

PSC PROFESSIONAL SERVICES COUNCIL

The Voice of the Government Services Industry

June 3, 2015

Dear Representative:

On behalf of the Professional Services Council, I am writing to voice our strong opposition to an amendment to the Fiscal Year 2016 Commerce, Justice, Science and Related Agencies Appropriations Act (CJS, H.R. 2578) that would strip federal contractors of their due process rights and undercut the current federal contracting suspension and debarment process. We urge you to oppose the inclusion of this amendment in the CJS appropriations, and other appropriations bills.

Congressman Keith Ellison's (D-MN) offered amendment to H.R. 2578 would prohibit funds appropriated under the bill from being used to enter into a contract with any person who discloses, via the Federal Awardee Performance and Integrity Information System (FAPIIS), a civil, criminal, or administrative proceeding that resulted in a finding of fault and liability, or any other compromise with an acknowledgement of fault that could have resulted in a civil, criminal, or administrative proceeding, related to the Fair Labor Standards Act (FLSA).

As such, this amendment acts as an automatic, de facto debarment of federal contractors while entirely circumventing long-standing and proven suspension and debarment procedures included in the Federal Acquisition Regulation (FAR), specifically FAR Part 9.4. FAR Part 9.4 provides federal agency suspension and debarment officials with broad authority to undertake suspension and debarment actions to prospectively protect the government's interest and requires that certain processes be followed. Such processes include consideration of the seriousness of the contractor's acts or omissions and any remedial measures or mitigating factors undertaken by the company. These factors would be ignored if this amendment were adopted.

Even the most well-intentioned, high performing contractors can have a single finding of fault and liability and, under this provision, would be automatically debarred. Holding contractors to such an unreasonable "standard of perfection" will likely result in unintended consequences for the government, including preventing the government from partnering with companies that provide top-quality services and solutions.

Thank you in advance for your consideration. Please do not hesitate to contact Roger Jordan of the Professional Services Council staff at 703-875-8059 if you have any questions.

Sincerely,



Stan Soloway
President & CEO