

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

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202/463-5310

April 22, 2008

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

The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, urges you to oppose H.R. 3033, the "Contractors and Federal Spending Accountability Act of 2007," as reported by the Oversight and Government Reform Committee. The Chamber believes this bill is unnecessary, and will result in contractors being denied the ability to compete for federal work because of allegations or citations that were without merit.

H.R. 3033, as reported, creates a database that is required to include all civil, criminal, and administrative proceedings "concluded" by federal government and state governments against federal contractors or grant recipients in the previous five years. It also requires all contractors' bids to include the information that is supposed to be in the database.

The Chamber supports the objectives of transparency and accountability in the federal procurement process, but believes that such a database would be an improper approach that circumvents due process safeguards. Current Federal Acquisition Regulations (FAR) provide contracting officers with sufficient latitude to deny contracts to those contractors with a record that is incompatible with the privilege of competing for federal work. This bill is therefore unnecessary.

The legislation would accumulate data on contractors with "concluded" proceedings. This term is far too broad a standard and would include companies that have settled allegations or citations without admitting guilt or wrongdoing. When a company settles because they determine it is in the best interest of the company to do so to avoid a potentially lengthy and costly legal proceeding it would have to be included in the database. Furthermore, even the best intentioned employers can make a good faith mistake in failing to comply with one provision or another of the myriad of complex laws with which they must comply. Thus, a mere finding of non-compliance under one of these laws, without some analysis with regard to severity or egregiousness, can mean very little with regard to a contractors' competency to receive a government contract.

As reported, H.R. 3033 would be a boon to those who may wish to target specific companies for reasons unrelated to their ability to satisfactorily perform federal contracts by raising allegations. Such allegations would then have to be investigated, and in some cases settled, thus triggering a "concluded" determination even though the allegation was baseless.

In addition, the bill requires that companies be issued a notice of proposed debarment if twice within any three year period they receive a judgment or conviction for the same or similar offense. The section significantly alters the threshold for suspension and debarment without providing any evidence that the current process is deficient. H.R. 3033 improperly assumes that two occurrences equal a “pattern of abuse” that warrants suspicion and does not take into account the type or severity of the violation. The current suspension and debarment process works when used appropriately and numerous companies have been suspended or debarred when their behavior warranted it.

For the reasons stated above, the Chamber strongly urges you to oppose H.R. 3033 as reported by the committee.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten", written in a cursive style.

R. Bruce Josten