January 10, 2025

President-elect Donald J. Trump
1100 South Ocean Boulevard
Palm Beach, Florida 33480

Dear President-elect Trump:

On behalf of the Associated General Contractors (AGC) of America – the leading association in the construction industry representing more than 28,000 firms, including America's leading general contractors and specialty-contracting firms – I want to congratulate you on your election as the 47th President of the United States! As you begin the planning for your second term, I want to provide you with an update on the construction industry and outline how our industry can be a partner as you work to revitalize the nation's economy, create good-paying jobs, and rebuild America's infrastructure.

For the construction industry, managing risk and uncertainty has been the top challenge. Indeed, the results for the 2025 Construction Hiring & Business Outlook[1] our association just released show that contractors are optimistic about certain private-sector segments and have high hopes for just about every type of publicly funded construction. That optimism is based in part on an expectation your administration will move quickly to streamline the federal permitting process. However, contractors have very low expectations for several key private sector market segments. They remain concerned about labor shortages and are worried materials prices will climb next year because of the potential for new tariffs.

I have outlined the top challenges that the construction industry is facing:

I. **Higher Costs to do Construction**. Largely driven by increases in the cost of diesel, other construction materials, and the cost of labor.
II. **A Lack of Transparency and Overregulation Have Made it Difficult to Run a Business.** Running a construction company has become challenging due to the regulatory burden and lack of transparency coming out of Washington.
III. **Environmental Reviews that Delay Construction Projects.** Projects are facing unnecessary delays in breaking ground due to a slow environmental review and permitting process that has been exacerbated by the Council on Environmental Quality, the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and other agencies.
IV. **Worker Shortages and Regulatory Overreach Undermine the Industry's Ability to Build Infrastructure**. The industry continues to struggle to find enough qualified

[1] AGC of America, The 2025 Construction Hiring and Business Outlook

construction workers because of chronic federal under-investment in construction workforce training and education and limited access to temporary visa programs.

V. **Misaligned Prioritization of Infrastructure Spending**. As the construction industry faces delays getting construction materials to jobsites, federal officials are directing infrastructure funding to projects that are not regionally or nationally significant.

VI. **Federal Mandates that have Prevented some Construction Companies from Competing for Projects.** The choice of whether to adopt a project labor agreement should be left to the contractor-employers and their employees, and such a choice should not be imposed as a condition to competing for, or performing on, a publicly funded project.

I. High Costs to do Construction

For the construction industry, the past few years have been defined by managing inflation. At its worst, since February 2020, the average cost of construction materials increased by 37%. That's nearly twice the rate of consumer inflation during that period, which was 19%. Costs increased significantly for several key materials between February 2020 to November 2024, including a:

- 70% increase in copper and brass mill shapes (used in copper pipe, wiring, roofing materials, and brass fixtures);
- 66% increase in diesel fuel;
- 52% increase in gypsum building materials (wallboard and plaster);
- 47% increase in insulation materials; and
- 45% increase in steel mill products[2].

An Eno analysis of the Federal Highway Administration's (FHWA) National Highway Construction Cost Index showed that the federal government lost $62.5 billion of the value of its spending increases on roads and bridges, since 2020, due to increased construction costs.[3] Rising diesel costs, as reported by AGC members and the FHWA[4], have increased the costs of construction projects across the country.

Higher diesel costs mean construction companies must pay more to operate equipment, deliver materials to jobsites, and haul away dirt, debris, and equipment. Likewise, construction workers feel the pain of higher commuting costs – particularly for jobs in rural areas where workers often have long commutes.

II. A Lack of Transparency and Overregulation Have Made it Difficult to Run a Business

Overregulation and a lack of transparency from Washington continue to be points of frustration for construction companies. AGC supports the reinstatement of Executive Order 13892, which was rescinded under the Biden administration.[5]

[2] Bureau of Labor Statistics, Consumer Price Index, Producer Price Indexes, and Employment Cost Index
[3] Eno Center for Transportation, Highway Construction Costs Dropped Slightly in Spring 2024
[4] Federal Highway Administration, National Highway Construction Cost Index, 2024 Q2
[5] The White House, Executive Order on Revocation of Certain Executive Orders Concerning Federal Regulation

The lack of transparency is most evident in the Buy America waiver process. The Biden administration required that submitted waiver requests must be approved by the White House, just to post the waiver request on a public-facing website. Again, approval of the waiver is a separate process that also requires White House approval. While AGC is supportive of the goals of expanding domestic manufacturing capabilities, the lack of transparency has created confusion that has led to unintended consequences for construction companies, facility owners, and overall, our nation's infrastructure.

