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Protecting Contractors from Unfair Risk & Liability



Contractors need clear, workable rules and appropriate protections in the face of policy uncertainty. Rapid policy shifts and uneven implementation, especially around heat standards, tariffs, and PFAS Superfund liability, are pushing unmanageable costs and legal exposure downstream onto firms that build America's infrastructure. Congress should ensure transparent, workable rules and require public owners to share risks they control.

- **Ensure a Practical Regulatory Framework for a Federal Heat Stress Standard.** Construction firms have long used effective practices to protect workers from heat. However, contractors increasingly face a patchwork of state and local requirements. Congress should direct OSHA to establish a standard that -
 - Reflects proven, effective practices, including education and training, water, rest, and shade;
 - Avoids an overly prescriptive approach, such as mandated break schedules or specific quantities of drinking water, and provides flexibility to account for the dynamic nature of construction work; and
 - Accounts for regional and geographic variations in temperatures and climates.
- **Protect Contractors from Uncertainty Around Tariffs.** Fixed-price contracts cannot always absorb sudden tariff-driven spikes, forcing contractors to finance government policy. Congress should add transparency and contract relief for price shocks –
 - Require timely, public reporting of tariff decisions and exclusions and provide advance notice before tariffs take effect when possible;
 - Include price-adjustment clauses in federally funded contracts tied to known indices; and
 - Allow contract modifications or terminations for convenience if prices spike or critical materials become unavailable.
- **Shield Contractors from PFAS Liability that is Driving Up Costs.** The U.S. Environmental Protection Agency's (EPA) designation of PFOA/PFOS "forever chemicals" as Superfund "hazardous substances" creates strict, retroactive liability for non-polluting contractors, with unclear standards driving up disposal and insurance costs. Congress should protect innocent contractors from PFAS liability and allocate costs fairly –
 - Require public owners and polluters to retain liability and share PFAS costs;
 - Mandate pre-construction testing on public projects and specify approved disposal options; and
 - Direct EPA to set a national background level and clear handling standards.

ACTION NEEDED

1. **Ensure a practical federal heat standard that protects workers while preserving necessary flexibility for construction**
2. **Provide tariff certainty through transparency and fair contract adjustment clauses**
3. **Protect contractors on PFAS by keeping liability with polluters and public owners**