

In subparagraph (a)(2), the term “[n]o Federal funds in any other form may be provided” shall mean that all contracts and grants that have been awarded to a covered organization with a remaining duration of more than one year on the date of enactment shall, within that one-year period, be terminated for the convenience of the Government.

In subparagraph (b)(1) of the prohibitions, Congress recognizes that the denial of liberty or property on the basis of an indictment, without conviction, raises Constitutional due process issues. If it is determined that such denial is unconstitutional, or otherwise contrary to law, then it is the intent of Congress that subparagraph (b)(1) be held void, but that the remainder of the prohibitions remain intact and enforceable.

In subparagraph (b)(3) of the prohibitions, it is the intent of Congress that this subparagraph be construed expansively. The term “Federal or State regulatory agency” shall include any agency authorized by law to issue regulations, whether or not such regulations have been issued. For instance, the term includes, but is not limited to, the U.S. Departments of Defense, Health and Human Services, and Labor. The term “filed a fraudulent form” includes, but is not limited to, actions that would establish liability under 18 U.S.C. 1001 or 31 U.S.C. 3729. A conviction or judgment under these laws, or any similar law, is sufficient per se to establish that an organization is a covered organization.

The term “filed a fraudulent form” is derived in part from a report dated July 23, 2009 and issued by the Ranking Member of the Committee on Oversight and Government Reform. Page five of that report discusses allegations, not resulting in a conviction or judgment, that “ACORN has submitted false filings to the Internal Revenue Service and the Department of Labor.” The report states that: “All of these fraudulent acts would constitute a violation of 18 U.S.C. 1001 by presenting false documents to the United States government.” A fortiori, any acts that actually do (not merely “would”) constitute such a violation, or a violation of similar provisions such as those appearing in 31 U.S.C. 3729, as determined by a conviction or judgment, shall per se constitute the “fil[ing] of a fraudulent form” within the meaning of these prohibitions. As the Ranking Member’s report describes, however, the term “filed a fraudulent form” extends to all organizations that have filed such a form, whether or not such a filing has resulted in a conviction or judgment. The Ranking Member issued a statement yesterday, which said: “For far too long, recipients of federal dollars have been given free reign [sic] and some have acted in a reckless and cavalier way and whether it be ACORN or anyone else—abuse and fraud will not be tolerated.” He added, “frankly, I don’t know how anyone can successfully argue [that] those who actually perpetrate fraud and misuse taxpayer dollars should not be” subject to these prohibitions.

The term “form” is to be construed broadly. It includes all communications, in any form or format, which include any information required by law. For instance, a request for payment under a cost reimbursement contract that includes a statement of incurred costs is a “form” within the meaning of subparagraph (b)(3), because (among other reasons) such a statement is required by law. Whenever the Government finds that such a request is excessive, and reduces it, then this means that the form that was filed was fraudulent, unless the contractor possessed no information whatsoever that did allow or

should have allowed the contractor to know that the form was excessive. No proof of specific intent to defraud is required. It is the intent of Congress that the term “form” include, but not be limited to, the term “claim” under 18 U.S.C. 287, the terms “claim,” “record” and “statement” in 31 U.S.C. 3729, and the terms “statement,” “representation” and “entry” under 10 U.S.C. 1001.

In all administrative or judicial proceedings regarding whether a party has “filed a fraudulent form,” in cases based on a conviction or judgment, the inquiry shall be limited to whether there is any evidence in the record on which the finder of fact could have determined that the organization filed a fraudulent form. Under no circumstances shall the burden of proof be anything beyond “adequate evidence” in administrative proceedings, or “support by any evidence in the record” in judicial proceedings, when such judicial review of such administrative action is allowable at all.

It is the intent of Congress that administrative action to add an organization to the “Excluded Parties” list is ministerial. For that reason, and otherwise, such administrative action is committed to agency discretion under 5 U.S.C. 702(a)(1). In all judicial proceedings, it is the intent of Congress that the prohibitions apply to an organization that has been found to be a covered organization unless and until a final judgment has been entered in favor of the organization. Specifically, it is the intent of Congress that in determining whether the organization should be granted interim relief in such proceedings, the greatest weight be the public interest in having the Government issue contracts and grants only to organizations with unquestioned integrity.

It is the intention of Congress that the term “covered organization” apply to all organizations qualifying within the definitions of subparagraphs (b)(1) through (b)(4), without regard to when the acts establishing such qualification occurred. Specifically, it is not the intent of Congress that such acts be limited to acts following enactment of these prohibitions. If, for instance, an organization filed a fraudulent form with any Federal or State regulatory agency in 2006, that organization is a covered organization as of the date of enactment, and subject to all prohibitions from the date of enactment onward.

Regarding paragraph c, if it shall be ruled or held that this provision, or any other provision in these prohibitions, is a bill of attainder, or constitutionally infirm for any other reason, it is the intent of Congress that these prohibitions nevertheless apply to all covered organizations for which these prohibitions are not a bill of attainder, or constitutionally infirm.

