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December 3, 2014

Ms. Patricia A. Shiu
Director
Office of Federal Contract Compliance Programs
U.S. Department of Labor
200 Constitution Ave., NW
Washington, D.C. 20210

Dear Director Shiu:

On July 21, 2014, President Obama signed Executive Order (EO) 13672, which amends EO 11246 to prohibit discrimination in federal contracting based on sexual orientation and gender identity. It directs the Secretary of Labor to prepare regulations implementing these changes within 90 days. However, we understand the public was not afforded an opportunity to submit comments as provided under the *Administrative Procedure Act* (APA). Public comment is essential to all rulemakings. Section 553 of the APA requires general notice of proposed rulemaking to "give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments." As such, we request the public be afforded at least 60 days to comment on the regulations implementing EO 13672 prior to issuance of a final rule.

EO 11246 prohibits discrimination by federal contractors in employment decisions based on race, color, religion, sex, or national origin. It also requires contractors to take affirmative action to ensure all individuals have an equal opportunity for employment and advancement in employment, without regard to their race, color, religion, sex, or national origin. EO 13672 extends these nondiscrimination and affirmative action requirements to sexual orientation and gender identity.

On October 20, 2014, the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) sent a final rule to the Office of Management and Budget (OMB) for its review. At no point was a draft rule made available to the public for comment prior to the final rule being sent to OMB. Such a notice-and-comment period would have provided the public an opportunity to alert OFCCP to problems that may arise implementing the executive order. EO

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13672 creates significant regulatory changes in federal contracting, and the notice-and-comment period would have been useful to OFCCP in writing the rule.

We therefore urge OFCCP to withdraw its final regulation submitted to OMB under RIN 1250-AA07 so the process for implementing EO 13672 can be done with the transparency and public participation typically afforded under the APA. We look forward to your response by **no later than December 17, 2014**. Please confirm in writing the receipt of this letter and OFCCP's intended actions in response to our request.


If you have any questions regarding this request, please contact John Martin or Joe Wheeler with the House Committee on Education and the Workforce at (202) 225-7101.

Sincerely,



JOHN KLINE
Chairman

Committee on Education and the Workforce



TIM WALBERG
Chairman

Subcommittee on Workforce Protections