



April 27, 2016

The Honorable Mac Thornberry
Chairman
House Committee on Armed Services
2216 Rayburn House Office Building
Washington, DC 20515

The Honorable Adam Smith
Ranking Member
House Committee on Armed Services
2216 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Thornberry and Ranking Member Smith:

On behalf of Associated Builders and Contractors (ABC), a national construction industry trade association with 70 chapters representing nearly 21,000 chapter members, I am writing to express strong support for the amendment offered by Congressman John Kline (R-Minn.) and Congressman Joe Wilson (R-S.C.) to the National Defense Authorization Act (NDAA) for Fiscal Year 2017 (H.R. 4909), which would exclude the Department of Defense (DoD) and the National Nuclear Security Administration (NNSA) from the controversial “Fair Pay and Safe Workplaces” Executive Order 13673, proposed rule and guidance.

ABC supports the Kline/Wilson amendment because the Obama administration’s proposal—no matter how well-intentioned—creates a host of unintended negative consequences for stakeholders in the federal contracting marketplace such as taxpayers, federal contractors, their employees and the federal acquisition workforce.

For example, in order to win a contract, the proposal forces federal contractors to invent a complicated and costly system to certify compliance with the proposal’s requested information even though the government already collects most of the requested information. This duplicative and unnecessary regulatory scheme—which the government inadequately estimates will cost the public and government more than \$114.1 million in the first year alone—will prevent numerous small businesses from entering into or renewing contracts with the federal government. Simply put, this proposal is a job killer because it effectively jeopardizes workers whose jobs are tied to their employer’s federal contracts.

In addition, the Obama administration’s proposal imposes a *de facto* debarment system that will restrict a company’s ability to counter alleged violations of the 14 federal laws and equivalent state laws identified in the proposal. Depriving contractors of due process rights will lead to litigation, reduced competition, increased costs and needless delays to the detriment of all stakeholders.

ABC supports the federal government’s efforts to make workplaces safer and ensure federal contractors compete on a level playing field. However, taxpayers, contractors and their employees deserve a fair and transparent process in which contracts are awarded based on merit to firms that can deliver the highest quality product at the best price. Instead, EO 13673 adds uncertainty and subjectivity to the government contracting process and will increase the frequency and cost of labor and employment disputes and related bid protests.

We urge you to support the Kline/Wilson amendment to the NDAA because the Obama administration’s proposal circumvents congressional authority, harms the economy and efficiency of the DoD’s acquisition process, disrupts fair and open competition in federal contracting, and creates a duplicative and costly bureaucratic structure within the U.S. Department of Labor that undermines longstanding suspension and debarment procedures that already are part of the federal contracting process.

We thank you for addressing this important issue and look forward to working with Congress to improve and streamline the federal procurement process in a way that will result in a better outcome for taxpayers, contractors and the American workforce.

Sincerely,

Kristen Swearingen
Vice President of Legislative & Political Affairs