

AMENDMENT TO RULES COMMITTEE PRINT

118-11

OFFERED BY MS. JAYAPAL OF WASHINGTON

At the end of title VIII, insert the following:

1 **SEC. ____ . PROHIBITION ON CONTRACTING WITH PER-**
2 **SONS WITH MULTIPLE WILLFUL OR RE-**
3 **PEATED VIOLATIONS OF THE FAIR LABOR**
4 **STANDARDS 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
19 the person submitted the bid or proposal but

1 before the contract is awarded, in the five years
2 prior to the head of the Federal agency award-
3 ing the contract.

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

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

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

20 (b) AFTER AWARD OF CONTRACT.—

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

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

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

8 (2) SEARCH FOR OTHER DISCLOSURES.—

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

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

22 (i) another determination of a willful
23 or repeated violation of the Fair Labor
24 Standards Act by the person was issued in

1 the five years prior to a disclosure made
2 under paragraph (1); and

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

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

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

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

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

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

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

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

6 (d) DEFINITIONS.—In this section:

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

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

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

22 (A) with respect to a civil proceeding, a
23 finding of fault and liability that results in the
24 payment of a monetary fine, penalty, reim-

1 bursement, restitution, or damages of \$5,000 or
2 more;

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

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

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

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

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

