Recommendations of the
Associated General Contractors of America on

2019–2020 Reauthorization

of the Fixing America's Surface Transportation (FAST) Act

AGC
THE CONSTRUCTION ASSOCIATION

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THE CONSTRUCTION ADVOCACY FUND

The Choice:
Status Quo or Moving Transportation to the Next Level

The vision of transportation and political leaders in the mid-Twentieth Century to imagine and invest in the Interstate Highway System (IHS) has paid and will continue to pay significant dividends for generations of Americans. A leading factor in our nation's growth since World War II, the IHS helped our nation become the world's economic leader. The IHS has grown to not only provide the primary corridors for passenger and freight movement within large urban centers and between metropolitan and rural areas, but it also provides the necessary connections among state and local road systems and other transportation modes including railroads, marine ports, airports, and public transit.

Today's leaders are faced with new challenges that will equally impact future generations. The first challenge is to address the need for upkeep, maintenance and expansion of the existing transportation system to meet today's needs.

But, just as important, choices need to be made to advance transportation to the next level by modernizing the system and making the best use of available and upcoming technology developments. The transportation network is on the cusp of technological change that will impact how we plan, design and build projects; how we inventory and maintain our transportation assets; how vehicles that use the system are driven; and how those vehicles interact with each other and with the infrastructure.

Transportation investment helps drive these technology advances. Advances in autonomous vehicle technology are driven by transportation needs, and, once available commercially, will rely on a good transportation network to operate safely and efficiently.

At the same time, a technology boom in transportation construction is underway. It is increasing productivity and enhancing construction quality. Contractors make widespread use of drones, estimating and project management software, automated machine guidance systems on equipment, 3D modeling, paperless projects, e-construction, precast-slide in bridges, and the list goes on. Technology is also enhancing safety on roadways for construction workers and motorists with advances in electronic maintenance of traffic devices, early warning systems for traffic intrusions in construction work zones, enhanced lighting, signage and guardrail systems. States are managing construction projects through e-construction and tracking transportation asset conditions through electronic models. New materials and treatments are under development to lengthen the life of infrastructure once put in place. Much of this technology is developed and manufactured in the United States.

In the longer-term, these improvements will enhance economic competitiveness and improve quality of life by reducing travel delays and transportation costs, improving safety and stimulating sustained job growth.

The Challenges

1 UPGRADING CONDITIONS

A persistent and growing backlog of physical and operational deficiencies plagues the highway system. Many segments are decades old, operate well beyond their projected life span—carrying much heavier traffic loads than designed to accommodate—and need major upgrades or reconstruction. This aging and heavily used transportation network is ill prepared to meet projected future growth in automobile use and freight movement. The first challenge is to invest the resources needed to meet these significant construction, maintenance and expansion needs.

As it stands, drivers nationwide lose 97 hours in traffic congestion, which costs Americans $87 billion annually in time—an average of $1,348 per driver.[1] Meanwhile, the nation expects to add another 70 million people over the next 20 years.[2] And, the value of goods shipped annually (in inflation adjusted dollars) is expected to increase by 93 percent by 2045—and by 61 percent for goods shipped by trucking.[3]

2 MODERNIZING TRANSPORTATION

The second challenge is to ensure that the highway system is adaptable and positions the nation to take advantage of newly emerging vehicle, safety and construction technologies. Construction and reconstruction efforts present opportunities to accommodate the technology needs of the future.

Just as the leaders of the day in the 1950s were challenged with a choice of making the investment necessary to carry out the vision of connecting America through a system of limited access, high volume, efficient highways through each state, today's leaders are equally challenged.

