

1310 L Street, NW, 7th Floor  
Washington, DC 20005  
cei.org

202 331 1010 *main*  
202 331 0640 *fax*



February 2, 2017

The Honorable Paul Ryan  
Speaker  
U.S. House of Representatives  
H-232, U.S. Capitol  
Washington, DC 20515

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
317 Russell Senate Office Building  
Washington, DC 20510

Dear Speaker Ryan and Majority Leader McConnell:

On behalf of the Competitive Enterprise Institute (CEI), we write to express support for using the Congressional Review Act to repeal the Fair Pay and Safe Workplaces Rule, a regulation that imposes burdensome reporting requirements on federal contractors. Under the Obama administration, the rule was issued by the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration (NASA), with corresponding guidance from the U.S. Department of Labor. CEI supports the joint resolution of disapproval because the costs of the rule far outweigh the benefits and it adds excessive red tape to an already difficult process.

The regulation, also known as the “blacklisting” rule, establishes new reporting provisions, requiring contractors who bid on federal contracts in excess of \$500,000 to report alleged, as well as actual, labor violations from the last three years. Reported violations of any of the 14 federal labor statutes may be used to block a company’s bid. In addition, federal contractors are required to notify independent contractors of their non-employee status and supply detailed pay statements to employees.

One glaring problem with the rule is that federal contractors are required to disclose alleged violations of wrongdoing, not actual labor law violations. Federal contractors may be disqualified from federal contracts without ever violating a labor law. In turn, this may provide incentive to labor unions, in the midst of organizing campaigns, to file frivolous labor-related charges against companies that bid on federal contractors in order to extract favorable union election conditions, like greater access to the workplace or card-check election.

The regulation purports to increase efficiency and create cost savings by ensuring that federal contractors are complying with labor laws. However, the Regulatory Impact Analysis of the rule could not accurately quantify the benefits of the rule due to a lack of data.

In contrast, the costs and burdens of the blacklisting rule are massive and quantifiable. Costs to the government and employers add up to more than \$400,000,000 in the first and second year of the rule. In addition, the rule adds a burden of 2.1 million hours of paperwork on the regulated community.

We urge you and your colleagues in Congress to pass this joint resolution of disapproval under the Congressional Review Act and to eliminate the Department of Labor’s and related agencies’ harmful Fair Pay and Safe Workplaces Rule. Thank you for your careful consideration of this issue.

Sincerely,

Kent Lassman  
President & CEO  
Competitive Enterprise Institute

Trey Kovacs  
Policy Analyst  
Competitive Enterprise Institute