Written Statement of

Kari Karst
President and Chief Executive Officer
BX Civil & Construction

On behalf of

The Associated General Contractors of America

to the

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Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit

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"Development and Job Creation in Surface Transportation Construction"

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The Associated General Contractors of America (AGC) is the leading association in the construction industry representing more than 27,000 firms, including America's leading general contractors and specialty-contracting firms. Many of the nation's service providers and suppliers are associated with AGC through a nationwide network of chapters. AGC contractors are engaged in the construction of the nation's commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, levees, locks, dams, water conservation projects, defense facilities, multi-family housing projects, and more.

2300 Wilson Boulevard, Suite 300 • Arlington, VA 22201 • Phone: (703) 548-3118

I. Introduction

Chair Norton, Ranking Member Davis, and members of the Subcommittee on Highways and Transit (Subcommittee) thank you for inviting me to testify on this vitally important topic. My name is Kari Karst. I am the President and CEO of BX Civil & Construction in South Dakota and an active member of the Associated General Contractors of America (AGC).

AGC is the leading association in the construction industry representing more than 27,000 firms, including America's leading general contractors and specialty-contracting firms, many of which are small businesses. Many of the nation's service providers and suppliers are also associated with AGC through a nationwide network of chapters. AGC contractors are both union and open shop and are engaged in the construction of the nation's commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, levees, locks, dams, water conservation projects, defense facilities, multi-family housing projects, and more.

My company, BX Civil & Construction, has been around for 60 years. I will have owned the company for 30 years in April. We began our history as a subcontractor on the interstate highway system performing seeding, fencing, guardrail and permanent signing for highway projects. After I purchased the company in 1992, we became certified as a Woman-Owned Disadvantaged Business Enterprise. Along with my team, we grew the business organically for about 15 years. Since then, our growth has come through expanding our business lines and through acquisition. Our work is now split 50/50 between general contracting (Prime) and subcontracting. Our work-lines have expanded to include light grading, bridge rehabilitation, box culverts, and concrete paving for roads &

runways. In the fall of 2021, I graduated from the Disadvantaged Business Enterprise (DBE) program because of our twenty-fold growth. Because of my experiences, I am well-qualified to testify on the benefits and impacts of the Infrastructure Investment and Jobs Act (IIJA).

In my testimony today, I will discuss current issues facing the construction industry, particularly as it relates to the workforce. The IIJA represents the most significant infusion of investment in our infrastructure since the enactment of the Interstate Highway System in the mid-1950's.

II. Workforce Issues

The IIJA provides market opportunities for transportation contractors, heavy contractors, building contractors and utility contractors. And most importantly, it demonstrates to our existing and future workforce that there is sustainable work in the years to come. This historic level of funding in our infrastructure when combined with recovering from a global pandemic, addressing a supply chain crisis, and implementing new federal requirements that were a part of the IIJA will create challenges for those of us tasked with rebuilding our infrastructure.

The construction industry continues to face workforce shortages due to expected craft worker retirements, growth in other sectors, and challenges to recruiting and training new workers into the industry. Meanwhile, construction demand and activity continue to grow.

There will be challenges to finding enough skilled workers to rebuild our nation's infrastructure. The administration's recent attempts to prioritize the selection of projects based on labor preferences and the mandate on project labor agreements through executive order paper over the real problems facing the construction workforce and miss the mark. These policies will neither attract nor prepare workers for a long-term career in construction. They attempt to treat the symptoms—not the root causes—of workforce shortages.

The Current State of Construction Employment

According to federal employment data analyzed by AGC, construction employment remains below pre-pandemic levels in 21 states and D.C. while 29 states now employ more construction workers than in February 2020.[1] Employment has risen in most of the nation over the past year, but contractors are having an increasingly hard time finding all the workers they need as unemployment hits record lows in more states.

Effectively Meeting Local Workforce Needs Through Opportunity

Today, few school districts offer what is known as career and technical education (CTE) programs or provide instruction in construction skills. Construction jobs pay well. In South Dakota, 4 out of the 5 most numerous construction occupations had higher median pay than the median for all employees in the state in 2020[2].

