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:

SEC. 8. PROHIBITION ON CONTRACTING WITH PERSONS
WITH MULTIPLE WILLFUL OR REPEATED VIOLATIONS OF THE FAIR LABOR STANDARDS
ACT OF 1938.

(a) BEFORE AWARD OF CONTRACT.—

(1) Prohibition.—The head of a Federal agency may not award a contract in excess of $500,000 to a person with respect to which two or more determinations of a willful or repeated violation of the Fair Labor Standards Act have been issued—

(A) in the case that the determination of the willful or repeated violation was issued before the person submitted the bid or proposal, in the five years prior to the person submitting a bid or proposal for the contract; or

(B) in the case that the determination of the willful or repeated violation was issued after
the person submitted the bid or proposal but before the contract is awarded, in the five years prior to the head of the Federal agency awarding the contract.

(2) DISCLOSURE.—A person that submits a bid or proposal to the head of a Federal agency for a contract in excess of $500,000 shall disclose to the head of the Federal agency and the Wage and Hour Division of the Department of Labor of any determination of a willful or repeated violation of the Fair Labor Standards Act by the person—

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

(B) during the period beginning after the submission of the bid or proposal and ending on the date on which the contract is awarded, if such determination was issued during such period.

(b) AFTER AWARD OF CONTRACT.—

(1) DISCLOSURE.—A contractor of a Federal agency with a contract in excess of $500,000 shall, during the term of that contract, disclose to the
head of that Federal agency and the Wage and
Hour Division of the Department of Labor—

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

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

(2) SEARCH FOR OTHER DISCLOSURES.—

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

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

(i) another determination of a willful
or repeated violation of the Fair Labor
Standards Act by the person was issued in the five years prior to a disclosure made under paragraph (1); and

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

(C) DISCLOSURE.—Not later than 30 days after a person receives a notification under subparagraph (B), the person shall disclose in writing to the Secretary of Labor any determination of a willful or repeated violation of the Fair Labor Standards Act that is the subject of such notification.

(3) DEBARMENT.—The head of a Federal agency shall initiate a debarment or suspension proceeding (as may be appropriate) with respect to a person that—

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

(B) that receives a notification under paragraph (2)(B).

(c) PENALTY.—The Secretary of Labor may impose a civil penalty of up to $50,000 per violation, in addition to any other penalties authorized under the Fair Labor
Standards Act of 1938 (29 U.S.C. 201 et seq.), any case in which a person fails to—

(1) disclose a violation described under subsection (a)(2) or (b)(1), in accordance with the applicable subsection; or

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

d) Definitions.—In this section:

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

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

(3) Determination of a willful or repeated violation of the Fair Labor Standards Act.—The term “determination of a willful or repeated violation of the Fair Labor Standards Act” means a willful or repeated violation of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), as determined under a civil, administrative, or criminal proceeding with respect to which all appeals have been exhausted that results in—

(A) with respect to a civil proceeding, a finding of fault and liability that results in the
payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

(B) with respect to an administrative proceeding, a finding of fault and liability that results in—

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

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

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

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