On August 28, 2023, FHWA posted a waiver request from the Illinois Department of Transportation (DOT) for non-domestic pumps.[6] The Illinois DOT initially submitted the waiver to FHWA on May 21, 2021.[7] How are U.S. DOT and the White House supposed to determine if there are domestic manufacturers, or not, if the public is not made aware of the waiver request for nearly two and a half years? In this instance, a supplier responded to the posted waiver request and confirmed that they could indeed meet the requirements and supply those pumps. While this appears to be a "good news" story, it is frustrating that a project was delayed for two years due to a lack of transparency.

Beyond the Buy America process, federal agencies have taken novel approaches to rulemaking that present significant procedural violations and stretch and/or exceed the boundaries of their statutory authority. One example of this is the U.S. Environmental Protection Agency listing per- and polyfluoroalkyl substances, known commonly as PFAS, or "forever chemicals," as hazardous without first addressing how to manage them or knowing the full impact of that action. Businesses do not know how to comply with the regulations passed, i.e. what does a developer/contractor do when a soil test comes back positive for forever chemicals? AGC has challenged the PFAS "Superfund" designation in the D.C. Circuit, citing concerns over the agency's interpretation of the law, disregard for costs, and imposition of retroactive liability. The rule significantly increases liability risks for contractors who may face costly cleanups and legal battles despite being "passive receivers" rather than generators of PFAS and raises costs to transport and dispose of construction debris.

Another example is the unsettled definition of "Waters of the United States" (WOTUS), causing significant regulatory uncertainty for construction projects and impacting contractors' ability to plan and execute their work efficiently. AGC and its industry partners have challenged the 2023 WOTUS rule (as amended) in two federal district courts, citing it as legally and constitutionally flawed. The illegality of the rule is further demonstrated by the agencies' case-specific field memos that have only added confusion and contradict the Supreme Court's unanimous *Sackett* decision that narrowed federal control over wetlands. Developers and contractors do not know how to comply with the new rule, i.e. what is a WOTUS?

III. Environmental Reviews Delaying Construction Projects

Infrastructure funding has historically been a major roadblock for infrastructure projects to break ground. Recent investments in infrastructure have largely appeased that concern, but we haven't seen an influx of major projects breaking ground due to environmental review and permitting delays.

[6] Federal Highway Administration, Notice of Buy America Waiver Request
[7] Federal Highway Administration, Buy America Waiver Request Letter dated June 9, 2021

We believe a great way to maximize federal investment in infrastructure would be for the Trump administration to fully implement the environmental review and permitting reforms to the National Environmental Policy Act (NEPA) as passed by Congress in the Infrastructure Investment and Jobs Act and the Fiscal Responsibility Act (FRA). The complex nature of the current regime and the overlap of requirements can delay projects that aim to improve the overall safety and efficiency of the surface transportation system. The FRA specifies that NEPA reviews should only look at the technically and "economically feasible project alternatives" and environmental impacts with "reasonably close or foreseeable impacts."[8] Unfortunately, that is not how the Council on Environmental Quality (CEQ) implemented the law, and instead specifies they need to look at additional alternatives.[9] By implementing these provisions and limiting agencies' analysis to "reasonably foreseeable effects," we believe the time and costs associated with delivering projects will be reduced without jeopardizing environmental protections.

Indeed, the statutory requirements must guide agency environmental review – and prevent differing agency-level NEPA rules – particularly in light of the D.C. Circuit Court of Appeals' recent ruling that the CEQ lacks authority to issue binding, government-wide regulations on how agencies implement NEPA. AGC strongly supports bipartisan congressional permitting reform bills to further streamline the environmental approval process for infrastructure projects and limit post-permitting litigation.

The addition of requirements to evaluate the impact of an agency action on climate change and environmental justice has mitigated any efficiency gains realized under the FRA. The impact is real. The Brent Spence Bridge, which is a symbol of the need to invest in infrastructure, has finally received the necessary funding to move forward. Due to permitting delays, construction has yet to begin.[10] Even worse, a lawsuit threatens to halt construction; plaintiffs are claiming the project approval was unlawful because its impacts were not sufficiently studied and mitigated.[11]

In addition, Federal agencies have sought to systematically weaken or reverse several of the permitting reforms initiated in your first term, including those related to species and critical habitat, wetlands and other water permits, as well as air permits.