[1] Trevor Reed and Joshua Kidd, Global Traffic Scorecard, INRIX Research, Feb. 2019 *available at:* http://inrix.com/

[2] U.S. Census Bureau, 2017 National Population Projections Tables: Table 1. Projected Population Size and Births, Deaths, and Migration, 2017 *available at:* https://www.census.gov/data/tables/2017/demo/popproj/2017-summary-tables.html

[3] See Bureau of Transportation Statistics, Freight Facts & Figures 2017—Chapter 2: Freight Moved in Domestic and International Trade, Nov. 15, 2017, *available at:* https://www.bts.gov/bts-publications/freight-facts-and-figures/freight-facts-figures-2017-chapter-2-freight-moved

Recommendations

Reauthorization of the Fixing America's Surface Transportation (FAST) Act—which expires on September 30, 2020—provides the Congress and the Administration the opportunity to advance the nation's global competitiveness and generally improve the quality of life for the average American.

AGC recommendations on issues that will likely be addressed during the legislative process are as follows:

FUNDING

Current annual revenue: Highway Trust Fund (HTF) revenue is approximately $38 billion—primarily from the federal motor fuels tax (gas 18.3 cents /gallon, diesel 24.3 cents /gallon) and taxes on heavy vehicles and heavy duty tires.[4]

Current annual outlays: Highways $45 billion; Transit $10 billion[5]

Shortfall: Starting in fiscal year (FY) 2021, the HTF will require an additional $18 billion in annual revenue to maintain current, status quo transportation investment funding levels.

Since 2008, Congress has transferred $140 billion from the federal government's general revenue account—called the "general fund"—to the HTF to maintain annual funding levels with small increases from year to year.[6] Under congressional budget rules, budget offsets—colloquially called "pay-fors"—must be found to allow for a general fund transfer.

The federal motor fuels taxes have not increased since 1993. Each penny of gas tax produces $1.401 billion and each penny in diesel tax produces $0.426 billion annually in HTF revenue.[7]

AGC recommends Congress consider the following funding recommendations to address these issues:

Highway Trust Fund: Increase HTF revenues to meet present and future transportation needs. Efforts to allow for a long-term transition to a mileage-based fee (Vehicle Miles Traveled fee or VMT) should continue. Congress should continue to provide grant funding for state VMT pilot programs. A national pilot program to identify issues related to VMT implementation should be initiated.

Revenue Sources: Support an immediate increase in the federal motor fuels tax of at least 25 cents per gallon for gasoline and diesel. Support other revenue sources that are recurring, reliable, dedicated, and focused on the users and beneficiaries of transportation, including freight shipping fees, customs user fees, registration fees and driver license fees, energy related fees, and others.

Ensure that all users pay their fair share for use of the system. This includes electric and hybrid vehicle users, who should pay a battery fee to help cover their system usage.

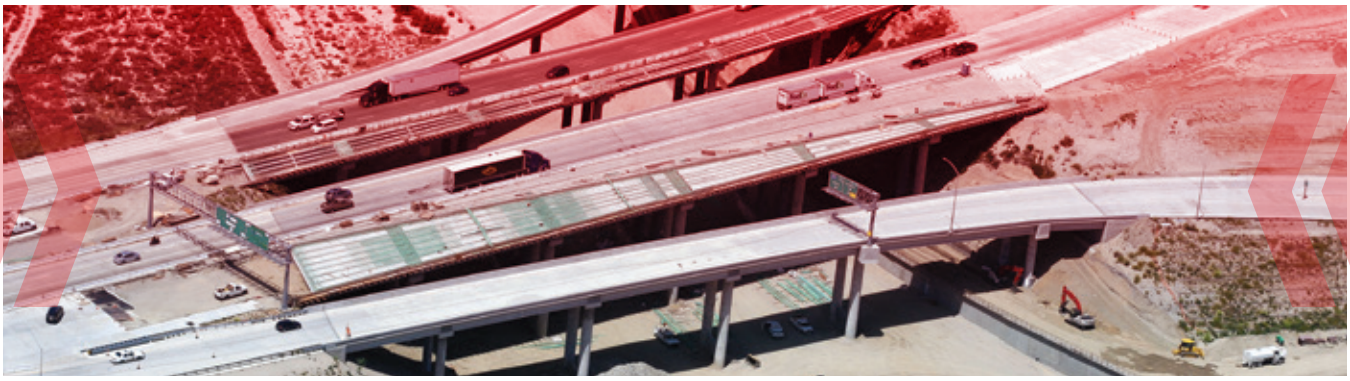
Additional Financing Sources: Support supplemental financing sources, such as: an infrastructure bank; increased tolling (including on the interstate highway system); lifting the volume cap on private activity bonds; private investment; bonding; increased credit assistance; and loans and loan guarantees through a reformed Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.

