

November 1, 2021

Dear Senator:

HR Policy Association writes in opposition to an [amendment](#) (#184) to the National Defense Authorization Act for Fiscal Year 2022 (H.R. 4350). This amendment directs all federal agencies and department heads to automatically initiate a temporary or permanent debarment proceeding against federal contractors with certain qualifying violations of the Fair Labor Standards Act from the previous four years. Two-thirds of the Association's member companies are government contractors and as such, they will be directly impacted by amendment #184.

HR Policy Association represents the most senior human resource executives in more than 390 of the largest companies in the United States. Collectively, these companies employ more than 10 million employees in the United States, nearly nine percent of the private sector workforce, and 20 million employees worldwide. The Association's member companies, including many of whom are government contractors have a long-standing commitment to complying with all federal and state employment and labor laws.

In addition to temporarily or permanently debarring federal contractors, amendment #184 will impose significant new recordkeeping and reporting responsibilities on most government contractors and subcontractors, threatening some contractors' ability to secure federal contracts. This will inevitably harm competition and could lead to high-performing businesses, including small businesses, and those owned by women and minority entrepreneurs, being excluded from the federal contracting process.

Suspended or debarred federal contractors will be forced to lay off employees if denied the ability to compete for federal contracts, causing a ripple effect of job losses through the federal contracting supply chain and negatively impact agency missions. To add, this could result in significant and immediate disruption to the delivery of goods and services that government contractors provide in critical industries like healthcare and food safety.

Furthermore, we are concerned that if enacted, this amendment would deny due process including applicable appeal rights to federal contractors for alleged FLSA violations. Absent due process and an opportunity to fully adjudicate any alleged violation a federal contractor will risk the ability to preserve its contracting status.

Finally, suspension and debarment officials within each federal agency already have broad discretion to exclude companies from contracting with the federal government. The Department of Labor, for example already has robust auditing authority to ensure that federal contractors are abiding by federal labor laws, and when contractors fall out of compliance, the Department has a number of mechanisms to hold them accountable, including imposing fines, future oversight, and suspending or debarring them from receiving future federal contracts. Amendment #184 is duplicative and will be detrimental to federal contractors and their employees at a time where the labor market is already strained due to the current pandemic.

The HR Policy Association appreciates your attention to our concerns and strongly urges you to oppose the amendment.

Sincerely,

Chatrane Birbal

Chatrane Birbal
Vice President, Government Relations
HR Policy Association