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Outsourcing Law

ALERT

DECEMBER 2011

Federal Bill Would Make Companies That Offshore Call Centers Ineligible for Federal Grants or Loans

Calling outsourcing “one of the scourges of our economy,” Rep. Timothy Bishop (D-N.Y.) has introduced a [bill](#) that would make companies that relocate call centers to locations outside of the United States ineligible for federal grant or guaranteed loan programs for five years.

Under the U.S. Call Center and Consumer Protection Act (HR 3596), any company that (1) employs either 50 or more full-time call center employees, or 50 or more call center employees who work at least 1,500 aggregate hours per week (excluding overtime) and (2) closes a call center or ceases the operations of at least 30 percent of a call center’s call volume and relocates those operations to a location outside of the United States, must provide at least 120 days’ notice to the Secretary of Labor prior to any such relocation. Companies that fail to comply with this notice provision face civil penalties of up to \$10,000 per day.

The Act would also require the Secretary of Labor to maintain a publicly available list of these companies, with each company remaining on the list for up to three years after each instance of relocation. With certain limited exceptions, any company on this list would be ineligible for any direct or indirect federal grants or guaranteed loan programs for a period of five years from when they were added to the list. The bill also contains a provision requiring federal and state agencies to give preference in civilian or defense contracting to U.S. companies not on the list.

The bill also separately requires that any call center agents located outside of the United States to (1) disclose their physical location at the beginning of all calls and (2) to

transfer the call back to a U.S.-based call center upon the customer’s request. This disclosure requirement does not apply to customers who initiate the communication with the call center agent and who know, or reasonably should know, that the call center agent is physically located outside the U.S. Companies subject to these disclosure and transfer requirements must certify their compliance to the Federal Trade Commission annually. Any failure to comply is treated as a violation of the Federal Trade Commission regulations regarding unfair or deceptive acts or practices.

The bill’s co-sponsors include Reps. David McKinley (R-W.V.), Gene Green (D-Texas) and Michael Michaud (D-Maine).

Measures with similar physical location disclosure provisions have been previously introduced in Congress. In September, Sen. Charles Schumer (D-N.Y.) introduced a bill that would require customer service agents located outside of the United States and working on behalf of entities conducting business in the United States to reveal their physical location to U.S.-based customers at the beginning of any electronic communication initiated or received by them. Click [here](#) to read our alert on Sen. Schumer’s bill.

If you have any questions or wish to discuss the information in this alert, please contact [Steve Semerdjian](#) at ssemerdjian@loeb.com or 212.407.4218.

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