

Congress of the United States

House of Representatives

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Opening Statement Ranking Member Elijah E. Cummings Delivered by Rep. Eleanor Holmes Norton

H.R. 1552, the Fair and Open Competition Act

March 28, 2017

I strongly oppose H.R. 1552, the Fair and Open Competition Act, introduced by Rep. Ross. This bill is substantially similar to H.R. 1671, which was introduced in the last Congress by then-Congressman Mick Mulvaney.

This bill is a solution in search of a problem. Many of my colleagues on the other side of the aisle have repeatedly argued that government should function more like a business. Yet today, we are considering legislation that would prohibit the federal government from using project labor agreements to achieve efficiencies on construction projects, even though they are widely used in the private sector.

The real purpose of H.R. 1552 is to overturn Executive Order 13502 and to attack organized labor unions. Executive Order 13502 does not require the use of PLAs on any federal contract. The Executive Order states that a federal agency “may, on a project-by-project basis, require the use of a project labor agreement where use of such an agreement will advance the Federal Government’s interest in achieving economy and efficiency in Federal procurement, producing labor-management stability, and ensuring compliance with laws and regulations governing safety and health, equal employment opportunity, labor and employment standards, and other matters.” In other words, the Executive Order encourages agencies to use PLAs if they will protect the investment of taxpayer funds in major infrastructure projects.

If H.R. 1552 became law, a federal agency would not be able to require the use of a PLA even if it found that it would be in the taxpayers’ best interests and would achieve economy and efficiency. The Government Accountability Office has previously reported that PLAs, “have been used in all 50 states and the District of Columbia on federal, state, local government, or private sector construction projects.”

GAO also found that the private sector has used PLAs extensively, including on projects like the Trans-Alaska Pipeline and Disney World. In addition, firms like Toyota and WalMart routinely use PLAs. Yet, with this bill, my colleagues are seeking to forbid the Federal

government from using the same construction management measures that are so widely used in the private sector.

This makes no sense. It is irrational to tell federal agencies that they may not require PLAs even if they will protect the government and taxpayers. This legislation would limit the ability of the government to ensure that taxpayers' money is spent effectively and efficiently.

We should ensure that federal agencies can use all the management measures available to achieve greater efficiencies in contracting and advance the government's interest. That is precisely what the current Executive Order on PLAs does.

I urge my colleagues to oppose H.R. 1552 and reject efforts to prevent agencies from protecting taxpayer funds on federal construction projects.

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