

Congress of the United States
House of Representatives
Washington, DC 20515

July 22, 2016

The Honorable Mac Thornberry
Chairman
Committee on Armed Services
2216 Rayburn House Office Building
Washington, DC 20515

The Honorable Adam Smith
Ranking Member
Committee on Armed Services
2216 Rayburn House Office Building
Washington, DC 20515

Re: Opposition to Narrowing the Applicability of the Fair Pay and Safe Workplaces
Executive Order (Sec. 1095 of the House NDAA and Sec. 829I of the Senate NDAA)

Dear Chairman Thornberry and Ranking Member Smith:

We write to express our concern regarding the harmful language in both the House and Senate versions of the National Defense Authorization Act for Fiscal Year 2017 (NDAA) narrowing the application of the Executive Order on Fair Pay and Safe Workplaces (E.O. 13673). As the conference negotiations begin with your Senate counterparts, we urge you to remove the damaging and destructive restrictions placed on this critical initiative that is designed to protect millions of hardworking Americans.

While most federal contractors are in full compliance with labor, employment, non-discrimination, and workplace safety laws, the government awarded \$81 billion in contracts in 2012 to 49 companies that were amongst the most egregious violators of wage and hour or workplace safety laws over a recent 6-year period, according to a report issued by the Senate HELP Committee.¹ Similarly, in 2010, the Government Accountability Office found that one-third of the companies that had the largest sanctions for wage and hour and workplace safety laws subsequently received a government contract.² Following these reports, President Obama issued the 2014 Executive Order on Fair Pay and Safe Workplaces to require companies seeking to conduct business with the federal government to disclose whether they have violated any of 14 long-standing labor laws, including the Fair Labor Standards Act, the Occupational Safety and Health Act, the Vietnam Era Veterans Readjustment Assistance Act, and the Americans with Disabilities Act.

It is important to note that there is no requirement on bidders or contractors to disclose a mere allegation or claim of a violation of one of these laws; rather, the EO requires disclosure of a determination by a court or administrative body of an actual violation. Further, there is nothing preventing the Department of Defense (DoD) from hiring contractors who have violated labor

¹ *Acting Responsibly? Federal Contractors Frequently Put Workers' Lives and Livelihoods at Risk*, Majority Staff report, Senate HELP Committee, December 2013.

² *Federal Contracting: Assessments and Citations of Federal Labor Law Violations by Selected Federal Contractors*, Government Accountability Office, September, 2010 (GAO-10-1033).

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laws. In fact, the purpose of the Fair Pay EO is to bring companies into compliance without resorting to the only remedy currently available: barring companies from access to federal contracts. Thus, the EO will strengthen the pool of contractors eligible for defense contracts. It will ensure companies, entrusted with billions of taxpayers' dollars, provide fair, safe, and equitable workplaces.

Unfortunately, both the House and Senate versions of the NDAA attempt to undermine the Executive Order. Section 829I of the Senate-passed NDAA (S. 2943) guts the Fair Pay EO by limiting it to the handful of defense contractors who are debarred or suspended as a result of previous violations of the labor laws covered in this EO. Similar harmful language is found in Section 1095 of the House-passed NDAA (H.R. 4909) which precludes its application to all Defense Department and National Nuclear Security Administration contractors. These provisions thwart transparency and compliance with the law, creating an environment in which unscrupulous contractors that skirt the law can beat out honest, law-abiding companies that respect the rule of law.

If these dangerous provisions remain in the conference bill, we will be doing American workers an injustice. Each year, thousands of federal contract workers are deprived of overtime wages, denied basic workplace protections, forced to endure illegal discrimination, and subjected to unwarranted health and safety risks. Those companies supported by and entrusted with federal government contracts should be expected to represent the gold standard in the American workplace.

We urge you to ensure that the conference report removes the limitations placed on the implementation of the Executive Order on Fair Pay and Safe Workplaces. We thank you for your consideration and look forward to working with you on this matter.

Sincerely,



ROBERT C. "BOBBY" SCOTT
Ranking Member
Committee on Education and Workforce



ELIJAH E. CUMMINGS
Ranking Member
Committee on Oversight
and Government Reform



KEITH ELLISON
Co-Chair
Congressional Progressive Caucus

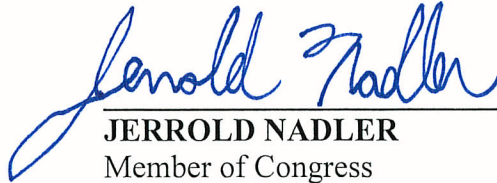


RAÚL M. GRIJALVA
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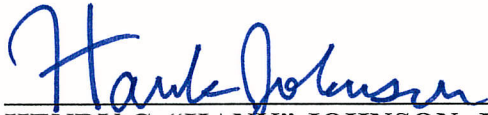
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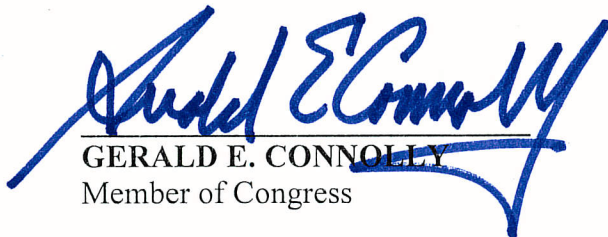

