

February 27, 2013

The Honorable Trey Gowdy  
United States House of Representatives  
Washington, DC 20515

Dear Chairman Gowdy:

As leading associations in the construction industry, we write to share our thoughts on the House Judiciary Subcommittee on Immigration and Border Security hearing entitled, "How E-Verify Works and How it Benefits American Employers and Workers". The undersigned construction associations represent thousands of employers and hundreds of thousands of workers in all facets of construction—from home building, to road construction, to heavy industrial production, to specialty trade contractors and material suppliers.

The construction community supports the implementation of an efficient, practical and accurate employment verification system that provides ample protection from liability for employers who comply with the system in good faith. This system should be phased in according to company size, and should not burden employers either financially or functionally. Importantly, like other employers in other sectors, the construction industry firmly believes that any employment verification system should hold all U.S. employers accountable for the work authorization status of their direct employees, and not create vicarious liability by holding employers accountable for the hiring decisions made by entities with whom they have a contract, subcontract, or exchange.

In the 112th Congress, our organizations supported the Legal Workforce Act (H.R. 2885), introduced by then-Chairman of the House Judiciary Committee, Rep. Lamar Smith (R-TX). We believed that this legislation was the first step in creating an employment eligibility verification system that is workable for both employers and employees. We particularly appreciated this legislation's efforts to address our concerns and provide strong safe harbor protections for employers against liability and penalties when acting in good faith, along with providing protection from any vicarious cross-liability that could be imposed on employers.

We believe that any new mandatory verification system needs to include certain provisions. Such items include:

- Federal Preemption to help address the patchwork of conflicting and confusing state and local laws;
- A "knowing" intent standard for liability for both employers and contractors that have subcontractor relationships;
- A telephonic option for using the system;
- Reasonable documentation and response times;
- A safe harbor for employers who use the system;
- The verification process should apply to new hires only and should provide an option for employers to begin verification once an offer has been made to the employee; and,
- Any debarment provisions follow the process outlined in the Federal Acquisitions Regulations.

We urge you to continue working together to craft a reasonable and balanced approach on an employment verification system that is workable for both employers and employees.

Respectfully,

Associated Builders & Contractors

Associated General Contractors

Leading Builders of America

Mason Contractors Association of America

National Electrical Contractors Association

National Roofing Contractors Association