[4] Congressional Budget Office, Highway Trust Fund Accounts—CBO's January 2019 Baseline, Jan. 28, 2019 *available at:* https://www.cbo.gov/system/files?file=2019-01/51300-2019-01-highwaytrustfund.pdf; *see also* Federal Highway Administration, Publication No. FHWA-PL-17-011: The Highway Trust Fund, Office of Policy and Governmental Affairs, Jan. 2017 *available at:* https://www.fhwa.dot.gov/policy/olsp/fundingfederalaid/07.cfm

[5] *Id.*

[6] Tax Policy Center, Key Elements of the U.S. Tax System: What is the Highway Trust Fund, and how is it financed? *Available at:* https://www.taxpolicycenter.org/briefing-book/what-highway-trust-fund-and-how-it-financed

[7] Jeff Davis, How Much Money Would a Gas Tax Increase Raise? Eno Transportation Weekly, Jan. 31, 2019 *available at:* https://www.enotrans.org/article/how-much-money-would-a-gas-tax-increase-raise/



HIGHWAY & TRANSIT PROGRAMMATIC REFORMS

The Disadvantaged Business Enterprise (DBE) Program

The DBE Program began in 1983, and Congress has reauthorized it in each transportation reauthorization bill since.[8] Over the past several years, the U.S. Department of Transportation (USDOT) has issued new regulations that have increased the compliance burden for both prime contractors and DBE contractors. Efforts to improve program administration should be implemented.

As such, AGC recommends that Congress direct USDOT to take the following steps:

- Clarify requirements for compliance with complicated, confusing and sometimes contradictory rules, including providing a check list of definitive steps a contractor must take to comply with good faith effort requirements. Establish a percent threshold limit on how much increased cost is required from a DBE subcontractor quote over a non-DBE quote;
- Clarify "commercially useful function" requirements to allow contractors to assist DBEs in subcontract completion;
- Streamline DBE certification procedures and allow for DBE supportive services funds to be used to assist DBEs in hiring necessary professional financial services to assist in completing certification documentation;
- Provide more transparency in disparity study requirements, such as requiring that the methodology and anecdotes used to make availability determinations be subject to public comment;
- Put more emphasis on business development aspects of the program, including broadening eligibilities for supportive services funding to include line of credit financing and technology acquisition; and
- Establish one USDOT-wide definition of "small business concern" based on existing U.S. Small Business Administration (SBA) criteria that applies to all categories of work undertaken by DBEs. All USDOT modes, including the Federal Highway Administration, Federal Transit Administration and Federal Aviation Administration should use the same size criteria.

In addition, AGC recommends that Congress avoid efforts to undermine the DBE program's effectiveness by not expanding the program to include veteran owned businesses or creating separate goals for women owned businesses and minority owned businesses.

Government Mandated Project Labor Agreements

A government-mandated project labor agreement (GMPLA) is a pre-hire agreement that establishes the terms and conditions of employment for the craft workers who will work on a publicly funded construction project before the government has selected the construction contractor(s) that will actually employ those workers. Representatives of one or more of the 15 building trade unions and the public agency responsible for the project usually negotiate the GMPLA. Although they have the greatest stake in the outcome, construction employers are usually excluded from the process.

A GMPLA typically mandates that successful bidders:

- Require recognition of the signatory unions as the exclusive bargaining representatives for the contractor's employees, whether or not the employees are union members;
- Require the payment of union dues or agency fees (instead of dues, in right-to-work states) by the contractor's employees;
- Supersede all other collective bargaining agreements;
- Require hiring through union referral systems;
- Potentially conflict with prevailing wage laws; and
- Mandate contributions to specific union benefit trusts.

Regarding GMPLAs, AGC recommends that Congress:

- Prohibit GMPLAs from being used on federally-assisted transportation construction projects.

