Center for American Progress Action Fund

AMERICAN WORKER PROJECT

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Making Contracting Work for the United States

Government Spending Must Lead to Good Jobs

David Madland and Michael Paarlberg December 2008

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Introduction and summary

The federal government is failing to live up to its legal and moral obligations as a model employer. Through numerous laws and executive orders, Congress and the executive branch have expressed a clear and long-standing objective to set and enforce high standards for the treatment of contracted workers. The federal government, however, is falling far short of this goal. Instead of helping to create quality jobs, all too often the federal government contracts with companies that pay very low wages and treat their workers poorly.

For taxpayers, shortchanging federal contract workers is often penny wise but pound foolish. Without decent wages, benefits, and working conditions, work quality can sometimes suffer due to high turnover, inadequate training and experience, and low morale. And when contract workers are poorly compensated, taxpayers often bear additional costs, such as for Medicaid and food stamps, in effect subsidizing low-road companies. But when contracted workers have quality jobs, taxpayers often receive quality work and law-abiding companies are able to compete on a level playing field. Moreover, like the canary-in-the-coal-mine warning of problems, contracted workers being treated poorly can be a sign that taxpayers are being hurt as well.

Due to massive increases in federal contracting coupled with inadequate oversight, the twin problems of contractors treating their workers poorly and ripping off taxpayers have grown in importance. While people may be aware that some federal contractors are excessively compensated and waste taxpayers' money, the problems of the contracted workforce, and how they are connected to taxpayers' interests, have largely remained hidden from public view.

The government's lack of knowledge about the contracted workforce is shocking and unacceptable. Information about contractors—and especially their subcontractors—is veiled behind layers of lax oversight, inadequate record keeping, and unnecessary secrecy.

This report attempts to pierce this veil by providing one of the first examinations of the federally contracted workforce. As the report makes clear, too many companies that receive federal contracts treat their workers poorly and fail to pay adequate wages or benefits. Among the report's key findings:

- **Low quality jobs are a widespread problem.** An estimated 80 percent of the 5.4 million federally contracted service workers are low-wage earners. Contracted workers are

often excluded from prevailing-wage law protections and, for many jobs, the minimum prevailing wage allowed is below a living wage. And contractors often violate labor laws.

- **Poor treatment of workers and taxpayers are linked.** Companies that violate laws designed to protect workers are among the most wasteful of taxpayer funds, and contracted workers are often paid far less than taxpayers are charged.

- **Workers and taxpayers are harmed by a lack of transparency and inadequate oversight.** Inadequate oversight results in scofflaw employers being rewarded with new contracts, harming workers and taxpayers. Too little information is collected about contractors and their workers, and the information that is collected is not provided in a useful format to either contracting officers or the public, contributing to problems of poor oversight and lax enforcement.

- **President Bush exacerbated waste and poor treatment of contracted workers.** The Bush administration doubled the amount the federal government spends on contracting while avoiding increased transparency and oversight. The outgoing administration also stymied efforts to systematically collect information on wages and benefits of contracted workers and actively weakened protections for contracted workers.

The findings in this report make clear that the contracting process needs significant reforms. The federal government needs to live up to the letter and spirit of existing laws to ensure that contracted workers have decent jobs and taxpayers get the best value for their money. This will require not only better enforcement of existing laws and regulations, but also a new focus on raising standards.

As a senator, Barack Obama took a leading role to reform the contracting process to improve transparency and accountability, and as a candidate for president, he emphasized the need to rebuild the middle class. The agenda highlighted in this report shows how the incoming Obama administration and the new Congress can harness these reform instincts to fix the contracting system so that it improves conditions for workers and ensures that taxpayers get their money's worth. Specifically, we seek four basic reforms.

Greater transparency

Improved transparency, especially about working conditions, is necessary to ensure that contractors are complying with the law. In order to protect workers and taxpayers, the government needs to systematically collect more information about contractors—such as the number of workers and their wages and benefits—and create a centralized database with those and other records about federal contractors. The database should be used by federal contracting officers when evaluating bids, as well as be available to the public because sunshine is a powerful force for exposing wasteful and abusive contracting.

Better oversight and enforcement of the law

Making sure that workers and taxpayers are protected requires better oversight. This should start with rigorous scrutiny during the bid process by subjecting all contracts to an open and competitive process that seeks to prevent contracts from being awarded to unscrupulous businesses in the first place. Increasing the number of contract officers and boosting their training are key to this effort, as is effective use of the information in a centralized database. In addition, better monitoring of existing contracts, including targeted investigations into industries known for a prevalence of abuses, is needed.

Judicious use of contracting

To protect taxpayers and workers, we should contract out only those services that private companies are able to provide more capably and affordably. Inappropriate contracting can have profoundly harmful impacts on the functioning of government, but also more directly related the focus of this report, can lead to a transfer of jobs from sectors where wage and benefit information, compliance with the law, and performance records are easily known and enforced, to those where they are not. It can also hollow out government, depriving it of key staff and thus weakening the government's ability to oversee contracts.

Promotion of improved job standards

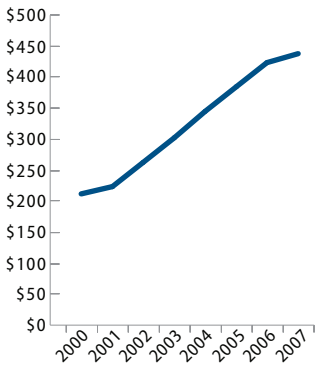
To encourage a race to the top and ensure that government contracting leads to high-quality work for taxpayers and good jobs for workers, contracting agencies should promote improved job standards by adopting a system that gives special consideration to contractors who meet or exceed certain wage and benefit levels. Doing so would provide a strong incentive for companies that do business with the government—especially in sectors where low-wages and benefits prevail—to treat their employees fairly and help ensure that taxpayers receive quality work in return. In addition, all contract workers should be covered by prevailing-wage laws, and prevailing-wage calculations should be reformed.

