

AMENDMENT TO RULES COMMITTEE PRINT

118-10

OFFERED BY MS. JAYAPAL OF WASHINGTON

At the end of subtitle G of title VIII, insert the following:

1 **SEC. 8___ . PROHIBITION ON CONTRACTING WITH PERSONS**
2 **WITH MULTIPLE WILLFUL OR REPEATED VIO-**
3 **LATIONS OF THE FAIR LABOR STANDARDS**
4 **ACT OF 1938.**

5 (a) BEFORE AWARD OF CONTRACT.—

6 (1) PROHIBITION.—The head of a Federal
7 agency may not award a contract in excess of
8 \$500,000 to a person with respect to which two or
9 more determinations of a willful or repeated viola-
10 tion of the Fair Labor Standards Act have been
11 issued—

12 (A) in the case that the determination of
13 the willful or repeated violation was issued be-
14 fore the person submitted the bid or proposal,
15 in the five years prior to the person submitting
16 a bid or proposal for the contract; or

17 (B) in the case that the determination of
18 the willful or repeated violation was issued after

1 the person submitted the bid or proposal but
2 before the contract is awarded, in the five years
3 prior to the head of the Federal agency award-
4 ing the contract.

5 (2) DISCLOSURE.—A person that submits a bid
6 or proposal to the head of a Federal agency for a
7 contract in excess of \$500,000 shall disclose to the
8 head of the Federal agency and the Wage and Hour
9 Division of the Department of Labor of any deter-
10 mination of a willful or repeated violation of the
11 Fair Labor Standards Act by the person—

12 (A) at the time of the submission of the
13 bid or proposal, if such determination was
14 issued in the five years prior to the submission;
15 and

16 (B) during the period beginning after the
17 submission of the bid or proposal and ending on
18 the date on which the contract is awarded, if
19 such determination was issued during such pe-
20 riod.

21 (b) AFTER AWARD OF CONTRACT.—

22 (1) DISCLOSURE.—A contractor of a Federal
23 agency with a contract in excess of \$500,000 shall,
24 during the term of that contract, disclose to the

1 head of that Federal agency and the Wage and
2 Hour Division of the Department of Labor—

3 (A) of a determination of a willful or re-
4 peated violation of the Fair Labor Standards
5 Act by the person issued during the term of
6 that contract; and

7 (B) a copy of the document that provides
8 for such determination, not later than 60 days
9 after the document is issued.

10 (2) SEARCH FOR OTHER DISCLOSURES.—

11 (A) IN GENERAL.—Not later than 60 days
12 after a person makes a disclosure under para-
13 graph (1) to the head of a Federal agency, the
14 head of the Federal agency shall consult with
15 the Secretary of Labor to determine whether
16 any other determinations of a willful or re-
17 peated violation of the Fair Labor Standards
18 Act by the person was issued in the five years
19 prior to such disclosure.

20 (B) NOTIFICATION.—The Secretary of
21 Labor shall notify a person of any determina-
22 tion made by the Secretary under subparagraph
23 (A) that—

24 (i) another determination of a willful
25 or repeated violation of the Fair Labor

1 Standards Act by the person was issued in
2 the five years prior to a disclosure made
3 under paragraph (1); and

4 (ii) the person did not disclose such
5 determination to the Secretary of Labor.

6 (C) DISCLOSURE.—Not later than 30 days
7 after a person receives a notification under sub-
8 paragraph (B), the person shall disclose in writ-
9 ing to the Secretary of Labor any determination
10 of a willful or repeated violation of the Fair
11 Labor Standards Act that is the subject of such
12 notification.

13 (3) DEBARMENT.—The head of a Federal agen-
14 cy shall initiate a debarment or suspension pro-
15 ceeding (as may be appropriate) with respect to a
16 person that—

17 (A) makes in the five-year period preceding
18 a disclosure made under paragraph (1), another
19 disclosure described under such paragraph; or

20 (B) that receives a notification under para-
21 graph (2)(B).

22 (c) PENALTY.—The Secretary of Labor may impose
23 a civil penalty of up to \$50,000 per violation, in addition
24 to any other penalties authorized under the Fair Labor

1 Standards Act of 1938 (29 U.S.C. 201 et seq.), any case
2 in which a person fails to—

3 (1) disclose a violation described under sub-
4 section (a)(2) or (b)(1), in accordance with the ap-
5 plicable subsection; or

6 (2) make the disclosure required by subsection
7 (B)(2)(C).

8 (d) DEFINITIONS.—In this section:

9 (1) FEDERAL AGENCY.—The term “Federal
10 agency” has the meaning given that term in section
11 102 of title 40, United States Code.

12 (2) PERSON.—The term “person” has the
13 meaning given such term in section 3 of the Fair
14 Labor Standards Act (29 U.S.C. 203).

15 (3) DETERMINATION OF A WILLFUL OR RE-
16 PEATED VIOLATION OF THE FAIR LABOR STAND-
17 ARDS ACT.—The term “determination of a willful or
18 repeated violation of the Fair Labor Standards Act”
19 means a willful or repeated violation of the Fair
20 Labor Standards Act of 1938 (29 U.S.C. 201 et
21 seq.), as determined under a civil, administrative, or
22 criminal proceeding with respect to which all appeals
23 have been exhausted that results in—

24 (A) with respect to a civil proceeding, a
25 finding of fault and liability that results in the

1 payment of a monetary fine, penalty, reim-
2 bursement, restitution, or damages of \$5,000 or
3 more;

4 (B) with respect to an administrative pro-
5 ceeding, a finding of fault and liability that re-
6 sults in—

7 (i) the payment of a monetary fine or
8 penalty of \$5,000 or more; or

9 (ii) the payment of a reimbursement,
10 restitution, or damages in excess of
11 \$100,000; or

12 (C) with respect to a criminal proceeding,
13 a conviction.

14 (e) EFFECTIVE DATE.—This section shall take effect
15 on the date that is 4 years after the date of the enactment
16 of this Act.