AGC holds that neither a public project owner nor its representative should compel any firm to change its lawful labor policies or practices to compete for or perform public work, as GMPLAs effectively do.

AGC also notes that government mandates for GMPLAs can restrain competition, drive up costs, cause delays, lead to jobsite disputes, and disrupt local collective bargaining. If a GMPLA would benefit the construction of a particular

[8] U.S. Department of Transportation, History of the DOT DBE Program, Jan. 5, 2015 *available at:* https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/history-dot-dbe-program

project, the construction contractors otherwise qualified to perform the work would be the first to recognize that fact and voluntarily adopt such an agreement.

Environmental Reform

While the Moving Ahead for Progress in the 21st Century Act (MAP-21) and Fixing America's Surface Transportation (FAST) Act reauthorization laws included improvements to streamline environmental review to speed up the project approval process, further improvements are needed.

AGC recommends improvements to the process to include:

- Merging the National Environmental Policy Act (NEPA) and Clean Water Act Section 404 permitting processes, with the U.S. Army Corps of Engineers issuing permits at the end of the process using the NEPA-generated information;
- Allowing the monitoring, mitigation and other environmental planning work performed during the NEPA process, and included final Environmental Impact Statement/Record of Decision, to satisfy federal environmental permitting requirements, unless there is a material change in the project; and
- Further shortening and standardizing time limitations on claims for the review of final NEPA documents or an environmental permit, license or approval issued by a federal agency for an infrastructure project (current inconsistencies exist between MAP-21 and Title 41 of the FAST Act) to prevent misuse of environmental laws.

Coordination with Railroads

Transportation construction projects that interface with railroad properties are often subject to significant restrictions and delays imposed by railroad owners. It is often a struggle for contractors to obtain fair and equitable railroad agreements; as well as ensure such agreements are made in a timely manner. That struggle adds time and cost to transportation projects.

To address this issue, AGC recommends that Congress:

- Establishes, or authorizes USDOT to establish, consistent requirements, commitments, and time frames across all public and private railroad owners to facilitate transportation work within and across railroad rights of way. USDOT must also be granted authority to enforce those provisions with the railroads; and
- Require USDOT to establish template/model agreements for standard activities conducted by the state DOTs in railroad right-of-way (and vice versa). As such, USDOT must provide guidance on the establishment of agreements for special or more complex activities.

Utility Relocation

Relocating underground utilities in highway right-of-way (ROW) while undertaking road improvement projects continues to be one of the leading causes of delay in completing projects once construction commences. Unmarked or incorrectly marked underground utilities pose a significant safety risk to the construction workforce, state DOT employees and the public. Damage to utility facilities can be costly to all parties to the contract, negatively impact the collaborative spirit on jobs, and lead to litigation.

Current rules allow for states to be reimbursed with federal funds when the state pays for utility relocations for project construction. The Common Ground Alliance (CGA) is an outgrowth of a study conducted by USDOT, as directed by Congress, that puts forth best practices to address these concerns.

To address issues involving utility relocation on highway projects, AGC recommends that Congress:

- Amend 23 U.S.C. § 123 to allow utility relocation to take place after a preferred alternative is identified but prior to NEPA completion with appropriate limitations to ensure the integrity of the NEPA process, and allow federal funds to be used for the relocation;
- Encourage state DOT involvement in efforts such as the CGA to promote shared responsibilities for utility protection and adopting their recommended best practices;
- Encourage DOTs to participate in their local one-call systems or develop in-house capabilities to locate DOT-owned facilities within the ROW;
- Encourage utilities with lines located in highway ROW to participate in a preconstruction meeting with the DOT and contractor;
- Maintain a repository of electronic "as built" 3D data of completed highway improvement projects to begin compiling an index of utility locations for future road improvement uses.

Buy America

Buy America requirements have been part of the procurement process for construction projects funded through the federal-aid highway program and the Federal Transit Administration's (FTA) grant program since the early 1980s. The Federal Highway Administration (FHWA) has applied Buy America requirements to steel and iron products.