By making these four sets of reforms, we can protect taxpayers and federally contracted workers and ensure the contracting system works as it should. Improving working conditions and holding companies accountable for how they treat workers not only helps uphold the federal government's role as a model employer but also benefits taxpayers by eliminating hidden welfare costs, improving the quality of services, and preventing wasteful and abusive contracts. To the extent that any single recommendation might impose an additional cost on the government, which studies suggest is unlikely, it would likely be dwarfed by the prevention of waste, fraud, and abuse. As a result, promoting high standards is the right and the smart thing to do.

The growing contract workforce

Government contracting costs grow apace

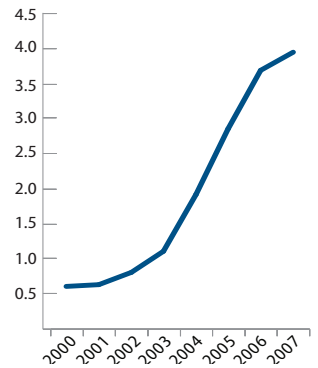
Total amount spent on federal contracts (billions of dollars)



Source: Federal Procurement Data Systems, 2008.

Government contracts spiral upward

Total number of federal contracts (in millions)



Source: Federal Procurement Data Systems, 2008.

Government spending on contracted goods and services has been growing for some time but exploded under the Bush administration. In 2007, the federal government spent $436 billion in contracts, more than double the amount spent in 2000 ($209 billion).[1] The amount spent on contracted goods and services by the government now represents over three percent of the total U.S. economy, approximately equal to the total economic output of New Jersey.[2]

While much attention has been paid to waste, fraud, and abuse by the highest paid government contractors—especially in the defense industry—many government contracts provide necessary everyday services such as bus transportation, building security and maintenance, laundry and food services, and health care, services that may not be commonly thought of as federally contracted work. According to the Congressional Research Service, the federally contracted workforce is estimated to be "more than twice as large as the combined total of all three branches of government, the U.S. Postal Service, the intelligence agencies, the armed forces, and the Ready Reserve."[3]

The greatest expansion of federal contract work has been in the typically low-wage service sector. One study of federal contractors from 2002 to 2005 found that, while the number of comparably higher-paying manufacturing jobs remained flat, the number of service jobs increased by nearly 2.5 million.[4] Service contracts are especially "vulnerable to waste fraud and abuse" because the return on services is more difficult to quantify than on goods.[5]

In 2002, the U.S. Department of Labor estimated there to be approximately 60,000 federal service contracts, the type of contract that is most likely to employ low-wage workers.[6] In 2005, the number of service contract workers was estimated to be 5.4 million workers, double the amount in 1990.[7] New York University political scientist and government-workforce expert Paul Light estimates that 80 percent of service contract workers—more than 4.3 million Americans—are low-wage earners.[8] Other studies suggest that the number of low-wage federal contract workers is even higher.[9]

The total amount spent on federal contracts for just four types of contracts that are especially likely to pay low wages—utilities and housekeeping, property maintenance and repair, clothing and apparel, and food preparation—was $25 billion in 2007, the most recent year with data available, nearly doubling in just eight years.[10]

Low-wage contracting jumps in Bush years

Spending on federal contracts in certain low-wage industries 2000–2007 (in millions USD)

	2000	2007	Cumulative 2000–2007
Utilities and housekeeping	$6,000	$12,900	$79,500
Property maintenance and repairs	$7,500	$11,500	$76,600
Clothing and apparel	$1,000	$4,000	$20,800
Food preparation	$61	$144	$1,000

Source: Federal Procurement Data Systems, 2008.

While the available evidence clearly indicates that the low-wage contract workforce is a large and fast-growing part of our economy, it is important to note that its size and scope can only be roughly estimated. The federal government doesn't know the exact incidence of low-wage or poor-quality jobs in the contracted workforce. Nor does the government systematically collect contractor job data or release it in a manner that would allow the public to calculate the number of contract workers, their wages and benefits, or working conditions. The lack of information about the contracted workforce is unacceptable and indicates that protecting contracted workers has been far too low a priority.

As a result, this study takes an important step forward to shine some much needed light on the hidden problem of low-job quality in federally contracted work by bringing together data from a number of sources, including academic research, government studies, reports from the news media and advocacy groups, as well as our own analysis of available government data.

History of protecting workers

For nearly a hundred years, the federal government has sought to provide strong protections for federally contracted workers. Our government has long taken a moral stand that its contracting should not be merely a way to acquire goods and services cheaply, but rather has viewed contracting as a way to establish itself as "a model employer to be emulated by the private sector."[11]

A primary way Congress and the executive branch have promoted the interests of workers is through prevailing-wage laws that set basic labor standards and wages in federal contract work. Long-standing executive orders, such as Executive Order 11246, preventing discrimination among contracted employees, also demonstrate the government's clear intent that the federal contract workforce should enjoy high labor standards. In addition, general contracting rules have long emphasized that the government should work only with responsible government contractors with a track record of adhering to all laws.[12]

In 1917, Secretary of War Newton Baker warned, "The Government cannot permit its work to be done under sweatshop conditions, and it cannot allow the evils widely [associated with such production] to go uncorrected."[13] But without protections for workers, the government was compelled "to accept the lowest responsible bid regardless of the conditions of work under which the contract was performed," and thus was "an unwilling collaborator with firms … that sought to get government business by cutting wages."[14]

Prevailing wage laws for federal contracting

- The Davis-Bacon Act, passed in 1931, covers construction workers.
- The Walsh-Healey Public Contracts Act, passed in 1936, covers employees of firms manufacturing supplies and equipment to government agencies.
- The Service Contract Act, passed in 1965, covers service workers.

