

July 13, 2016

The Honorable John McCain
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable Mac Thornberry
Ranking Member
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Jack Reed
Ranking Member
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable Adam Smith
Ranking Member
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen McCain and Thornberry and Ranking Members Reed and Smith:

On behalf of the undersigned associations representing federal contractors, we write to express our opposition to the Fair Pay and Safe Workplaces Executive Order (Executive Order 13673 or E.O.) issued by the President on July 31, 2014,¹ and to voice our support for provisions in the House and Senate versions of the Fiscal Year 2017 National Defense Authorization Act (NDAA)² limiting this E.O.'s applicability. We request the NDAA conferees take a strong stance against this E.O. in the final bill approved by the conference.

Federal contractors support current processes that ensure those contractors who violate applicable labor-related laws and regulations undergo extensive review before being permitted to receive a federal contract. By this E.O.'s own recognition the "vast majority of federal contractors play by the rules,"³ which raises serious questions about the necessity of this E.O.'s sweeping and significant new compliance regime. This E.O. ignores the fact that the federal government already has the necessary oversight infrastructure in place that permits the Department of Labor, the Department of Defense, and other agencies to take punitive or corrective actions, or suspend or debar a contractor not "presently responsible" to receive a federal contract. These already well-established actions and processes protect the government from doing business with bad actors. Rather than focusing on these existing enforcement mechanisms, this E.O. would institute an extremely complicated reporting regime that would include mere allegations and unproven citations as "violations" to be reported before a contract can be awarded. This would deny contractors' their due process rights and result in many more reportable citations than necessary.

Both Congress and the Department of Defense have sought to remove needless regulations and barriers to entry into the federal marketplace, and to otherwise streamline the

¹ Executive Order, Fair Pay and Safe Workplaces, available at <https://www.whitehouse.gov/the-press-office/2014/07/31/executive-order-fair-pay-and-safe-workplaces>.

² Senate Sections 829I and 862. House Section 1095.

³ Fact Sheet: Fair Pay and Safe Workplaces Executive Order, available at <http://www.whitehouse.gov/the-press-office/2014/07/31/fact-sheet-fair-pay-and-safe-workplaces-executive-order>.

acquisition process. Executive Order 13673 will severely undermine those efforts by adding several layers of new, costly, and unnecessary burdens on businesses currently providing, or seeking to provide, goods and services to the Department of Defense. Other burdens will also extend to the Department of Defense and will likely slow the contracting process, increase bid protests, and ultimately deny the government access to innovative and critical mission support companies and suppliers.

We believe this E.O. is duplicative, unnecessary, costly, and will result in delayed contracting actions and loss of capabilities for the Department of Defense. We therefore request that the conference negotiations for the NDAA result in the strongest possible language prohibiting implementation or enforcement of the Executive Order.

Thank you for your consideration of our request.

Sincerely,

Aerospace Industries Association
American Foundry Society
American Trucking Associations
Associated Builders and Contractors, Inc.
American Council of Engineering Companies
Business Roundtable
College and University Professional Association for Human Resources
Financial Executives International's Committee on Government Business
HR Policy Association
Independent Electrical Contractors
Information Technology Alliance for the Public Sector
International Foodservice Distributors Association
International Franchise Association
National Association of Manufacturers
National Defense Industrial Association
Professional Services Council
Society for Human Resource Management
The Associated General Contractors of America
The Coalition for Government Procurement
U.S. Chamber of Commerce

cc: Members of the Conference Committee on the National Defense Authorization Act
Members of the Senate Committee on Armed Services
Members of the House Committee on Armed Services