

April 28, 2010

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES:

The undersigned organizations, representing tens of thousands of federal contractors, are writing to express our concerns with an amendment that may be offered to H.R. 5013, the “IMPROVE Acquisition Act of 2010,” by Rep. Phil Hare.

Among other things, the Hare amendment would express the sense of Congress that the Department of Defense should not procure products made by manufacturers in the United States that violate labor standards as defined under U.S. laws.

While appearing innocuous, the amendment raises a number of serious concerns. For example, it does not take into account that federal labor laws have carefully crafted remedies. For some of these laws, debarment from federal contracts for a period of time is one possible option, though for many laws it is not. Furthermore, when debarment is an option, due process protections are available to be sure the remedy is an appropriate sanction.

The amendment also does not take into account that under many federal labor laws intent is irrelevant. Employers can be in violation even though they never intended to undertake inappropriate conduct. Furthermore, it is very easy for even the best intentioned employer to make a mistake, for example with respect to paperwork or technical requirements. In this respect, it is worth emphasizing that the requirements of our employment laws—described through hundreds of pages of statutes, thousands of pages of regulations and countless court interpretations—are often far from clear. Indeed, government agencies often disagree with regard to the meaning of the very laws they enforce.

These concerns are just a few raised by the Hare amendment. We respectfully urge you to consider these important issues as the House considers the amendment.

Sincerely,

American Council of Engineering Companies
Associated Builders and Contractors
Design Professionals Coalition
HR Policy Association
Independent Electrical Contractors
International Foodservice Distributors Association
National Association of Manufacturers
National Defense Industrial Association
Professional Services Council
Society for Human Resource Management
TechAmerica
U.S. Chamber of Commerce