In 1931, with the passage of the Davis-Bacon Act, which provided that federally contracted construction workers would be paid a prevailing wage, the federal government firmly stated its intention to use government contracting to help workers. By enacting the Davis-Bacon Act, "Congress sought to end the wage-based competition from fly-by-night operators, to stabilize the local contracting community, and to protect workers from unfair exploitation," according to the Congressional Research Service. "Employers could compete on the basis of efficiency, skill, or any other factor, except wages."[15]

In 1936, with the passage of the Walsh-Healey Act, prevailing-wage protections were extended to contractors manufacturing goods for the federal government. Then in 1965, with the Service Contract Act, prevailing-wage law was further expanded to "employees of contractors and subcontractors furnishing services to or performing maintenance service for federal agencies."[16] The Service Contract Act was intended to extend protections to those not covered by existing prevailing-wage laws and ensure that all low-wage federally contracted workers were covered by prevailing-wage laws.[17]

When lawmakers passed the SCA, they emphasized the government's moral obligations as an employer and also noted that poor conditions for contracted workers were not in the government's best interest. Specifically, lawmakers cited the following arguments for setting labor standards in service contracts:

- **Service workers are the most vulnerable to low wages.** The SCA was designed to cover those in the industries that typically pay employees the least.

- **Government purchasing can drive wages even lower.** The lowest-cost bid process for those wishing to win a government contract gives a natural advantage to those bidders who promise to pay their employees the least. Without prevailing-wage law, this can cause wages in the market to spiral downward.[18] This is especially true because of the federal government's inordinate purchasing power, which necessarily has an enormous and potentially depressive effect on wages in labor markets.[19] Far from a unique entity that exists and operates apart from private markets, the government is in many cases the largest buyer by far in the marketplace, and its near-monopsony power can set the market rate for goods, services, and labor. The danger thus exists that the government could lower wage standards for nonfederal contract workers below that which would be paid by the market.

- **Low wages are bad for the government and the economy as a whole.** At the time of the law's passage, then Solicitor of Labor Charles Donahue argued that it is "doubtful whether the Government gains in the long run by a policy which encourages the payment of wages at or below the subsistence level." He believed that "substandard wages

must inevitably lead to substandard performance. Further, the economy as a whole suffers from the reduced purchasing power of workers. The present policy of low bid contract awards is one under which everyone loses—the employee, the Government, the responsible contractor—that is, everyone except the fly-by-night operator who is eager to profit from the under compensated toil of his workers."[20]

Evidence of widespread harm to workers

While the federal government's efforts to act as a model employer have protected millions of contracted workers, unfortunately contracting far too often fails to live up to the letter and spirit of the law. Evidence from a number of sources suggests that mistreatment of federally contracted workers is a widespread problem.

Government data and reports, private studies, and anecdotal evidence all point in the same direction—federal contractors underpay workers, violate their collective bargaining rights, and put them at personal risk in the workplace. Yet in a sign that living up to its aspirations of being a model employer has been a relatively low priority for the government, there is not a comprehensive way to measure the scope of the problem. Furthermore, very few of those found to violate workers' rights have lost their federal contracts, and in fact, many continue to win lucrative new contracts.

Do high standards cost taxpayers more money?

High labor standards do not necessarily cost taxpayers additional money. A review of literature on prevailing-wage law concludes "a growing body of economic studies finds that prevailing-wage regulations do not increase government contracting costs."[21] This is due to labor costs representing a relatively small portion of overall costs in contracted work, and those costs being offset by gains in factor substitution and greater efficiency and productivity seen in higher-paid workforces.

The same washout effect of higher labor costs and higher productivity was observed in studies of raises to the minimum wage, which were shown to produce no significant increase in unemployment.[22] In fact, improving wages for the lowest paid contracted employees can create broader benefits for all workers. The "multiplier effect" describes the economic phenomenon of a spillover rise in wages for all workers when certain workers see an improvement in their salary (such as through unionization), due to an increase in economic activity resulting from the initial wage boost.

This multiplier effect would be compounded by the savings to taxpayers from the hidden cost of public assistance for which low-wage workers qualify. According to one study, a minimum wage of $8.00 per hour would cut public assistance expenditures in California by $2.7 billion.[23]

Finally, the foundation of any effort to promote high standards in government procurement should be cutting down on waste and abuse by unscrupulous contractors. Fair, transparent, and competitive contracting will ease the burden on taxpayers who currently shoulder the costs of wasteful spending.

Prevailing wage violations

According to a study by the U.S. Government Accountability Office, in 2004 the Department of Labor conducted 654 Service Contract Act investigations called by workers or other whistleblowers and found that in more than 80 percent of cases—comprising 20,347 individual violations—employers were indeed failing to pay their employees the minimum wages and benefits owed them under the law.[24] As a result, employers were required to pay $16.4 million in back wages to over 14,000 service workers. Only 17 of the 450 contractors investigated for abuses were debarred from future contracts with the government.[25]

While this evidence suggests a widespread problem, there is no way of knowing the true extent of violations of prevailing-wage law. The reason: Investigations are only initiated when a complaint is brought forward by employees, unions, or federal agencies. For every worker who is emboldened enough to report wage abuse, there are many more who never do or are most likely unaware of their right to be paid prevailing wages at all.

