Education and Workforce Committee
Testimony of Jeff Green, Principal Harris Davis Rebar
Thursday, September 22, 2016

Chairman, Committee Members and Staff, I appreciate the opportunity to provide an owner's perspective of the current state of multi-employer defined benefit plans and the need to provide plan trustees with additional options. My name is Jeff Green and I am and have been the part owner of several construction companies employing Building Trades Union members. I am a management trustee on several multiemployer plan funds and have a strong, personal interest in the continued viability of organized retirement benefits for our employees and Union members. The 2014 Multiemployer Pension Reform Act and the proposed ERISA changes to incorporate composite plans are welcome tools to assist trustees in providing secure retirement benefits.

Unions provide a reliable pool of safe, experienced, trained and productive workers to accommodate a contractors changing construction project demands. Through the pooling of benefits and resources, the Unions and employers provide mutually bargained wage and fringe benefits in line with the value provided by the employees/members. These workers value retirement security delivered through defined benefit and defined contribution plans administered by Labor and Management trustees.

ERISA became law in 1974 in order to address significant problems in retirement plan funding, administration, vesting, reporting and transparency. Subsequent amendments, laws and regulatory decisions were enacted with the intent to strengthen individual retirement security. In the multiemployer community, a consequence is to shift defined benefit plan financial obligations generated over decades onto current employers. Construction employers do not have the financial resources to supplement retirement plans, let alone guarantee a plan's benefits. Requirements that current employers assume the unfunded liabilities for the entire plan recognized in a given year are onerous to contractors. Construction contractors assume risks in everything that they do, but are unwilling to take on unlimited and unknown defined benefit plan risks.

I will provide examples of the potential financial obligations that participating in a defined benefit plan places upon a contractor. We placed reinforcing steel on a parking garage in a new market in Ohio and paid about $200,000 in contributions to their defined benefit plan over the year-long project. Our project costs came in higher than expected and we had a negative margin. We later received a letter from the plan stating their trustee's desire to reorganize and that our share of the plan's unfunded liability would be close to $400,000, paid over time. This would be an additional $400,000 that the plan expected us to pay should the plan default, based on working on only one job. A job we lost money on.

In our home market, the plan has assets of over $260 million and I believe is very well managed and administered. Recent years of below expected investment returns resulted in the plan actuaries determining that the unfunded vested benefits increased from $14 million to $30 million, a $16 million liability. The actuaries recognize the long-term nature of the plan and average short-term results over many years to provide an accurate plan representation. Based on the plan's two million man-hours worked and the $16 million change in 2015, a local contractor employing 150 individuals would be assessed about $2 million in unfunded vested benefits. This assignment of unfunded benefits for 2015 exceeds the contractor's net income for the year.

Contractors are required only to note in their public financial statements that they participate in multiemployer retirement plans. There was an effort a few years ago by the Financial Accounting Standards Board, or FASB, for companies to state the unfunded vested benefits allocated to them. This proposal was not adopted. The proposal would be a nightmare to accurately report on and would show that almost all employers participating in multi-employer plans to have negative equity; the plan's liabilities exceed the employers' assets. Financial institutions are critical to our industry for loans and bonding capacity. These institutions rely on public financial statements to make their business decisions. Most financial institutions would have serious concerns if all defined benefit plan liabilities were reflected on public financial statements.

A key element to the current plans' abilities to address their funding shortfalls is to increase plan contributions, preferably through more hours being contributed to plans. There are practical limits to the hourly retirement contribution rate and the subsidy amount paid by active members. Growing a plan's participation requires attracting contractors with the capital and ability to take on additional work and employ more members. The laws and regulations intended to protect retirement security have the unintended consequence of discouraging employer growth and participation.

Every retirement plan has unique circumstances and the participating employers have their own market constraints. Legislation that empowers a plan's trustees to utilize all approaches to develop and implement their best solution are needed. Attracting employers and participants into existing and new multi-employer plans are critical to providing the resources and strength needed for the plan's long-term success.

Thank you.