



January 31, 2017

U.S. House of Representatives
Washington, DC 20515

Dear Representative:

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 our strong support for H.J.Res.37, a resolution of disapproval under the Congressional Review Act to invalidate the Federal Acquisition Regulatory Council regulations implementing the Fair Pay and Safe Workplaces Executive Order (EO) 13673 issued by President Obama on July 31, 2014. ABC urges you to vote “yes” on H.J.Res.37 and will consider this a **KEY VOTE** for our 115th Congressional Scorecard.

The Obama administration’s “blacklisting” rule—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 rule forces federal contractors to invent a complicated and costly system to certify compliance with the rule’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 \$474 million in the first year alone—will prevent numerous small businesses from entering into or renewing contracts with the federal government. Simply put, this rule 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 rule 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 rule. Depriving contractors of due process rights is unconstitutional and 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, the blacklisting rule 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 H.J.Res.37 due to the fact that the Obama administration’s blacklisting rule circumvents congressional authority, harms the economy and efficiency of the federal government’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 Chairs Foxx, Chabot, and Chaffetz for introducing this important resolution 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