Right-to-organize violations

Similarly, companies that infringe on their employees' rights to organize and bargain collectively are often awarded federal contracts, even after they are found to have broken the law. According to a government study, 80 companies that had committed unfair labor practices in violation of the National Labor Relations Act received over $23 billion from more than 4,400 federal contracts, representing roughly 13 percent of all federal contract dollars in fiscal year 1993, the most recent year studied.[26]

Such unlawful behavior cited in the report included illegally firing workers for union sympathies, coercing employees in the exercise of their union rights, engaging in discrimination in hiring or the conditions of employment in order to discourage union membership, and refusing to bargain collectively with a union recognized by the NLRB.[27]

Safety and health violations

Companies with poor health and safety records also continue to receive federal contracts, according to GAO. In the most recent survey year, 1994, 261 federal contractors administered facilities that had been cited for 5,121 violations of the Occupational Safety and Health Administration's safety and health regulations and had to pay penalties of $15,000 or more. Those contractors received a total of $38 billion, representing 22 percent of all federal contract dollars for FY1994.[28]

Eighty-eight percent of those worksites of federal contractors who were inspected were found to have one or more violations that posed a risk of death or serious physical harm to workers, as well as violations of general industry standards such as inadequate machine guarding or failing to protect workers from electrical hazards. In 69 percent of cases, OSHA found the employer to have intentionally and knowingly committed the violation.

At worksites of 50 federal contractors, a total of 85 injuries and 35 fatalities occurred over the two-year period of the study—numbers that, given the frequency of accidents in the U.S. workforce as a whole, are completely disproportionate to the number and size of those businesses investigated.[29]

Extremely low wages

While prevailing-wage laws have been an important force for ensuring that federal contracts do not drive down wage standards, prevailing wages vary locally, and in some cases prevailing wages are very low and often below a living wage. As the table on page 11 demonstrates, wages for a range of jobs across the country fall below a living wage needed to sustain a family with one child.

Cleaning up Katrina without protections for workers

In the aftermath of Hurricane Katrina, the federal government contracted for billions of dollars worth of cleanup work, yet many of the workers doing the actual cleanup suffered under extremely poor working conditions and were often cheated out of their paychecks.[30] Contracting after the hurricane hit, according to Rep. Dennis Kucinich (D-OH), occurred in an "environment of virtual lawlessness."[31] President Bush issued an emergency order waiving the prevailing-wage requirements of Davis-Bacon, and the Department of Labor did not adequately enforce other labor laws, due in part to the hurricane's displacement of DOL staff and the huge influx of contracted workers.[32]

One of the many examples of mistreated federally contracted workers involved Jeffery Steele, a then 47-year-old working in Atlanta, who testified to Congress about his experience after Katrina.[33] Steele had a license in environmental cleanup and thought he could both make some money to pay off debts and "do right" by the people of New Orleans by helping the cleanup.

Steele was hired by a federal contractor who posted fliers advertising "Free Room and Board. Free Food. Pay $10/hour." Unfortunately, when he got to New Orleans, there was no place to sleep for several days and he wasn't given proper safety equipment. Yet he still he put in long days of work. But when payday came, he was stiffed. "I got about $230 in pay. I should have gotten about $1,400, not including any extra for overtime."

While Hurricane Katrina presents an extreme example, it suggests how badly treated contracted workers can be without high standards and adequate enforcement of those standards.

Prevailing wage for federally contracted workers is often below a living wage for an adult with a child

Atlanta, GA

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$11.46	$14.70
Dishwasher	$10.24	$13.48
Cashier	$9.25	$12.49
Janitor	$10.89	$14.13
Guard	$11.34	$14.58
Waiter	$7.59	$10.83
Painter	$10.57	$10.57
Plumber	$11.53	$11.53
Truck Driver	$12.13	$12.13
Electrician	$11.57	$11.57
Laborer	$10.09	$10.09
Living wage for Atlanta: $17.91		

Baltimore, MD

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$11.96	$15.20
Dishwasher	$9.82	$13.06
Cashier	$10.03	$13.27
Janitor	$10.89	$14.13
Guard	$12.66	$15.90
Painter	$10.62	$11.50
Plumber	$12.84	$12.84
Truck Driver	$12.17	$14.79
Electrician	$12.32	$13.13
Bricklayer	$17.00	$17.00
Laborer	$8.62	$8.62
Living wage for Baltimore: $19.16		

Boston, MA

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$12.47	$15.71
Dishwasher	$9.22	$12.46
Laborer	$14.76	$18.00
Cashier	$11.25	$14.49
Janitor	$13.53	$16.77
Guard	$14.78	$18.02
Living wage for Boston: $22.28		

Chicago, IL

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$12.99	$16.23
Dishwasher	$10.18	$13.42
Laborer	$12.86	$16.10
Cashier	$9.94	$13.18
Janitor	$12.47	$15.71
Guard	$11.00	$14.24
Fast Food Worker	$6.55	$9.79
Living wage for Chicago: $18.13		

Ft. Lauderdale, FL

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$11.08	$14.32
Dishwasher	$8.03	$11.27
Cashier	$9.20	$12.44
Janitor	$9.77	$13.01
Guard	$9.98	$13.22
Waiter	$8.97	$12.21
Painter	$10.00	$10.00
Plumber	$13.10	$14.42
Electrician	$13.95	$15.60
Mason	$14.05	$14.05
Laborer	$8.77	$8.77
Living wage for Ft. Lauderdale: $19.15		

Honolulu, HI

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$12.52	$15.76
Dishwasher	$12.05	$15.29
Laborer	$13.36	$16.60
Cashier	$10.35	$13.59
Janitor	$11.72	$14.96
Guard	$11.32	$14.56
Living wage for Honolulu: $23.61		

Houston, TX

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$8.65	$11.89
Dishwasher	$8.11	$11.35
Cashier	$9.10	$12.34
Janitor	$8.17	$11.41
Guard	$10.14	$13.38
Painter	$6.55	$6.55
Laborer	$6.55	$6.55
Living wage for Houston: $13.54		

Los Angeles, CA

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$12.91	$16.15
Dishwasher	$9.25	$12.49
Laborer	$12.65	$15.89
Cashier	$12.13	$15.37
Janitor	$12.06	$15.30
Guard	$12.32	$15.56
Living wage for Los Angeles: $21.75		

New York, NY

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$17.97	$21.21
Dishwasher	$14.67	$17.91
Laborer	$15.86	$19.10
Cashier	$10.95	$14.19
Janitor	$15.30	$18.54
Guard	$16.93	$20.17
Living wage for New York: $19.66		

