BLOCK FEDERAL CONTRACTOR GREENHOUSE GAS RULE

Support Efforts to Block Federal Contractor Regulation That Create Unfeasible Reporting Requirements for Greenhouse Gas Emissions

Action Needed:

Ask House: Support *Mission not Emissions Act* (H.R. 3358) and Sec. 1822 in House National Defense Authorization Act (NDAA)

Ask Senate: Support Sec. 820 in Senate NDAA

These bills block a regulation requiring federal contractors to report technically unfeasible metrics for greenhouse gas emissions.

Background:

The proposed rule, Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk - FAR Case 2021-015, at issue introduces two new categories for federal contractors, "significant contractors" and "major contractors." Significant contractors, \$7.5 - \$50 million in federal contract obligations (not revenue) in the prior fiscal year would have to inventory Green House Gas (GHG) Scope 1 (direct emissions, e.g., equipment fuel usage) and Scope 2 (indirect emissions, e.g., electricity) and complete an annual GHG emissions inventory on www.SAM.gov. In addition, major contractors (who received more than \$50 million in the prior fiscal year) must report Scope 3 emissions (supply chain emissions, e.g., construction materials). Currently, there is no technically feasible metric to accurately measure GHG emissions at such levels.

AGC Message:

- **GHG Rule Threatens Small Businesses.** AGC is concerned about the establishment of technically unfeasible measures to address climate change that construction firms of all sizes, especially small businesses, cannot meet. Such measures threaten construction firms' ability to compete in the federal marketplace and build infrastructure. Concerningly, the proposed GHG federal regulation will present a significant cost to small businesses in perpetuity. Regulators estimate the cost to small businesses to be \$103,054,261 in the initial year of implementation and \$62,514,193 in subsequent years (87 Fed. Reg. 68324).
- **Construction Industry is Reducing Carbon without Heavy-handed Regulations.** Over years, contractors have improved their operational efficiency and environmental performance on projects via advancements in equipment, fuel, technology, and practices such as recycling and lean construction that reduce waste. According to a recent survey AGC conducted on sustainability practices, almost 80% of respondents have policies in place to encourage recycling. More recently, environmental, social and governance (ESG) considerations are being looked at by construction industry stakeholders. AGC expects the demand for, and company disclosure of, information about climate change risks, impacts, and opportunities to continue growing—irrespective of the Proposed GHG Rule.
- **Risks False Claims Acts.** As proposed, the GHG rule contemplates several new definitions and new reporting requirements around GHG. The completeness and accuracy of those disclosures will create challenges and potential risks for the disclosing contractor – including potential acts of "greenwashing" and violations of the False Claims Act and False Statements Act risks.

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