



AUG 03 2015

The Honorable John Kline
Chairman
Committee on Education & the Workforce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Kline:

Thank you for your letter of July 15, 2015, regarding the Department of Labor's (the Department or DOL) proposed guidance and the Federal Acquisition Regulatory Council's (FAR Council) Notice of Proposed Rulemaking (NPRM) to implement Executive Order (EO) 13673. In your letter, you requested that the Department and the FAR Council withdraw the proposed guidance and rule or that the agencies extend the initial comment period for the proposal so that it would last for 150 days. In response to your request and others like it, we have decided to extend the initial 60-day comment period by a total of 30 days, providing the public with a total of 90 days to comment. We believe that this accommodation will provide adequate time for the public to provide their input on the proposed guidance and rulemaking and for the Administration to continue its dialogue with the stakeholder community.

Given the importance of this guidance and rulemaking, we agree with you and your colleagues that they warrant sufficient time for public comment. In fact, the Department and representatives of the FAR Council have been very active in seeking out stakeholder feedback with the goal of ensuring the drafters of the guidance and rule have the level of input they need from the public to implement the EO in a manner that is clear, fair, and effective. After the President issued the EO in July 2014, DOL, the Office of Management and Budget, and senior officials at the White House held a series of listening sessions that were invaluable in the development of the proposed guidance and FAR Council rule.

During those sessions, the regulated community stressed the importance of effective implementation of the order and the need to streamline the disclosure process and minimize burden on contractors. In response to what we learned from the regulated community in these sessions and in an effort to ensure that this rule creates a fair, reasonable and implementable process, the proposed guidance and NPRM:

- Leverages existing Federal acquisition processes and systems with which contractors are familiar. Federal contracting officers already must assess a contractor's record of integrity; however, the information about prospective or current contractor's workplace

violations is not readily available to contracting officials. The proposed regulations and guidance make sure that contracting officers have access to additional information to make informed decisions, and provide greater transparency for contractors as to the information that will be considered in making that determination.

- Phases in parts of the rule over time. Contractors will not be required to disclose violations related to equivalent State laws immediately (other than OSHA state plans), significantly reducing the number of violations they will need to report. Separate guidance and an additional rulemaking will be pursued at a future date to identify equivalent State laws, and such requirements will be subject to notice and comment before they take effect. And the requirements that subcontractors disclose their violations will also be phased in, so that contractors have an opportunity to better understand and become accustomed to the process.
- Provides an alternative process for subcontractors to provide DOL with their violations, rather than their contractor. The contractor could then rely on DOL's review of the subcontractor's violations in determining whether the subcontractor is responsible.

To help maximize the value of the public comment process and ensure the drafters have the benefit of feedback on the more difficult policy and process issues raised by the EO, both DOL and the FAR Council posed a series of specific questions in the preamble of their respective documents. In addition, on July 22, 2015, representatives from DOL and the FAR Council attended a public Roundtable sponsored by the Small Business Administration's Office of Advocacy to hear feedback from small businesses and gain a better understanding of the types of concerns they can expect to be raised in comments from this community.

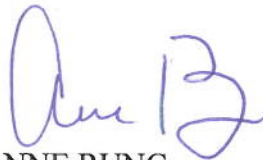
We agree that there are a number of dimensions to the guidance and rule that require careful consideration. However, based on past experience and extensive work with the community on other labor-related matters, we believe a 90-day comment period provides sufficient time for interested parties to submit substantial comment. Equally important, a comment period of this length, coupled with the feedback already received during the initial outreach sessions on the EO, will meet the goal described above of ensuring DOL and the FAR Council have the level of insight from the public needed to produce a quality guidance document and regulation. A notice announcing the initial 15-day extension of the comment period by the Department and the FAR Council was published in the *Federal Register* on July 14, 2015. A notice announcing an additional 15-day extension for both the guidance and the FAR rule will be published in a forthcoming edition of the *Federal Register*.

A similar letter is being sent to your colleagues who signed the incoming letter. If you or any member of your staff has further questions, please contact Nikki McKinney in the Department's Office of Congressional and Intergovernmental Affairs. She can be reached at (202) 693-4600.

Sincerely,

Handwritten signature of Christopher P. Lu in black ink.

CHRISTOPHER P. LU
Deputy Secretary
U.S. Department of Labor

Handwritten signature of Anne Rung in blue ink.

ANNE RUNG
Administrator
Office of Federal Procurement
Policy