IV. Lack of Available Workers and Regulatory Overreach Impacting the Industry's Ability to Build Infrastructure

According to a survey the association conducted last summer, 94 percent of contractors who are hiring report having a hard time finding enough qualified workers to hire. Those workforce shortages are prompting many firms to charge more, take longer, or not bid on construction projects.

Construction employers can't find enough workers because we do too little as a nation to promote construction careers while also severely limiting the number of people who can receive a temporary visa to work in the industry.

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[8] Public Law No: 118-5, Section 321

[9] Federal Register, National Environmental Policy Act Implementing Regulations Revisions Phase 2

[10] Permitting Dashboard, Brent Spence Bridge Corridor Project

[11] Construction Dive, $3.6B Brent Spence Bridge project sued over environmental concerns

For every dollar the federal government invests in career and technical education programs – including for those focused on construction – it spends four dollars encouraging people to pursue a four-year college degree. This funding imbalance has led to relatively few new workers pursuing high-paying construction careers while many college graduates are under-employed and over-indebted. Instead of bailing out college graduates, your administration would better serve the economy by boosting investments in construction education and training programs. This will send a clear message to new and future workers and their caregivers that construction is a desirable career option.

Rebuilding the domestic pipeline for preparing construction workers will take time – it took decades to dismantle, after all. In the short term, your administration should expand the number of temporary visas available for people to work in construction. This will ensure there are enough people lawfully working in the industry to support economic development needs in communities across the country. It will also expand the tax base while ensuring national security, since workers involved in temporary visa programs are trackable and taxable.

To address the workforce shortage AGC supports expanding apprenticeship programs and training opportunities in construction regardless of labor affiliation. Any future proposal from the Department of Labor (DOL) to improve or expand the apprenticeship system must include thoughtful solutions for all industries, including construction, and that further restriction and standardization of programs could limit expansion of and participation in registered apprenticeship programs. AGC believes that part of a multifaceted approach to addressing the workforce shortage and skills gap in construction is to expand opportunity and access of entry to all training opportunities. The DOL should promote all avenues of education and employment and allow apprenticeship program innovation from all sectors of the industry—union and open-shop—to flourish on an even playing field.

Of significance to the construction industry, the so-called Inflation Reduction Act (IRA) imposes new/modified tax incentives for clean energy projects (bonus tax credit) and energy efficient commercial buildings (179D tax deduction) that satisfy new labor mandates, including both prevailing wage and registered apprenticeship requirements. The tying of construction labor mandates to private development tax incentives at the federal level is unprecedented. For the first time ever, prevailing wage and apprenticeship requirements are now required on particular private projects. Likewise, Department of Treasury and owners are facing for the first time ever have to understand, regulate, and comply with these requirements to receive the full benefits under the IRA.

Additionally, the establishment of apprenticeship programs and supply and utilization of apprentices themselves vary significantly by areas of the country and specific construction markets. Some union heavy areas of the country have established registered apprenticeship programs, but contractors continue to report a workforce shortage. And in more rural, non-union areas, there are few registered apprenticeship programs, programs face challenges getting established, or contractors have turned to alternative on the job training and development programs that meet their particular needs and without the needless administrative burdens that come with a registered program. Contractors in these areas face significant challenges meeting any apprenticeship utilization requirement.

While the intent of the apprenticeship provision is to expand apprenticeships, the result appears to be limiting the utilization of apprenticeships to the existing programs that do not have the capacity

to supply these new projects under the IRA. Setting an arbitrary goal for contractors to meet will have no impact itself on the increased enrollment of apprentices in programs. AGC asks that the DOL work with Treasury to rollback IRA prevailing wage and apprenticeship rule to remove unattainable apprenticeship and complex prevailing wage requirements.

The Davis-Bacon Act and the associated regulations have caused many concerns for the industry. The accuracy of the wage determination process is a constant strain on contractors as the data is often contains woefully outdated wage rates for geographic regions. Unfortunately, the DOL almost exclusively relies on voluntary wage surveys to produce and update wage determinations for a compensation system under Davis-Bacon and Related Act (DBRA) covered work that poorly reflects the labor market in many parts of the country. In 2023, the DOL released a massive rule[12] that overhauled the DBRA regulations. Among the troubling provisions in the rule were an expansion of the "site of work" provisions to include more workers under DBRA requirements by expanding coverage to truck drives and to material suppliers owned and operated by general contractors or subcontractors as well as an operation of law provision making Davis Bacon requirements applicable to construction contracts even when the price contract makes no reference. In regard to these provisions there is a nationwide preliminary injunction blocking these provisions. AGC requests that the DOL drop its appeal and further court action regarding the AGC challenged provisions and focus instead on improving its governance and compliance tools under the DBRA.