Generally, Buy America regulations require a domestic manufacturing process for steel and iron materials that are permanently incorporated into a federally-assisted construction project. The requirement interprets the domestic manufacturing process to include melting, rolling, cutting, welding, fabrication, and the process of applying a coating.

The FTA is also subject to Buy America rules and institutes requirements for manufactured products, regardless of the material from which they are made. As such, the manufacturing

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processes undertaken within that program must take place domestically and all components of the product must be of U.S. origin.

While the industry has been able to meet these requirements and produce high quality projects, Buy America requirements can significantly delay projects and add to overall cost.

To help ameliorate delays and costs, AGC recommends Congress consider the following to improve Buy America implementation:

- Manufactured products that consist of 90 percent or more of steel should be domestically produced. Waivers should be available for commercially available off-the-shelf (COTS) products with iron and steel components and manufactured products that contain a variety of different components made of a varying materials, including steel, and in assorted amounts;
- Small, incidental products such as bolts, screws, connectors, etc., should be considered de minimis and excluded from the requirements. The cost and time required to trace and document these products can far outweigh their de minimis financial impact to the project's total value;
- Allow for the minimum use exclusion as currently implemented by FHWA to increase from one tenth of one percent to one percent or a ceiling of $20,000 from the current $2,500 limit;
- Buy America requirements should be limited to steel and iron products, and not expanded to other construction products not generally manufactured, such as cement;
- The waiver application process with FHWA should be timely and should not become a barrier to efficient project delivery or related decision-making by the owner and contractor;
- On the project level, Buy America requirements should be interpreted with a "common sense" approach, ensuring that the burden of compliance on contractors does not lead to the likelihood of cost increases and delays on the project;
- Buy America requirements should not apply to utility and railroad facilities relocated as part of a federal-aid highway project; and
- On FTA funded projects, the construction industry and grant recipients are looking for clearer and more consistent direction from the FTA. Clear cut guidance on how to categorize end products, components and subcomponents is needed. FTA needs to provide guidance clarifying how Buy America content in the end project, components, subcomponents and sub-sub components is to be determined. To do so, the following recommendations may help ameliorate these issues:
  - Directing FTA to develop a standardized audit or certification program for suppliers; and
  - Directing FTA creation of a standardized template to assist suppliers in providing relevant product information and accurately calculating percentage costs, especially related to rolling stock materials.

Contract Administration

The Special Experimental Project No. 14 (SEP-14) Program allows states to use experimental procurement practices with FHWA approval. As an example, New Mexico developed a prequalification scoring system under this program, about which industry has concerns.

Under SEP-14 there is no opportunity for public comment when these innovative practices are adopted, unless FHWA decides to issue a rule making based on the experimental process.

To address this issue, AGC recommends that Congress:

- Require FHWA to submit SEP-14 initiatives for public comment to help mitigate potential issues on experimental procurement processes during the test period and before final adoption.

Alternative Procurement Risk Shifting

The shifting of ever-increasing risk to contractors (herein "risk shifting") has become a significant issue for those working on projects using alternative procurement methods other than competitive bidding. These methods include design-build and Construction Manager/General Contractor (CMGC). Such alternative procurement methods are also generally used in public private partnership (P3) procurements. In alternative procurement projects, state DOTs, concessionaires and financers have used contract documents that place all the construction related risks onto the design-build construction contractor.

MAP-21 directed USDOT to develop model contract documents to address this concern for P3 projects. However, the resulting documents are inadequate. Risk shifting unnecessarily increases the cost of construction significantly. State DOTs in their traditional construction programs understand the negative impact on costs due to risk shifting and address the concern through balanced contract documents.

To help move from a model of inordinate risk shifting onto contractors to that of reasonable risk sharing, AGC recommends that:

- Congress revisit standard P3 contract documents and direct USDOT to adopt the Canadian contract document model that has successfully delivered P3 projects there; and
- For design-build and CMGC procurements that are not part of a P3 arrangement, Congress direct FHWA to revise its alternative procurement regulations to clarify which construction risks are most appropriately allocated to the owner, designer and contractor.