In fact, decades of education policy have shifted school districts from operating robust vocational educational programs, with many school systems not teaching craft skills at all, and instead shifting towards college preparatory skills. The country continues to face a higher education bias evidenced

[1] Associated General Contractors of America, www.agc.org, from Bureau of Labor Statistics (BLS), U.S. Department of Labor, www.bls.gov/sae, 3/14/2022
[2] Bureau of Labor Statistics (BLS)

by inequities in federal workforce and education funding with only 1 in 5 dollars estimated going towards workforce education programs compared to academic college programs[3].

Our nation's higher education programs have neither collaborated with industry to identify occupations with openings, nor to prepare students for in-demand jobs. The construction industry and the greater economy have an interest in ensuring that higher education investments are productive and have a responsibility to hold schools accountable for preparing students for career opportunities while spurring innovation.

Making reforms to higher education policy by making high-quality, shorter-term education and training programs eligible for federal Pell Grants would help reverse the skills gap, correct education funding inequities, and provide job training and credentialing opportunities that are in high demand. The bipartisan JOBS Act, or H.R. 2037, is one legislative initiative that could help make a tangible impact on this problem.

Congress must also increase Perkins CTE funding. The Perkins program is the biggest federal funding source to high schools and post-secondary vocational training programs in the country. Despite modest funding increases in recent years, the level and need of funding still has not kept up with inflation and rising demand.

South Dakota Training Program

AGC through its local chapters focus on Workforce Training Programs that impact our local communities. In South Dakota, we have collaborated with our Department of Transportation to

[3] Opportunity America https://opportunityamericaonline.org/

utilize grant funding to develop a Commercial Drivers License (CDL) Training Program that allows us to recruit new drivers to our industry and upskill our existing workforce. Through this program we help our members to train and provide the required classroom training for CDL candidates and provide marketing resources to attract candidates to our industry.

The AGC of South Dakota has three Federally Registered Apprenticeship programs that allow our workers to achieve journey level certification in Carpentry, Concrete Finishing & Heavy Equipment Operation.

In addition to dealing with our immediate workforce training needs, our South Dakota Chapters focus heavily on attracting the next generation of construction workers through Construction Career Camps which focus on exposing students to the opportunities in our industry during their middle and high school years. In the last year, we will have exposed over 600 students through our traditional camps all across the state of South Dakota. We also have a special camp called *Pizza, Pop & Power Tools* that focuses on 8th grade girls. These girls are given a hands-on experience in equipment operation, carpentry, welding, finishing concrete and using power tools. When we complete our *Pizza, Pop & Power Tools* camps by the middle of April, we will have impacted close to 300 8th grade girls in South Dakota.

Our innovative Construction Career Academy allows 16- to 18-year-old students to earn and learn during the summer months. The students are matched with one of our member employers who pay them to attend classes and work under supervision on our jobsites. These students can apply their experience to our Youth Apprenticeship Program and eventually move on to one of our Federally Registered Apprenticeship programs.

I am proud of what we do in South Dakota and even more pleased to let you know that this is not an anomaly. AGC chapters across the country understand the importance of our work force and are providing innovative work force programs to their local members.

New Regulatory Challenges to Workforce Development:

A. Government-Mandated Project Labor Agreements

On February 4, 2022, President Biden signed a new Executive Order on Use of Project Labor Agreements (PLA) For Federal Construction Projects. When in effect, this Executive Order (E.O.) will require every prime contractor and subcontractor—with limited exceptions—to engage in negotiation or agree to PLAs on federal construction projects valued at $35 million or more. As it stands, this executive order does not require PLAs on federal aid transportation projects. However, it does permit U.S. DOT to do so. AGC neither supports nor opposes contractors' *voluntary* use of PLAs on government projects or elsewhere but strongly opposes any government mandate for contractors' use of PLAs.