The DOL should drop its overtime rule appeal. The DOL's most recent update the Fair Labor Standards Act (FLSA) salary threshold as too soon since its previous update in 2019. The proposal would be too much for employers (especially small business construction companies) to absorb at one time and, therein, threaten employees' future and the provision to automatically adjust the overtime thresholds every three years that would threaten repeats of such issues. AGC supported the 2019 update, going into effect in 2020, which strongly suggests there is no need for urgency in issuing more changes. AGC recommends the DOL drop its intention to appeal and revert back to the previous 2019 reasonable update.

AGC opposed the most recent FLSA standard for independent contractor classification and has long called for federal clarification of the independent contractor status and preservation of legitimate independent contractor relationships, such as those that have historically existed in the construction industry. AGC supported the 2021 rule that adopted a consistent, clear and common-sense standard for determining independent contractor status under the FLSA and filed comments opposing the DOL move to withdraw the rule. AGC recommends that the DOL drop its defense of the legal challenge and revert to the 2021 standard.

Worker safety is important. AGC is concerned the Occupational Safety and Health administration (OSHA)'s "walkaround" rule[13] will force contractor to let potentially anyone, regardless of safety training, construction experience, or intent to accompany a federal safety inspector on a jobsite. The rule overturns over 50 years of precedent, which limited such walkarounds to employee representatives, with very limited exceptions. The new rule could compromise jobsite safety and conflict with project owners' access rules.

[12] Federal Register, Updating the Davis-Bacon and Related Acts Regulations
[13] Federal Register, Worker Walkaround Representative Designation Process

AGC is concerned that the OSHA rule[14] expanding the current recordkeeping requirements to mandate the submission of Form 300, Form 301-and Form 300A to make data collected publicly available could result in the potential mischaracterization of a contractor's safety and health program in the absence of proper context. While AGC believes that accurate reporting and recording of workplace injuries and illnesses is key to a contractor's efforts to continuously improve their safety and health culture and performance, OSHA has not provided any supporting data to indicate that publicly disclosing this information will ultimately reduce occupational injuries and illnesses and thus this requirement should be withdrawn.

AGC has numerous concerns with OSHA's proposed rule[15] on heat illness. While heat illnesses can be deadly, it is preventable with proper education and teamwork. Many proven strategies to combat heat stress are common-sense, including the OSHA "Water. Rest. Shade" campaign approach. The requirement for employers to evaluate their workplaces and implement controls to mitigate exposure to heat through engineering and administrative controls, training, effective communication, and other measures is concerning. Construction contractors are keenly aware of the dangers of working in extreme temperatures and have taken appropriate steps to reduce related risks. An OSHA rule must recognize regional/geographical differences in climate and account for employee behavior and individual health conditions which could put construction employers at increased risk. There is no one-size-fits-all approach to address this, as heat affects individuals differently based on a variety of factors, including medical conditions and prescribed medications to treat these illnesses that make some individuals more susceptible to heat injuries and illnesses. Finally, OSHA should establish clear enforcement guidelines to ensure fair and consistent enforcement of a heat standard.

AGC members as employers generally want to easily and confidently be in compliance with the various laws and regulations governing them. And AGC currently and historically has enjoyed a mutually beneficial and collaborative working relationship with the Department and various subagencies. Many of these collaborations include fact finding, educational opportunities, communication campaigns, etc. This has allowed contractors to be confident in their compliance and focus on what they do best, local economic development, moving projects forward, and rebuilding the nation's infrastructure.

In addition to the importance of these collaborative opportunities continuing, greater compliance assistance and non-binding, but situational guidance is always helpful and necessary; including, but not limited to opinion letters and innovative programs such as the previous Trump administration's PAID program. Helping contractors in their compliance efforts should be prioritized overzealous and heavy-handed investigative and enforcement tactics.

