



July 5, 2011

The Honorable Justin Amash  
U.S. House of Representatives  
Washington D.C. 20515

Dear Representative Amash:

The Business Coalition for Fair Competition (BCFC), a national coalition of businesses, associations, taxpayer organizations and think tanks that are committed to reducing all forms of unfair government created, sponsored and provided competition with the private sector, strongly supports your amendment, to H.R. 2219, the 2012 Department of Defense Appropriations Act.

Your amendment strikes harmful language in H.R. 2219. Section 8015 of H.R. 2219 contains problematic language to the private sector.

Section 8015 prevents a true “Yellow Pages Test” by imposing obstacles to true competition for possible conversion of commercial activities from the government and to the private sector. Section 8015 states:

*(a) None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by Department of Defense civilian employees unless—*

*(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;*

*(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—*

*(A) 10 percent of the most efficient organization’s personnel-related costs for performance of that activity or function by Federal employees; or*

*(B) \$10,000,000; and*

*(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—*

*(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or*

*(B) offering to such workers an employer sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.*

*(b)(1) The Department of Defense, without regard to subsection (a) of this section or subsection (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—*

*(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O’Day Act (section 8503 of title 41, United States Code);*

*(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or*

*(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).*

*(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.*

We believe Congress should be taking steps to encourage the creation of more private sector jobs, not growing government. Legislative provisions that prohibit, impede, interfere, obstruct, encumber, or delay OMB Circular A-76 or competitive sourcing studies, or that provide for insourcing, are counter-productive to reducing the deficit, limiting the size of government, and creating private sector jobs.

Your amendment to strike these provisions does **NOT** affect inherently governmental activities; it only allows for cost competitions on commercial activities. A-76 cost competitions between the public and private sector bring the best value to the taxpayer. The Heritage Foundation, GAO and the Center for Naval Analysis have reported that subjecting Federal employee positions which are commercial in nature to a public-private cost comparison generate on average a 30% cost savings regardless of which sector wins the competition. Without cost competitions, government-run monopolies of commercial activities duplicate and compete with the private sector, resulting in inefficient expenditures of taxpayer money. **Section 8015 should be stricken.**

In recent weeks, the House voted to strike similar problematic and anti-taxpayer language from H.R. 2112, the Agriculture Appropriations Bill, and H.R. 2017, the DHS Appropriations Bill. Moreover, in May, the House went on record in opposition to insourcing in the Defense Authorization bill. The same change and reversal of bad policy should be implemented in the Defense Appropriations bill by striking this anti-competitive language found in H.R. 2219.

BCFC believes the free enterprise system is the most productive and efficient provider of goods and services and strongly supports the federal government utilizing the private sector for commercially available products and services to the maximum extent possible. Your amendment will help support that goal. Should there be a recorded vote on your amendment, BCFC will score it on its 2011 Congressional vote rating.

We commend you for your leadership and urge the House to support your amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Palatiello". The signature is fluid and cursive, with the first name "John" being the most prominent.

John M. Palatiello, President