July 9, 2019

The Honorable Richard E. Neal
Chairman, Ways and Means Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Neal:

On behalf of tens of thousands of construction employers, all of whom contribute to multiemployer defined benefit pension plans, we are writing to urge Congressional action this year to help stabilize industry plans. Significantly, construction industry plans account for over half of all multiemployer defined benefit plans and cover nearly four million multiemployer defined benefit participants. These eight leading construction employer associations represent the vast majority of contributing employers in the construction industry.

Your leadership in dealing with the issues, which if ignored would have devastating consequences for people and communities, is so important and we appreciate your continued efforts to move the Congress forward. The consequences of delay cannot be overstated, and we sincerely hope the action of the Ways and Means Committee will be a catalyst for bipartisan, bicameral solutions which can be enacted before the end of the year. As contributing employers, we hope the Committee also recognizes that the overall system is under stress and we urge the Committee to extend its efforts to address the concerns of construction industry plan stakeholders.

Many construction industry plans, while not in "critical" or "critical and declining" status, face significant unfunded liabilities and suffer the same long-term risks that have driven other plans to insolvency. Without prompt and careful action by Congress, employer exits, bankruptcies, and mass withdrawals could occur causing plan failures and increasing the Pension Benefit Guaranty Corporation (PBGC) multiemployer liability. We hope the Ways and Means Committee will:

Pass Composite Plan Design: Congress should modernize the multiemployer system by authorizing Composite Plan design as proposed in the "Giving Retirement Options to Workers" (GROW) Act, a bipartisan bill sponsored by Reps. Phil Roe (R-TN) and Don Norcross (D-NJ). The composite plan concept incorporates the best features of defined benefit plans and defined contribution plans. Composite Plans would offer voluntary options to share risks, providing funding stability and lifetime income to participants, and limiting employer obligations to negotiated contributions only, without cost to the taxpayer. The legislation was written to protect benefits already earned in legacy plans and no participant would lose benefits under the old plan. The design would also allow new employers to join the plan without the burden of withdrawal liability, broadening the base of contributing employers. The well-documented trend of private sector employers abandoning the lifetime benefits of defined benefit pension plans will put more strains on public safety nets as more workers retire in the coming years, but this variable benefit design could provide a lifetime of stable, secure benefits for retirees and not add additional burdens and costs to the nation's already taxed public safety nets.

Avoid Misguided Funding Requirements Which Could Destabilize Plans: Many plans are struggling to maintain their base of contributing employers and the impact of select structural changes to plan funding rules could have severe unintended consequences. System changes or mandates must strike a delicate balance to keep employers participating in the plan. Mandating strict investment rate assumptions is both unreasonable and unnecessary. Actuarial data shows that 7.0 to 7.5% investment assumption rates for a diversified portfolio with blended rates are not inappropriate. Mandating lower assumption rates will drive up risks to employers on several levels. Lower investment assumptions would cause actuarially calculated liabilities to rise, forcing dramatically increased contribution rates. Some employers could strategically opt to withdraw from plans and financially weakened employers could be pushed into bankruptcy, leaving remaining employers no option except a mass withdrawal. Congress should not take rash action that could deepen the current crisis.

Consider the Impact of Unsustainable, Over-reaching PBGC Premium Increases: Congress sets the rate for PBGC insurance premiums. Congress has raised the per-participant rate for multiemployer plans over time and MPRA doubled the rate for 2015 and included automatic increases for inflation. Some suggested premium increases have been extreme, but any significantly higher premium increase would ultimately require additional employer contributions. Raising per-participant premiums too high will result in additional instability further undermining benefit security for participants, both for retired and active workers. Any increase in premiums should be considered after all other tools are exhausted, such as, after the authorization of composite plans, a viable solution for stressed plans not yet facing insolvency, thus ensuring premium increases would not go pointlessly to a failed agency.

Acknowledge Construction Industry Efforts to Meet the Challenges: The industry began taking action over 15 years ago to improve funding for the plans, mainly through contribution increases, then through reducing benefit accruals along with additional contribution increases, then supporting the Pension Protection Act -- which for troubled plans mandated even more contribution increases. Additionally, employers negotiated a "Solutions Not Bailout" plan with our labor union partners at the table, a plan that included the Composite Plan design.

As failing plans wait for action, please know that construction employers have also stood by waiting for legislative action and for them, time is also of the essence. Unfunded liabilities created by withdrawal liability are frequently higher than the value of the company owners spent a lifetime building. Now these employers, who have followed the law and made the required contribution requirements year after year, face growing scrutiny from lenders and tighter credit markets, both of which will only increase without Congressional approval of composite plans.

The current system is fragile and needs modernization this year, not in the future and not just for failing plans. Another year of inaction will result in fewer employers each year being able to make their ever-increasing contribution requirements and putting a secure retirement for millions of active and retired construction craft workers in jeopardy.

Associated General Contractors of America
FCA International
Mechanical Contractors Association of America
National Electrical Contractors Association
International Council of Employers of Bricklayers and Allied Craftworkers
Sheet Metal & Air Conditioning Contrs Nat'l. Assn.
Signatory Wall and Ceiling Contractors Alliance
The Association of Union Constructors

Cc: Ranking Member Kevin Brady and Members, House Committee on Ways and Means