Technology

The FAST Act authorized the Technology and Innovation Deployment Program (TIDP) to fund efforts to accelerate the implementation and delivery of new innovations and technologies that result from highway research and development to benefit all aspects of highway transportation. The FAST Act earmarked 18 percent of TIDP funding to accelerate the deployment and implementation of pavement technology. FHWA has been emphasizing adoption of e-construction (paperless project administration). Attempts have been made to earmark larger portions of these funds.

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In regards to TIDP, AGC recommends that Congress:

- Allow and encourage state DOTs to use TIDP funds for incentive awards as part of the construction contract award process. This would encourage greater utilization of digital construction technology and processes with the goal of gaining productivity, safety and quality efficiencies throughout the project life cycle from pre-planning and construction through operation and maintenance;
- Allow TIDP funding to be available to state DOTs to encourage the adoption and deployment of new technologies; and
- Make eligible TIDP funds to support FHWA's "Every Day Counts" initiatives, including adoption of new technologies as part of the construction process.

Drones/Unmanned Aircraft Systems (UAS)

Contractors are making significant and growing use of drones in many construction applications, including project design, estimating, bidding, material quantity determinations, project progress reports, maintenance of traffic, safety and other uses. Current restrictions limit the full potential of this continually evolving technology. Such restrictions include where and when drones can be flown, the amount of pre-planning needed, and the inability to fly over traffic.

To address issues involving drones, AGC recommends that Congress:

- Expand flexibilities for transportation agencies to use drones in broader applications and with fewer restrictions when reasonable safety measures can be accommodated to help realize the full potential of this continually evolving technology; and
- Allow USDOT the authority to apply for project waivers—which could be delegated to construction contractors—from current restrictions to expedite drone use.

BIM Coordination

Building Information Modeling (BIM) is the use of 3D models to plan, design, maintain and manage the nation's transportation system. BIM holds great potential for cost reduction, efficiencies, safety and system monitoring. BIM models can be used for clearer visualization of what a final project will look like, how it can be constructed, where utilities are located and managing the transportation assets in the future. As the use of BIM begins to spread widely in the transportation arena, it is important to adopt a common data standard.

An August 2018 survey found that 93 percent of the 2,552 construction industry respondents would like to hire new hourly craft personnel to meet their backlog of project needs or to replace retirees, with 79 percent reporting immediate difficulties meeting their workforce needs.

When it comes to BIM integration, AGC recommends that Congress:

- Encourage FHWA to work with industry to continue efforts to create a "Model View" definition to define project information so it can be exchanged using a universal data format. The buildingSMART international (bSI) IFC data format should be the standard used. Once the standard is completed, it should be managed by an industry committee connected to and coordinated with the international standards efforts.

Construction Workforce

For the past five years, AGC has undertaken an annual workforce availability survey. An August 2018 survey found that 93 percent of the 2,552 construction industry respondents would like to hire new hourly craft personnel to meet their backlog of project needs or to replace retirees, with 79 percent reporting immediate difficulties meeting their workforce needs.

The construction workforce issue is both a development and shortage problem. The 2007–2009 recession lead to a collapse of the construction market. As the market declined, workers left the industry and moved on to other industries. Attracting those workers back and finding new workers with the necessary skills and interest in construction careers are challenges the construction industry continues to address.

AGC responded to this concern with a Workforce Development Plan in 2016, advocating a skills agenda targeted at bringing new entrants into the industry, and has had success in getting many of the recommendations implemented.[9] Many AGC Chapters have recruiting and training programs either independently or in conjunction with technical schools. In addition, AGC is working with FHWA, the American Association of State Highway and Transportation Officials (AASHTO) and the U.S. Department of Labor's Employment and Training Administration on a highway construction workforce pilot to identify, train and place individuals in highway construction jobs. The lessons learned from the pilot program are now being compiled and will soon be ready to be implemented.

