recommends report language clarifying this screening requirement that could end up delaying access rather than expediting it.