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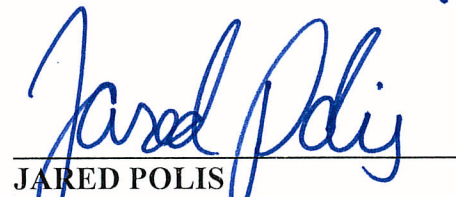

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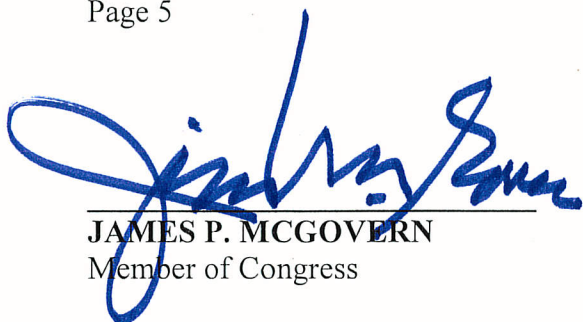

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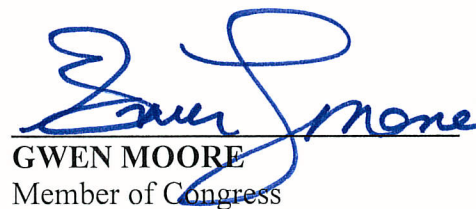
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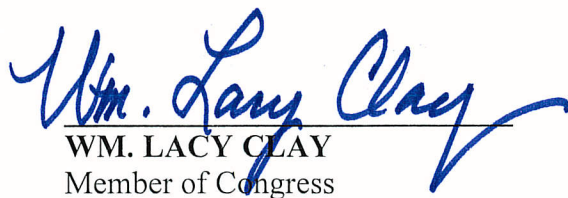
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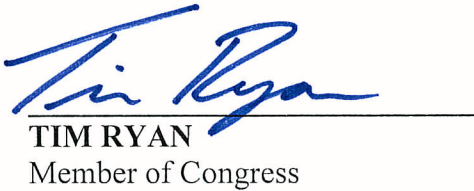
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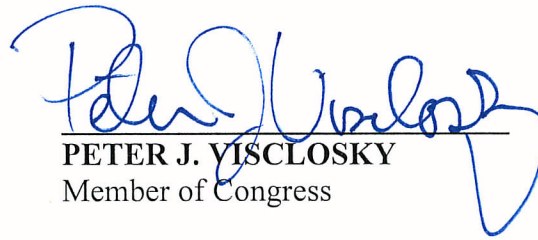
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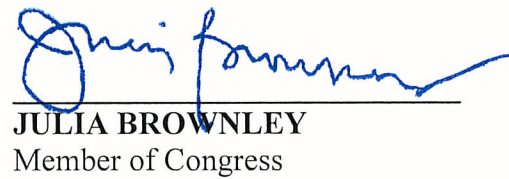
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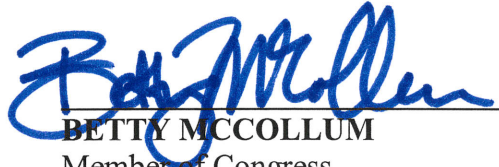
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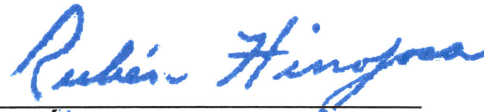
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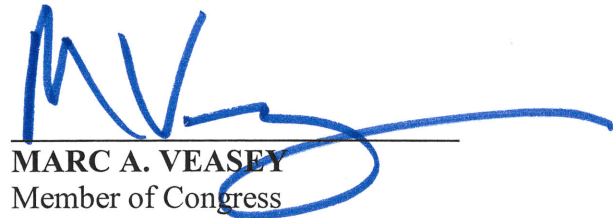
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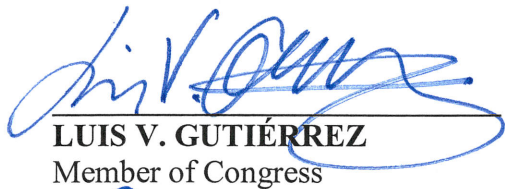
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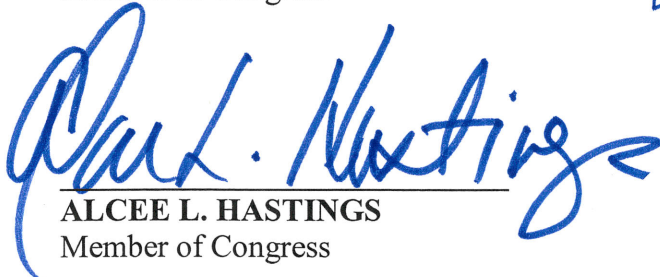
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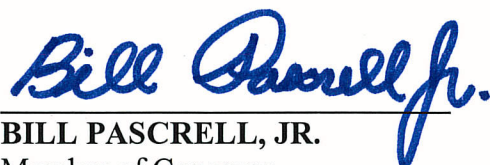


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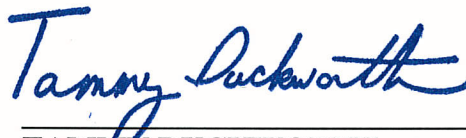
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Cc: House and Senate Conferees to the National Defense Authorization Act