Philadelphia, PA

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$11.95	$15.19
Dishwasher	$9.76	$13.00
Laborer	$13.19	$16.43
Cashier	$10.73	$13.97
Janitor	$12.33	$15.57
Guard	$13.48	$16.72
Living wage for Philadelphia: $16.71		

Raleigh, NC

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$9.95	$13.19
Dishwasher	$8.09	$11.33
Cashier	$8.26	$11.50
Janitor	$9.19	$12.43
Guard	$11.19	$14.43
Painter	$10.00	$10.00
Plumber	$8.93	$9.58
Electrician	$9.69	$10.09
Mason	$7.64	$7.64
Power Equipment Operator	$8.00	$8.25
Laborer	$6.55	$6.55
Living wage for Raleigh: $17.99		

Sacramento, CA

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$13.53	$16.77
Dishwasher	$10.27	$13.51
Laborer	$12.18	$15.42
Cashier	$11.97	$15.21
Janitor	$14.69	$17.93
Guard	$14.26	$17.50
Living wage for Sacramento: $19.66		

San Antonio, TX

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$9.37	$12.61
Dishwasher	$7.67	$10.91
Cashier	$8.58	$11.82
Janitor	$9.59	$12.83
Guard	$10.21	$13.45
Painter	$8.16	$8.16
Plumber	$7.70	$7.70
Electrician	$9.66	$9.66
Mason	$7.46	$7.46
Laborer	$6.55	$6.55
Living wage for San Antonio: $16.51		

San Francisco, CA

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$13.60	$16.84
Dishwasher	$12.45	$15.69
Laborer	$18.29	$21.53
Cashier	$13.32	$16.56
Guard	$13.29	$16.53
Janitor	$14.89	$18.13
Living wage for San Francisco: $21.82		

San Jose, CA

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$14.68	$17.92
Dishwasher	$10.27	$13.51
Laborer	$17.52	$20.76
Cashier	$11.26	$14.50
Guard	$13.29	$16.53
Janitor	$13.23	$16.47
Living wage for San Jose: $21.42		

Tampa, FL

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$9.36	$12.60
Dishwasher	$8.23	$11.47
Cashier	$7.97	$11.21
Janitor	$9.74	$12.98
Guard	$10.35	$13.59
Painter	$6.55	$6.55
Plumber	$7.02	$7.02
Electrician	$6.75	$6.75
Bricklayer	$9.00	$9.00
Truck Driver	$6.55	$6.55
Laborer	$6.55	$6.55
Living wage for Tampa: $17.14		

Tucson, AZ

Occupation	Prevailing wage	Prevailing + fringe benefits
Cook	$10.07	$13.31
Dishwasher	$6.98	$10.22
Cashier	$9.35	$12.59
Janitor	$9.62	$12.86
Guard	$9.49	$12.73
Painter	$10.41	$10.82
Electrician	$12.14	$13.97
Power Equipment Operator	$10.00	$10.00
Laborer	$9.19	$9.55
Living wage for Tucson: $17.33		

Source: Prevailing wages for selected occupations under the Davis-Bacon and Service Contract Acts from U.S. Department of Labor, "Wage Determinations Online," available at http:// www.wdol.gov (last accessed November 10, 2008). Living wages for one adult raising one child from Pennsylvania State University, "Poverty in America Living Wage Calculator," developed by Dr. Amy K. Glasmeier, last accessed Nov. 25, 2008, available at http://www.livingwage.geog.psu.edu.

Harm to workers linked to harm to taxpayers

Low-quality jobs for federal contractors are not just a problem for workers but for taxpayers as well. When federal contractors are poorly paid or subject to labor abuses, taxpayers may receive poor-quality work because the contractor workforce isn't stable, well-trained, or capable of high-quality work.[34]

Further, low-wage contracting is often far more costly than it initially seems. Contractors sometimes pay their workers far less than they are reimbursed by the government. In addition, when workers are poorly paid, they often require costly additional government services. Finally, evidence uncovered for this report suggests that companies that treat their workers poorly often also treat taxpayers poorly.

Taxpayers often reimburse contractors for far more than their workers make

Just because workers are poorly paid doesn't mean that the costs of a contract are any lower. Sometimes low-wage work simply means more profits for a contracting company and its executives rather than lower costs for taxpayers.

Disabled workers and taxpayers shortchanged

A special contracting program, the Javits-Wagner-O'Day program designed to provide federal contracts to charities that are supposed to hire and train people with severe disabilities, has come under severe criticism for lining the pockets of executives while doing relatively little for those with disabilities.

An in-depth investigation by the Oregonian, as well as a Government Accountability Office report, found that nonprofits misused the $2.3 billion a year program to employ people without serious disabilities.[35] Even though disabled workers may not have benefited as much as Congress intended, the executives of many of these nonprofits have done quite well. As the Oregonian reported, "At least a dozen [non-profit executives] earn $350,000 or more a year, and average pay and benefits for top executives at the program's largest nonprofits have grown more than three times faster than their workers' pay."

Said Fredric Schroeder, a former member of the committee that oversees the program, "There is the clear appearance that people with severe disabilities are being paid low wages with no oversight of those wages and that executives are being paid astronomical wages."

A 2008 Washington Post report on an audit of a Transportation Security Administration contract found significant discrepancies between the high prices contractors were paid and what their employees received.[36] The audit found, for example, that security guards in the Virgin Islands were paid between $15 and $20 an hour but were billed to the government at $30 to $40 an hour. Office workers provided by a temp agency to the prime contractor at $20 an hour were billed to the government at $48.07 an hour.