The use of government-mandated PLAs hurts both union and open-shop contractors. As an open-shop highway contractor, government- mandated PLAs would:

- Likely include union security clauses that require all craft workers to pay either union dues or an equivalent amount of union agency fees, whether or not the workers have any interest in union representation. This may deter workers from applying for, or accepting an assignment on, a PLA project, exacerbating already-challenging labor supply conditions.
- Normally require contractors to make contributions to union-sponsored fringe benefit funds. But an open-shop contractor's regular employees probably won't receive any benefits from those funds because of the plans' time-based vesting and qualification requirements.

To continue providing benefits for such employees, the contractor must contribute to both the union benefit funds and the contractor's regular benefit funds. The cost of such double payments can make the contractor's bids uncompetitive.

- Act as a barrier for the hiring of small businesses, including minority- and woman-owned businesses, and the fulfillment of small-business utilization goals. Such businesses are largely open-shop and are among those least able to make the above-described changes that a PLA requires.

For these reasons, among others, government-mandated PLAs would likely exacerbate workforce challenges, not improve them.

B. Local Hire

The IIJA includes a local hire provision that allows geographic or economic preferences for construction labor workforces. Recently, the U.S. Department of Transportation has signaled a desire to impose preferences for projects that include local hire requirements. While the construction industry is committed to recruiting more individuals, particularly from disadvantaged areas and communities, into construction careers, there is evidence that these policies have not had the intended effect in areas where they have been imposed.

In South Dakota, a state with near historic low unemployment numbers, there is even less of a need for these measures. Unfortunately, it is the industry's experience that local hire policies rarely result in long-term construction careers. They fail to attract people to the industry and instead allow local school systems, education policies, and elected officials off the hook for failing to better match curricula to in-demand vocational skills.

Rather than offering across-the-board requirements that do not adequately help attract, educate, and retain a skilled, diverse, and safe construction workforce, Congress and the administration should instead:

- Focus on increasing CTE funding and track the effectiveness of existing workforce programs, especially those with federal funding sources; and
- Support industry-led programs like AGC's Culture of CARE[4]. The Culture of CARE program is focused on making construction workplaces more inclusive and welcoming for all workers.

III. Other Challenges Impacting Construction

Now that Congress has passed an FY 2022 omnibus spending bill, and the full benefits of IIJA can be realized, we ask that Congress and the administration provide flexibility as they implement this law to help ensure that projects can be completed efficiently and in a timely manner. The following policy concerns have an indirect impact on the workforce as they will have an impact on the project's ability to break ground.

Supply Chain

A recent survey of AGC members, as well as by the American Association of State Highway and Transportation Officials of the state departments of transportation, found that companies and government agencies are reporting both shortages of and increased prices on manufactured steel,

[4] https://buildculture.org/

steel and plastic piping, paint, concrete materials, and many other items. Cost increases ranged from 15 percent to a doubling or tripling on some items like manufactured steel.

Lead times for procurement and delivery of many of these materials has dramatically increased as well, and prospects for the rest of the year are worse. As a result, crucial infrastructure projects across the country run the risk of delay. Construction firms, in situations where they are able to, will pass along the rising materials prices in order to remain successful. Unfortunately, the lead time in bidding these projects is so long that they are unable to predict the availability and price of some of these materials. In addition, companies are unable to foresee things like a Russian invasion, spiking oil prices, and soaring inflation and therefore, in some instances, are forced to absorb these increases because there is no price escalation clause available to them.

The impacts of this have been especially devastating to small and DBE construction firms that lack the resources to absorb these unexpected costs. While contractors are in the business of managing risk, the events and circumstances of the last two years have led to such unprecedented unpredictability in the supply chain and market that contracting firms of all sizes are at greater risk now than in recent history of business failure.

Consequently, AGC led a coalition letter to the Treasury Department asking that they clarify the use of Coronavirus State and Local Fiscal Recovery Funds from the American Rescue Plan Act (ARPA) by state and local governments to mitigate the effects of the supply chain. Allowing the use of these funds would allow them to mitigate the effects of supply chain delays and shortages and the effects they are having on project costs. These unprecedented supply chain shortages and material price increases are clearly initiated as a direct result of the pandemic and we believe that this request falls well within the Congressional intent of this funding.

