
Protecting Workers, Small Businesses, and Taxpayers From Flawed Blacklisting Rule

THE PROBLEM: For decades, the federal government has had a “suspension and debarment” process in place to deny federal contracts to bad actors who violate basic worker protections. However, in 2014, former President Obama signed an executive order directing various agencies to add another layer of bureaucracy onto a federal procurement system already plagued by delays and inefficiencies. The executive order, which resulted in the “blacklisting” rule, requires employers bidding on federal contracts to disclose violations and *alleged violations* of 14 different federal labor laws and similar state labor laws every time contractors bid on a contract and every six months during contract performance. Prior to awarding a contract, each agency’s contracting officer and a newly created Labor Compliance Advisor are required to review the information and make subjective determinations on complex legal matters when deciding whether an employer should be awarded a federal contract. This extreme executive order and the rules designed to implement it will:

- **Put small businesses at a disadvantage** and tie law-abiding employers in a maze of red tape.
- **Jeopardize national security** by delaying the contracting process and threatening the resources our Armed Forces depend on to keep the country safe.
- **Increase costs for taxpayers** as less competition for federal contracts drives up the cost of goods and services provided to the U.S. government.
- **Hurt workers** by making a system designed for their protection less efficient.
- **Violate due process rights** by setting an alarming precedent that employers are “guilty until proven innocent” for “alleged” violations of federal labor laws.

The executive order and the rules designed to implement it are fatally flawed. In fact, in October 2016, a federal district issued a preliminary injunction blocking enforcement of the rules, citing concerns with violation of due process rights and executive overreach.

THE SOLUTION: To address these concerns, House and Senate leaders with jurisdiction over workforce protections and federal contracting are moving to block the “blacklisting” rule through a resolution of disapproval. H. J. Res 37 would invoke Congress’s powers under the *Congressional Review Act* to prevent the rule from taking effect, and:

- ✓ **Protect workers** by encouraging federal agencies to use the tools they already have to hold federal contractors accountable, including suspension and debarment.
- ✓ **Protect national security** by blocking a flawed rule that threatens the availability of crucial resources for our Armed Forces.
- ✓ **Protect small businesses** and their ability to compete for federal contracts.
- ✓ **Protect taxpayers** from a costly rule that will increase the prices of goods and services provided to the U.S. government.