The Project on Government Oversight has highlighted this problem of overcharging for low-wage work in letters to contracting agencies, focusing especially on a type of contract that enables this type of overbilling.[37] According to POGO, "The issue involves prime contractors who bill the government at their own labor rate(s) rather than the rate that they pay their subcontractors on Time and Material or Labor Hour ("T&M/LH") contracts." In other words, the government is "paying for subcontract hours at the negotiated [prime contractor] rates rather than at subcontract prices."

Hidden costs to taxpayers

Even if contractors passed on the actual labor costs of low-wage work, rather than inflating these costs, taxpayers can still lose. When government contractors pay very low wages, taxpayers often have to pay twice—once for the contract itself and then again for the public services, such as Medicaid, required by the poorly paid workers. Taxpayers may also receive poor-quality work because the contractor workforce isn't stable, well-trained, or capable of high-quality work.[38]

Low-wage workers who do not receive health insurance from their employers often rely on Medicaid and other public health programs for medical care. The poorest may qualify for food stamps, the Women, Infants and Children program that provides money for special supplemental nutrition, and other in-kind welfare benefits. When an employer pays low wages and benefits to its workers, the taxpayer picks up the difference in funding those public assistance services for which low-income Americans qualify. Thus, poor labor standards of bad contractors are costly to taxpayers.

Many studies have been conducted on the hidden public cost of low-wage work, though none have focused on federal contractors. A study by the University of California Institute for Labor and Employment, for example, estimated that the state of California spends $10.1 billion every year in public assistance for working families with full-time jobs that paid less than $8 per hour—nearly half of the state's total expenses on these programs.[39]

A study of federal apparel contractors found that workers commonly had to supplement their meager incomes with federal assistance programs such as Medicaid, food stamps, and tax credits under the Earned Income Tax Credit. The report estimated that the total amount of public assistance for which each 100-person factory qualified represented a $292,000 annual cost to taxpayers.[40]

Companies that treat workers poorly likely to shortchange taxpayers

Evidence suggests that bad contractors who are willing to mistreat their employees are often just as willing to mistreat taxpayers. Of the top 50 contractors cited as the most wasteful by the Project on Government Oversight, 28 had reported labor violations ranging from religious, racial, and age discrimination, retaliation against worker complaints, workplace safety violations, harassment, unfair termination, nonpayment of overtime, violations of the Americans with Disabilities Act, and radioactive contamination of workers.[41] While some of the labor violations were relatively minor, and some were settled out of court, many of the violations were repeat offenses.[42] These 28 companies, which include large defense contractors such as Halliburton, paid $769 million in fines for their labor violations, yet under the Bush administration they have continued to receive new contracts.[43]

An analysis we conducted provides additional support indicating that companies that treat their workers poorly are also likely to treat taxpayers poorly. Our analysis of this relationship between working conditions and taxpayer value focused on one low-wage service industry: private security. Because data limitations make it nearly impossible to survey all federal contractors, we chose a sector that was representative of the fast-growing service

Shortchanging workers and taxpayers

Most private security contractors awarded uncompetitive contracts in 2006 committed labor violations

Company	2006 uncompetitive contract amount ($ millions)	Type of labor violation(s)
Afognak Corp	$393.15	9 safety violations classified as serious found by OSHA
Alpha Protective Services	$19.47	Multiple violations found by Wage and Hour Division
Analex Corp	$41.77	
Chenega Corp	$345.25	Violation found by Wage and Hour Division
Covenant Aviation Security	$74.26	Violations found by OSHA and Wage and Hour Division
Firstline Transportation	$34.31	National Labor Relations Board ruled Firstline had illegally denied employees their right to form a union
G4S/Wackenhut	$571.71	Multiple violations found by Wage and Hour Division; Suspension of all contracts by City of Los Angeles due to misrepresentation in contract bidding; Discrimination; Sexual Harassment; Human rights violations in Panama and Africa divisions
HWA Inc	$35.05	Multiple violations found by Wage and Hour Division
McNeil Security	$23.31	2 health violations found by OSHA
Quest Intelligence Limited	$81.67	
Secureco	$14.21	Violation found by Wage and Hour Division
USProtect Corp	$69.73	Multiple violations found by Wage and Hour Division; employees left unpaid following company bankruptcy. Founder of USProtect convicted of bribery, tax evasion and distribution of child pornography
TOTAL AMOUNT AWARDED	$1,703.89	

Sources: Search of Federal Contract Data Systems database for contracts to private security companies by the Departments of Energy, Justice, Homeland Security, and Health and Human Services won with only one or no bids in 2006. Wage and Hour violations from Freedom of Information Act request with Department of Labor. Afognak, Covenant, and McNeil health and safety violations: OSHA inspection records, available at http://www.osha.gov/oshstats/index.html; G4S: "Wackenhut/G4S Security Firm Faces Debarment From City Contracts," PR Newswire Europe, June 2007, available at http://findarticles.com/p/articles/mi_hb5570/is_/ai_n23635623; Firstline Transportation: National Labor Relations Board ruling, "Firstline Transportation Security, Inc" (347 NLRB No. 40), June 28, 2006; Readyone: "ReadyOne Back at Work," El Paso Times, October 21, 2007; USProtect: Mersnick v. USProtect Corp: U.S. District Court for the Northern District of California, San Jose Division, Case No. C-06-03993 RMW, September 6, 2007; "USProtect Workers go unpaid as company goes bankrupt," Private Officer Breaking News, March 22, 2008, available at http://privateofficerbreakingnews.blogspot.com/2008/03/usprotect-workers-go-unpaid-as-company.html.

contracting industry. We reviewed security companies contracted in 2006 by four large federal agencies that do significant amounts of contracting: the Departments of Homeland Security, Energy, Justice, and Health and Human Services. We found in 2006 that 12 security companies were awarded contracts without competing with a single other bidder. These contracts were worth a total of $1.7 billion. Competition helps ensure that taxpayers get the best value for the goods and services they buy. But without competitive bidding, taxpayers may not receive their money's worth for these contracts.