Maintain Flexibility – Including for New Highway Capacity

AGC greatly appreciates the Subcommittee's work on the surface transportation reauthorization process that led to IIJA becoming the law of the land. As provided by the final bill, flexibility while implementing this law is critical. Historically, the federal-aid highway program has been federally funded and state administered.

AGC believes that the Federal Highway Administration (FHWA) must continue to provide state and local governments with the flexibility to address and prioritize their unique transportation needs as Congress intends. As each area of our country is diverse and unique, so are the transportation needs of each community. When standardized transportation solutions do not work in a community, too often the contractor gets blamed despite often not being involved in the selection or design of a project.

Recently, FHWA released a guidance memo highlighting, among other things, that states should focus exclusively on maintenance and repair work on existing roadways before building more or new roads. This memo has caused confusion with state DOTs due to the mismatch between this guidance and the lack of corresponding requirements for such measures by the IIJA. This policy, which was rejected by Congress in IIJA negotiations, paints a false narrative based upon FHWA's own data[5], which states that 80% of roadway construction projects already repair existing roads and bridges. Our nation's interstate system was built and designed over 50 years ago, and it is past time

[5] https://www.fhwa.dot.gov/policyinformation/statistics/2019/sf12.cfm

that states modernize them to meet the current needs of the cities and populations they serve. Flexibility to add new capacity to meet these changed needs is crucial.

From a construction standpoint, our biggest concern with policy that attempts to limit a state's ability to add highway capacity is the negative economic effect on the roadway construction industry– particularly small and DBE construction firms like mine. Some of these small businesses only construct new roads and bridges, as opposed to performing maintenance and repair contracting. It is imperative that increased federal investment in the nation's infrastructure create jobs and allow businesses of all sizes to flourish.

Facilitate Efficient Project Delivery

AGC believes a great way to maximize the investment in IIJA would be to implement the environmental review and permitting reforms that were mandated in the bill. The complicated operations of these current laws and the intersection of their requirements can delay projects that would improve the overall safety and efficiency of the surface transportation system. By implementing these provisions, we believe the costs associated with delivering projects will be reduced without jeopardizing environmental protections.

Specifically, we ask that the administration implement the provisions that would:

- Codify the One Federal Decision policy;
- Allow for utility relocation in the right of way prior to the National Environmental Policy Act (NEPA) review being completed; and
- Extend the time period for a state to assume the responsibility for small projects, that have little or no environmental impact, from a term of not more than 3 years, to a term of 5 years.

Unspent COVID Relief Funds

We would also ask that Congress clarify that several categories of infrastructure investments—including transportation projects—and disaster relief are eligible for unspent COVID-19 relief dollars, eliminating ambiguity as to whether such projects could receive these funds. The COVID-19 pandemic ripped a gaping hole in the budgets of many state and local governments, making this assistance crucial as the nation's economic recovery continues. Legislation to clarify this eligibility has already passed the U.S. Senate and the House version, which my home state Congressman Dusty Johnson is the lead sponsor of, has yet to be considered for a vote.

Federal Gas Tax Holiday

I would be remiss if I did not express our deep concern regarding recent efforts to "provide economic relief" by suspending the federal gas tax. We believe this effort is extremely misguided and could act to undermine the recently enacted infrastructure law that was negotiated and passed on a bipartisan basis.

While there is no way to know whether suspending the gas tax would lower gas prices or simply provide a tax break to oil companies who determine how that tax is passed on to consumers, it is abundantly clear that when there is a lack of real investment in funding infrastructure improvement projects by states and the federal government, consumers end up pay for it other ways, demonstrated by the 70% increase in toll prices over the last ten years[6].

[6] https://truckingresearch.org/wp-content/uploads/2020/01/ATRI-Toll-Exec-Summary.pdf

When it comes to concerns about being able to sustain my workforce, suspending or reducing the primary funding source for the projects I have built a successful business constructing ranks near the very top of my list of worries.

IV. Conclusion

I thank the Subcommittee for the opportunity to testify today. I appreciate its continued efforts to help improve our nation's infrastructure and enact policies that create good paying jobs in America. I look forward to answering any questions you may have.