



LEGISLATIVE MEMO
CONTACT: WALTER PACHOLCZAK
VICE PRESIDENT OF GOVERNMENT AFFAIRS
T (518) 456-1134
WPACHOLCZAK@AGCNYS.ORG
WWW.AGCNYS.ORG

MEMORANDUM OF OPPOSITION

BILL: S.8111 (Lanza) / A.10709 (Benedetto)

SUBJECT: New York City – Design-Build Authorization

DATE: June 14, 2016

The Associated General Contractors of New York State, (AGC NYS) the leading statewide trade association representing union and non-union construction companies strongly opposes S.8111 (Lanza) / A.10709 (Benedetto) which would authorize the City of New York, for certain public works undertaken pursuant to project labor agreements (PLA), use of the alternative delivery method known as design-build.

AGC NYS supports design-build and welcomes a broader discussion about the structural impediments to successful construction projects like the limited contracting tools afforded the agencies in procurement and project delivery. The Governor and Legislature should be pursuing alternative construction procurement methods such as construction management at risk (CM at Risk). CM at Risk is a process by which a qualified general contracting firm works collaboratively in the planning, design and construction of a project to represent the interests of the owner by effectively managing the work, cost, time and quality aspects of the project.

AGC NYS supports a transparent system of full and open competition among general and specialty contractors and their suppliers and service providers for these and all public projects, as this benefits the state, taxpayers and construction industry alike. Any consideration of a PLA must require a due diligence study with the input from the construction industry and an analysis of the impacts on competition and MWBE participation. The National Black Chamber of Commerce and its aforesaid New York State affiliates oppose project labor agreements because such agreements have repeatedly been demonstrated to exclude and discriminate against African-American-owned construction companies. Approximately ninety-eight percent (98%) of Black and Hispanic construction companies are non-union shops. Furthermore, all design-build procurements should be exempted from the onerous Wick's Law.

The Design-Build Institute of America (DBIA), an organization that teaches and promotes best practices in design-build, is opposed to mandated PLAs because no other state in the United States is limited by such a law. The DBIA's position is that design-build can work successfully when executed by a project team that works collaboratively with the owner and has demonstrated the qualifications needed to successfully complete the project. Through this delivery method, union versus non-union status becomes irrelevant, and there are even instances when union and non-union teams work successfully side by side.

This bill would enable the City of New York to utilize design-build procurement with a mandated PLA. AGC NYS strongly opposes requiring the use of mandated PLAs on all design-build projects because it will negate the program's benefits rendering the application of design-build useless. It would undermine the collective bargaining that takes place between union contractors and labor and hinder competition for these projects from open shop contractors. It also hampers the participation of MWBE contractors on these projects, further complicating the challenge of meeting the aggressive state imposed goals.

Therefore, AGC NYS strongly opposes S.8111 (Lanza) / A.10709 (Benedetto) and urges the Legislature to reject this proposal.