We then examined the labor records of these 12 contractors. We found that 10 of those companies had records of labor abuse. While a few company's labor violations were relatively minor, others were much more significant, ranging from repeated safety and health violations and violations of the Fair Labor Standards Act to discrimination, sexual harassment, nonpayment of wages, and human rights violations.

The results of this analysis suggest that companies that harm workers also often do not give taxpayers the best value for their money. While the results cannot demonstrate a causal link between harm to workers and harm to taxpayers, they provide additional evidence that the two problems are closely related.

Case studies linking worker and taxpayer harm

Wackenhut G4S security

Wackenhut, a subsidiary of Group 4 Securicor, or G4S, one of the largest private security companies in the United States, has come under public scrutiny for both fraud and worker abuse. Recently, a news investigation and county audit found Wackenhut had fraudulently overbilled Miami-Dade County $6 million for a Miami subway security contract.[44] Over the past five years, Wackenhut has also been cited for 17 violations of the Service Contract Act. In one such case, Wackenhut Services Inc., another G4S subsidiary, was forced to pay guards at a U.S. Army ammunition plant in Holston, Tennessee, a total of $2.5 million in back wages after the Department of Labor found that the company had failed to pay its employees prevailing wages guaranteed to them under the SCA.[45]

Apparel and textile contractors

The U.S. government is the world's largest buyer of American-produced textile products, with the Department of Defense alone spending over $2 billion per year on uniforms and apparel. The federally contracted textile industry employs roughly 20,000 American workers in several hundred small businesses in primarily Southern states. A 2006 survey by textile union UNITE HERE! found many of these employees earned a starting wage of less than $5.50 an hour and an average wage of $6.55—well below the average wage in that sector of $9.24 at the time.

Between 50 percent and 80 percent of workers at factories surveyed had no employer-provided health insurance, and none had an employer-provided retirement plan. As a result, workers in this industry are forced to rely on state and federally subsidized programs, such as food stamps or Medicaid, to feed their children, make ends meet, and provide health care for their families.

In addition, federally contracted apparel manufacturers also routinely violate health, safety, and labor regulations. Since 1995, the six largest uniform manufacturers have been cited for 82 OSHA violations for having hazardous workplaces, and workers reported overtime violations and being forced to work up to 18-hour workdays. Nevertheless, those same apparel manufacturers whose workers were surveyed received over $455 million in federal contracts between 2003 and 2005.[46]

How the contracting process lets workers and taxpayers lose

Federal contracting is not supposed to work this way. But it does—in small part because of limitations within existing laws but to a much greater degree because rules and regulations are not being adequately enforced and because companies are not being held accountable for their actions. A lack of transparency enables and encourages weak enforcement and accountability measures. Contracting officers do not have easy access to information they need about a company's record, especially for subcontractors, and are frequently overworked and understaffed, limiting their ability to do the hard work of holding companies accountable.

The public has even less information with which to scrutinize contractors and shine light on abuses. And compounding the problem, the Bush administration has actively sought to undermine reforms and weaken worker protections and information collection in the contracting process. As a result, too often abuses of workers and taxpayers are either ignored or given inadequate weight when awarding contracts.

In detailing how these abuses of workers and taxpayers occur, this section will first focus on prevailing-wage laws, then discuss the broader contracting process, and conclude with the Bush' administration's efforts to weaken worker protections.

Prevailing-wage laws

While federal prevailing-wage laws have ensured that federal contracts don't depress local wages and have protected millions of contracted workers, they have three primary limitations: lack of universal coverage, wage rates that are sometimes substandard, and enforcement that is inadequate. Let's begin with lack of universal coverage

Combined, the three major prevailing-wage laws—Davis-Bacon, Service Contract, and Walsh-Healy—were intended comprehensively to protect federally contracted workers from low wages.[47] Because of court rulings and statutory and administrative exemptions, however, not all contracted workers enjoy the protections of prevailing-wage laws.

The Walsh-Healy Act now only ensures that workers producing goods purchased by the federal government will receive the minimum wage rather than the prevailing wage. In the

1964 case of Wirtz v. Baldor Electric Co., the court in effect nullified the law, finding that the Department of Labor's prevailing-wage determinations could not legally be done as Congress had required, and as a result, the federal minimum wage is now the prevailing wage for work performed under Walsh-Healy.

While Davis-Bacon still applies to most all contracted construction workers (except when it is waived by the president, as was done to detrimental effect during the rebuilding after Hurricane Katrina), the Service Contract Act fails to cover all service workers because of both statutory and administrative exemptions. As a guide for contracting officers puts it, "The Act provides for both specific statutory exemptions as well as procedures under which the Secretary of Labor may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to, and from, any and all provisions of the Act."[48] As a result, many service workers do not receive prevailing-wage protections, even though they are working on federal contracts.[49]

Substandard wages and benefits are the second issue. While prevailing wages have helped millions of workers, the prevailing wages for some jobs are quite low. For all Walsh-Healy contracted jobs, the prevailing wage is the federal minimum wage, and for some Davis-Bacon and Service Contract Act jobs, the prevailing wage is not a living wage.