Regarding paragraph (d) of the prohibitions, the revision of the Federal Acquisition Regulation (FAR) shall include the revisions set forth above, including but not limited to revision of Parts 3, 9, 15 and 33 of the FAR.

COMMENDING THE CLASS OF '59

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 2009

Mr. FARR. Madam Speaker, Members of the House, I rise to commend an era that many Members of this body fondly remember.

It was the 1950s. This year, the last class of that era, students of the class of '59, celebrate their 50th high school reunions. I am one of those students, and I would like to submit for the record the thoughts of a classmate—Lucinda Lloyd—on those formative years. It was a historic and poignant time for all of us.

Carmel High School Class of '59. That was our identity.

After leaving Sunset School, we entered the hallowed halls of Carmel High School as timid Freshmen. Progressing through the awkward Sophomore stage, we survived being Juniors until we ruled the school as mighty Seniors.

Ours was an age of innocence and happy days, unbeaten athletic teams, and scholastic success. We rocked around the clock, danced cheek-to-cheek to Unchained Melody, hung out at Konrad’s, wore Bass Weejuns or Spaulding oxfords, congregated at the Youth Center, cheered our teams to victory, occupied the Senior Steps and looked forward to years of accomplishment. After all, we were told that the world was ours, all we had to do was go for it.

Leaving Carmel behind to forge our paths in the Big World, we attended colleges and universities, went to MPC, joined the military or began another career. Or we got married and had children. Some of us got divorced, while other marriages survived. Some of us distinguished ourselves in careers and chosen fields of work. And some of us died.

Our common bonds of shared childhood experiences glued us together, more as cousins than classmates. Today we anticipate our 50th reunion with mature interest, warmed by the knowledge that we’ve softened the sharp edges that may have separated us, that we are more alike than different, that we can laugh at ourselves and with each other.

We’ve made it! We’re adults with grown children who have children. We no longer care if our hair styles droop or frizz in the fog, that our loose clothing covers softened curves, or if we have a date for Saturday night. Accepting ourselves as we are has allowed us to accept everyone else, no matter what.

With warmth in our hearts, smiles on our faces and arms ready to hug, the Class of '59 reunites to remember old times, renew bonds of friendship and forge closer relationships for the coming years. The longer we live, the more we need one another.

Ours was a magic time in a magic place. It is with the perspective of age that we finally realize how lucky we were, how lucky we are. Let us give thanks and enjoy our time together. God bless America.

Go Padres! Forever friends, Class of '59.

PERSONAL EXPLANATION

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 2009

Mr. MOORE of Kansas. Madam Speaker, on July 17, 2009, I inadvertently voted “nay” on final passage of H.R. 3183, the Energy and Water Development and Related Agencies Appropriations Act of 2010. I should have voted “aye” as I strongly support the projects and programs funded through this important piece of legislation.

A TRIBUTE TO SAFETY CENTER
INCORPORATED, ON THEIR 75TH
ANNIVERSARY

HON. DANIEL E. LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 2009

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I rise today in celebration of Safety Center Incorporated's 75th anniversary occurring on October 19, 2009, and in praise of their many contributions to the State of California. Safety Center Incorporated, originally established as the Sacramento Safety Council in 1934, was initially recognized by civic leaders "to combat (the) unprecedented wave of motor vehicle fatalities and injuries" in the Sacramento region. This was in reaction to the front page headline of the Sacramento Bee on October 8, 1934, which read, "Local auto deaths soar to 6."

Over the past 75 years, Safety Center Incorporated has expanded well beyond traffic safety programs and is now among the most respected providers of safety leadership and training throughout California and Nevada.

In just the past 5 years alone, SCI has trained 88,925 people amongst a diverse collection of programs. Children and developmentally disabled adults have been given tours of 'Safetyville'—which is celebrating its 25th anniversary this year. Teens have been taught defensive driving and have been given an education in alcohol and drugs. Enthusiasts of all ages have completed basic and experienced rider motorcycle courses. Professionals have been certified for first aid, CPR, forklift operations, work zone safety, commercial construction, and other courses designed to provide "training solutions that fit" for a diverse array of occupations.

Throughout their history, SCI has been a dependable partner to the public by providing the assistance needed with the changing times. When the Federal Government passed the "Occupational Safety & Health Act of 1970" creating OSHA and authorizing the creation of the first mandatory safety standards for the nation—SCI was there to help lead the community in accountability and preparedness. When the State of California first mandated that drunken drivers attend remedial classes—SCI offered the first classes in the State to educate Californians.

Today, Safety Center Incorporated has locations throughout California. Along with the main campus in Sacramento, there are now campuses in Modesto, Citrus Heights, and Claremont.

I thank Safety Center Incorporated on behalf of my fellow Californians for the untold impact that they have had on the well-being of our home.