V. Misaligned Prioritization of Infrastructure Spending

The misaligned prioritization of infrastructure spending has inhibited our ability to rebuild the nation's infrastructure and jeopardized our ability to compete with China. The Biden administration added new priorities and considerations to grant programs to tip the scales in favor of bike lanes and electric vehicle charging stations at the cost of roads and bridges. In 2022, during times of unprecedented inflation and supply chain constraints, U.S. DOT awarded projects[16] to electrify bus

[14] Federal Register, Improve Tracking of Workplace Injuries and Illnesses
[15] Federal Register, Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings
[16] U.S. Department of Transportation, RAISE 2022 Award Fact Sheets

fleets in urbanized areas when they could have prioritized freight projects to help facilitate the movement of goods throughout the country. Federal funding for infrastructure needs to prioritize projects that have national or regional significance and improve the movement of people and goods.

FHWA tried to stop states from building new roads or adding new capacity to existing ones.[17] They further tried to influence project selection and ignored the will of Congress when they enacted a Greenhouse Gas Rule[18] that would have directed money meant for roads and bridges to non-construction activities like electric vehicles and the procurement of buses. They are not the investments that Congress intended, nor are they national or regionally significant projects.

The U.S. DOT also changed its Benefit-Cost Analysis guidance[19] to promote discretionary projects with certain health benefits or benefiting particular facilities and vehicle amenities in a way that favors transit and bike projects over highway and port improvements. Further, health and vehicle amenity benefits are already captured in safety benefits and emission reduction benefits in their guidance, making them essentially double counted.

VI. Federal Mandates that have Prevented some Construction Companies from Competing for Projects

President Biden's Executive Order 14063[20] and the implementing regulations (FAR Case 2022-003) requiring the use of project labor agreements (PLAs) on federal construction projects valued at $35 million or more should be rescinded. While AGC neither supports nor opposes PLAs in general, AGC strongly opposes government mandates for PLAs on publicly funded construction projects. The government should award contracts based on merit, without regard for the company's lawful union-shop or open-shop status. The decision to adopt a PLA or other collective bargaining agreement should rest with the contractor-employers and their employees, not imposed as a condition of competing for or performing on publicly funded projects.

Furthermore, government mandates for PLAs—even when competition, on its face, is open to all contractors— can have the effect of limiting the number of competitors on a project because they typically require contractors to make fundamental, often costly changes in the way they do business. They can also add costs and inefficiencies into the construction process once an award is made. For example, PLAs typically require contractors to:

- Use the union hiring halls for employee referrals, restricting contractors' use of their regular workforce;
- Make job assignments based on union jurisdictional boundaries even if different from and less efficient than the contractor's usual practices;
- Pay union-scale wages and follow pay practices that may exceed prevailing wage law and other legal requirements;

[17] Federal Highway Administration, Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America Dec. 2021
[18] Federal Register, National Performance Management Measures; Assessing Performance of the National Highway System, Greenhouse Gas Emissions Measure
[19] U.S Department of Transportation, Benefit-Cost Analysis Guidance 2025
[20] The White House, Executive Order on Use of Project Labor Agreements For Federal Construction Projects

- Contribute to union-sponsored fringe benefit funds on top of covering the cost of the contractors' normal benefit plans if an open-shop contractor; and
- Hire only subcontractors willing to adopt the PLA, potentially excluding trusted and cost-effective subcontractors.

In these ways and others, PLA mandates can increase costs to the government and, ultimately, to taxpayers. While case studies of the economic benefits of PLAs have had varying conclusions, AGC analysis found that the Department of Defense federal construction agencies rejected PLA mandates 99.4% of the time even when encouraged to do so under the Obama-Biden administration.[21]

In conclusion, AGC is excited for your administration to assume office, we hope you will consider the following items as priorities for the construction industry:

(1) High costs to do construction;
(2) A lack of transparency and overregulation have made it difficult to run a business;
(3) Environmental reviews that delay construction projects;
(4) Worker shortages and regulatory overreach undermine the industry's ability to build infrastructure;
(5) Misaligned prioritization of infrastructure spending; and
(6) Federal mandates that have prevented some construction companies from competing for projects.

Congratulations again on your election as the 47th President of the United States. AGC and the construction industry are ready to partner to revitalize the nation's economy, create good-paying jobs, and rebuild America's infrastructure.

Sincerely,

Jeffrey D. Shoaf
Chief Executive Officer

[21] Associated General Contractors, New Data Weighs on Debate Over Project Labor Agreements