To support efforts to address construction industry workforce needs, AGC recommends that Congress:

- Provide grant funding support for highway construction workforce development (HCWD) initiatives to attract, train and place workers into highway construction careers. Grants may be used for HCWD initiatives to: promote highway construction worker career opportunities; support outreach and awareness efforts; develop education and training materials; provide skill training, including life skills, rudimentary math and other basic skill training; and for related support services.

Local Hire

The use of local (geographic) hiring preferences that require contractors to hire a certain percentage of their workforce for a specific project from the geographic area where a federal-aid highway project is located have been prohibited in the federal-aid highway program since its inception. Recent efforts have been made by some in Congress to overturn these requirements.

AGC supports retaining the prohibition against local hire requirements for the following reasons:

- Local hire mandates address a symptom and do not provide a cure. Contractors want to hire locally when they have workforce needs. However, recruiting locals who have a genuine interest in a construction career and providing them needed training is a better way to accomplish this objective;
- In addition, local preferences discriminate against the fundamental rights of one group of construction workers in order to aid a separate group. Local hire requirements can force a contractor to lay off some current employees in order to hire others to meet contract mandates;
- The construction workforce is typically not temporary. When one project is completed, the workforce is moved to the next project, wherever that may be. Local hire rules interfere with the efficient staffing of projects by contractors;
- A contractor's workforce is one of the key factors in the success of the business. Therefore, contractors invest in their workforce by providing: safety and technical training; wages and benefits that ensure workers and their family's well-being; and most up-to-date equipment and technology. Local hiring mandates undermine this effort;
- Local hiring preferences have been found to be unconstitutional on numerous occasions; and
- New hires who have not received adequate training are typically less efficient and less safe, causing additional project concerns and costs.

As such, AGC recommends that Congress:

- Retain the prohibition against local hire mandates; and
- Provide support for highway construction workforce development initiatives to attract, train and place workers into highway construction careers.

[9] AGC 2018 Workforce Survey: https://www.agc.org/news/2018/08/29/eighty-percent-contractors-report-difficulty-finding-qualified-craft-workers-hire; For more information on construction workforce needs, policies and programs, visit www.agc.org/workforce

Training and Certification Requirements

Past efforts have been undertaken to create a new federal mandate for worker training and certification of contractors undertaking bridge projects that include coating and corrosion control activities and receive federal funding. These activities are already regulated by federal and state laws and regulations that govern safe application, removal and disposal.

Construction contractors, states and local governments are actively engaged in advancing the safety and longevity of bridges. Most states already have certification programs in place for the activities proposed to be federally regulated by this mandate. The provision undermines efforts to provide states with the greatest amount of flexibility in addressing their own transportation programs.

Consequently, AGC recommends that Congress refrain from including such a provision in reauthorization legislation.

Hours of Service

The original intent of the Federal Motor Carrier Safety Administration's (FMCSA) hours of service (HOS) regulations was to prevent accidents caused by driver fatigue by limiting driving time and on-duty time of long-haul drivers. Because FMCSA has generally applied a "one-size-fits-all" approach for HOS rules to all commercial motor vehicle (CMV) drivers, the rules unnecessarily include short-haul drivers transporting construction materials and equipment to active construction sites—even though they are not long-haul drivers.

Congress and FMCSA have acknowledged this concern by providing a variety of exemptions from the rules for various elements of the construction industry. This approach has provided only limited relief and makes the rules more confusing and difficult to administer and comply with.

To help address these matters, AGC recommends that Congress:

- Encourage FMCSA to update the HOS rules to ensure safety and promote efficiency; and
- Enact a broad exemption for construction drivers to address these industry specific concerns and to eliminate the confusion created with the various limited exemptions. A construction industry exemption is the best way to eliminate the rule's negative impact on the completion of infrastructure improvements in a safe, expeditious and cost saving fashion. Congress and FMCSA have provided a limited general construction industry exemption for construction drivers who operate in a 75-mile radius, and for drivers delivering ready mix concrete and asphalt paving and related materials and equipment. There are a wide variety of additional construction trucks and truck operations that should also be included.«

For more information on these recommendations, contact AGC's Sean O'Neill at oneills@agc.org or Brian Deery at deeryb@agc.org.

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