RECOGNIZING HOWARD
UNIVERSITY SCHOOL OF LAW

SPEECH OF

HON. LAURA RICHARDSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 2009

Ms. RICHARDSON. Mr. Speaker, I thank Congresswoman KILPATRICK for introducing

this resolution honoring Howard University School of Law's 140-year legacy of social justice and commitment to training social engineers.

If it were not for the legal battles waged by and won by lawyers from the Howard University School of Law, it is very unlikely that neither the progress or individual accomplishments obtained would have reached the heights we enjoy today.

As the first law school dedicated to educating African Americans, the doors of Howard University School of Law opened in 1869. The school was created to meet the need to train African Americans in protecting their newly established rights granted by the 13th and 14th Amendments of the Constitution. During this first year, six students committed to legal activism met in the homes and offices of part-time faculty.

As the years progressed and the number of students and the number of faculty grew, the school's commitment to public service was unwavering.

The mission of this school is guided by the wise words of Charles Hamilton Houston, who is widely regarded as the "man who killed Jim Crow." He later went on to serve as the NAACP litigation director and Dean of Howard University School of Law. Charles Hamilton Houston once said, "A lawyer's either a social engineer or a parasite on society." These inspiring words have led many students to enroll in the law school because of their interest and devotion to public service.

This quote and many other quotes from African American leaders line the halls of the school to inspire students, professors, and visitors every day.

Indeed, the men and women who graduated from Howard University School of Law became early pioneers and changed the fabric of our Nation.

The law school served as a training ground for graduates such as Oliver Hill, Spottswood Robinson II, and Thurgood Marshall who all played important and influential roles in the Supreme Court case, *Brown v. Board of Education*. Thurgood Marshall was the lead litigator in *Brown*, where the Supreme Court ruled that the segregation of students in public schools ultimately led to unequal educational opportunities. This case, which was decided in 1954, led to the abolishment of racial segregation.

The very halls of this Congress are filled with Howard Law School alum who are dedicated to social change and public service.

Mariel Lim, an able and exceptional attorney who is a member of my staff, spent her most formative year of law school at Howard and applies the formidable skills she acquired there in the service of the residents of the 37th Congressional District of California and the Nation.

My Legislative Director, Gregory Berry, taught Torts, Legal Methods, Legal Writing 2, Legal Reasoning, Research and Writing to hundreds of students who graduated and became social engineers. During the 8 years he taught at Howard, Gregory coached Howard's acclaimed National Moot Court Team, which afforded students the opportunity to hone their writing and advocacy skills in intercollegiate competitions. Additionally, Gregory Berry was counsel of record on the amicus curiae brief he and two faculty colleagues submitted to the U.S. Supreme Court on behalf of Howard's

law students in the *Grutter v. Bollinger* case, which upheld affirmative action in law school admissions.

I am not the only Member who benefits from these dedicated graduates. There are numerous other Howard alumni serving the cause of justice here on the Hill.

I congratulate the Howard University on their 140th anniversary of its extraordinary law school.

I know our Nation will be well-served for years to come by its graduates who will continue to provide, "Leadership for America and the Global Community."

TRIBAL LEADER OF THE TACHI
YOKUT TRIBE, CHIEF CLARENCE
ATWELL, JR.

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 2009

Mr. COSTA. Madam Speaker, I rise today to acknowledge the esteemed and cherished Tribal Leader of the Tachi Yokut Tribe, Chief Clarence Atwell, Jr., as he embarks upon his journey of retirement.

The Tachi Yokut Tribe, now 300 members strong, enjoys a rich California history, inhabiting the San Joaquin Valley for centuries. Chief Atwell has provided leadership, advice and spiritual guidance for his tribe and sister tribes across our great Nation for over 40 years.

Born in the early morning hours under a lone tree on the Rice Ranch, Clarence Atwell would grow to lead an extraordinary life. Raised by his grandmother on the reservation, Clarence spoke only his native language of Tachi. It was only when he began to attend school that he taught himself to learn and speak the English language. During his adolescent years, Clarence developed a strong passion for caring for the tribal elders. He would spend days hunting for food; sometimes walking several miles in order to bring the nourishment of rabbit, deer and fish to the elders. As he grew into a young man, his love of the land allowed him to work in the fields where he drove a tractor and worked from sunup to well beyond sundown each day.

Always strongly connected to his tribe, it was in his early 20s that he was first elected Tribal Chairman, a position he would hold for over 40 years. Under the powerful and wise Tribal Leadership of Chief Atwell, the Tachi Yokut Tribe has prospered. The members have grown into self-sufficiency and they have worked hard for many years to grow their Tachi Palace in Lemoore from a small gaming facility into one of the San Joaquin Valley's top destinations. Tribal members now have access to housing, a particularly significant accomplishment, the elders receive lunch each day and the members have dental and medical care.

Renowned for his spiritual as well as his political leadership, the Kings County of California acknowledges Chief Atwell as an official Spiritual Leader. He has been blessed to perform countless life-changing ceremonies including weddings, baptisms and funerals. Chief Atwell is a Bear Clan Leader for California, one of the highest native spiritual honors afforded to any individuals. The Bears