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107TH CONGRESS
1ST SESSION

H. R. 588

To provide authorities to, and impose requirements on, the Secretary of Defense in order to facilitate State enforcement of State tax, employment, and licensing laws against Federal construction contractors.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2001

Mrs. MINK of Hawaii introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To provide authorities to, and impose requirements on, the Secretary of Defense in order to facilitate State enforcement of State tax, employment, and licensing laws against Federal construction contractors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fairness to Local Contractors Act''.

SEC. 2. ENHANCEMENT OF STATE ENFORCEMENT OF STATE TAX, EMPLOYMENT, AND LICENSING LAWS AGAINST DEFENSE CONSTRUCTION CONTRACTORS.

(a) REQUIREMENT FOR STATE TAX CLEARANCE FROM POTENTIAL CONSTRUCTION CONTRACTORS.—Section 2305(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(10) In order to be considered a responsible bidder or offeror for a contract for the construction of a public building, facility, or work, a bidder or offeror shall submit with the bid or offer a tax clearance from the State in which the contract is to be performed. For purposes of this paragraph, a tax clearance is a document from an appropriate State agency indicating that the bidder or offeror is in compliance with all the tax laws of the State in which the contract is to be performed.".

(b) REQUIREMENT TO WITHHOLD FINAL CONTRACT PAYMENT UNTIL RECEIPT OF STATE TAX CLEARANCE AND CERTIFICATION OF COMPLIANCE WITH EMPLOYMENT LAWS FROM CONTRACTOR.—Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) REQUIREMENT TO WITHHOLD FINAL PAYMENT.—(1) The head of an agency shall withhold final payment under a contract for the construction of a public building, facility, or work until the contractor submits to the agency both of the following:

"(A) A tax clearance from the State in which the contract is or was performed.

"(B) A certification stating that the contractor is in compliance (or was in compliance during the performance of the contract) with all applicable State laws that require employers to make payments to or for the benefit of employees, including laws relating to unemployment insurance, workers compensation, health insurance, and disability insurance.

"(2) For purposes of this subsection, a tax clearance is a document from an appropriate State agency indicating that the contractor is or was in compliance with all the tax laws of the State in which the contract is or was performed.".

(c) AUTHORITY TO WITHHOLD PAYMENT TO CONTRACTOR OF AMOUNTS NECESSARY TO MEET STATE TAX OBLIGATIONS.—Section 2307 of such title is further amended by adding at the end the following new subsection:

"(k) AUTHORITY TO WITHHOLD PAYMENT TO MEET STATE TAX OBLIGATIONS.—The head of an agency may withhold, from any payment due to a contractor under a contract made by the agency for the construction of a public building, facility, or work, an amount considered necessary by the head of the agency to pay to the State in which the contract is being performed the amount of the contractor's State tax liability that is attributable to the contract. The head of the agency that so withholds a payment may, upon request of the State in which the contract is being performed and with such documentation as the head of the agency considers necessary, pay such tax liability amount directly to the State from the withheld payment. Any amount of a withheld payment that exceeds the actual State tax liability amount shall be paid to the contractor.''.

(d) REQUIREMENT FOR CONSTRUCTION CONTRACTORS TO OBTAIN APPLICABLE STATE LICENSES.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410n. Construction contracts: requirement to obtain applicable State licenses

''The Secretary of Defense shall require, in any contract entered into by the Secretary for the construction of a public building, facility, or work which is to be performed in a State that requires persons performing the type of work to be performed under the contract to be licensed, that the contractor be so licensed.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410n. Construction contracts: requirement to obtain applicable State licenses.".

(e) REQUIREMENT TO EXPLAIN HAWAII EXCISE TAX IN FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall be revised to contain provisions explaining the general excise tax law of the State of Hawaii.

(f) EFFECTIVE DATE.—The amendments made by this Act shall apply with respect to contracts entered into after the date of the enactment of this Act.

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