Further, some federally contracted workers do not receive benefits, such as health care. While employers are required to pay the cash-equivalent of prevailing benefits, this may not be enough to purchase benefits, and in some cases the value of the prevailing benefits is $0.[50] In addition, the process of determining prevailing wages, which is necessarily a very technical process, has been criticized by businesses, labor groups, and the federal government itself and may not always accurately reflect actual market conditions.[51]

Then there's inadequate enforcement. The Department of Labor, which is responsible for enforcing prevailing-wage laws, has not adequately enforced labor laws, in part because it is underfunded and understaffed.[52] One report by the Brennan Center for Justice found pervasive violations of prevailing-wage laws in New York City: "Unscrupulous employers understand that there is a minimal risk of being caught for these violations, and even if they are caught, that they will likely pay no more than a portion of the wages they owe."[53]

Moreover, DOL does not strategically target its investigations to companies likely to cheat employees by paying less than prevailing wages.[54] Case in point: Instead of targeting industries or geographic regions that are known to contain a preponderance of SCA violators, DOL only investigates when a complaint is brought forward—even though employees may not know they are being cheated or may be afraid to file a complaint.[55] A GAO investigation of SCA enforcement recommended that DOL be more proactive in targeting investigations to industries where wage-law violations are known to be rampant but often go unreported.[56]

In addition, violations of the law are not always taken fully into account when awarding new contracts to companies, as illustrated by the continued awarding of new contracts to bad actors.[57] Internal evaluations of contracting policies by the Department of Labor (as well as other agencies) confirm that not enough is done to bar fraudulent contractors from doing business with the government.[58]

Poor oversight and transparency in the contracting process

While horror stories of contractors ripping off taxpayers are well known, it is worth reviewing a few to further highlight just how bad the contracting process has become, before discussing how the process enables abuses of taxpayers and workers. A Congressional investigation overseen by Chairman Henry Waxman (D-CA) of the Committee on Oversight and Government Reform identified $1.1 trillion in contracts in a single year that were estimated to exhibit some form of waste, fraud, abuse, or mismanagement.[59] The federal government has estimated that in total, more than $10 billion in Iraq-related contracts may be missing due to fraud or other misconduct.[60] Nearly 40 percent of all contract spending is awarded without competition.[61]

More than 60,000 contractors have unpaid taxes totaling about $6.3 billion.[62] An additional 27,000 Medicare service providers, which collectively received $50 billion from Medicare in 2006, currently owe more than $2 billion in unpaid taxes.[63] A study by the Project on Government Oversight found that 16 of the top 43 contractors had been convicted of 28 criminal violations and paid a total of $3.4 billion in penalties and fines for misconduct, and four of the top 10 government contractors had been found guilty of multiple criminal charges.

Despite the frequent abuses, POGO's investigation found that only one of these contractors had ever been suspended from receiving government contracts, and then only for five days.[64] In addition, internal evaluations of contracting policies by the Department of Defense and Department of Labor confirm that not enough is done to bar fraudulent contractors from doing business with the government.[65]

The contracting process's failure to crack down on abusive companies can be traced largely to a lack of adequate oversight and transparency. Too often, important information about contractors and especially subcontractors—including wages, benefits, and legal history—is not collected. Information that is available to federal contracting officers is poorly used by the government and hidden from the public more than necessary.

In addition, the contracting process allows obfuscation at all stages, especially during the bid process—the very stage in which the government has the greatest leverage to exact information. Unfortunately, the types of contracts that are most likely to hide key information have been growing rapidly.

Poor collection and organization of information

Inadequate and poorly organized information hampers the ability of the government to oversee contractors and enables the awarding of contracts to scofflaw employers. Currently, the government does not systematically collect information on wages or benefits paid to contractors' employees, limiting its ability to protect workers and ensure that taxpayers are getting their money's worth.

Information on contractors' compliance with various laws is collected but has not been managed in any centralized database or made readily available to federal contracting officers. The upshot: If a contracting officer wants to evaluate the track record of a company, he or she has had to look through dozens of different government sources. Companies may be listed differently under each system.

Certain offices within federal agencies maintain searchable databases of noncompliance, such as OSHA's records of safety and health violations, but these are not linked by company to records of other federal agencies, such as the Internal Revenue Service, or even other offices within DOL. As a result, contracting officers have been hampered in making informed decisions on contractor qualifications because they may be unaware of a history of minimum- or prevailing-wage, safety, and health violations or tax evasion that allows bad contractors unfairly to underbid more responsible contractors.

Under a provision of the 2009 Defense Authorization Act, the government will begin to compile certain information into a database of contractor misconduct. This is an important step forward. But it is insufficient because it will only compile existing information and not require additional information be collected. What's more, the database will be unavailable to the public, and perhaps most importantly, the database by itself is necessary but not sufficient for reform. The data itself must be put to effective use when evaluating bids.

Lack of public scrutiny

Sunshine laws, which give the public the ability to inspect the workings of government, are a powerful disinfectant. Often the public can shine light on practices that are unacceptable and get them changed. In addition, the ability of the public to do so can sometimes limit abuses in the first place. Unfortunately, the public has access to very little information about contracting.

The creation of the Federal Procurement Data Systems, the publicly available government-run database that tracks all federal contracts, was a major step forward for transparency and accountability, but the database is very limited. Only very general information, such as the dollar amount of a contract, is made public. Further, the information in the database is sometimes inaccurate.[66]

Moreover, the public is able to access some government data that is collected about contractors, such as OSHA's records of safety and health violations, but the public is limited from seeing much of the other information that the government collects. For instance, minimum- and prevailing-wage compliance are maintained under a private database that may only be accessed by DOL officials at the request of public inquiry.

The government's broad interpretation of what business information should be considered proprietary also allows contractors to cite some labor information, such as wages and benefits, as trade secrets not disclosable to the general public. And the coming database of contractor misconduct will not be available to the public.

Opaque bid process and inadequate oversight

Instead of using the bid process as an opportunity to collect information about companies and evaluate their record before awarding contracts, the current process is marked throughout by numerous opportunities for obfuscation. Contracting reforms made during the Clinton administration, according to the Project on Government Oversight, "succeed to a point" in streamlining the contracting process, but they also "reduced contract oversight, making it difficult for government investigators and auditors to find waste, fraud and abuse."[67]

These opportunities have increased as outsourcing has grown rapidly under the Bush administration and more exotic contracts have become common. As a result, the bid process has since become a means to reduce accountability of public services to taxpayers.

The Federal Acquisition Regulation system that governs the contracting process for government agencies requires them to purchase goods or services from "responsible contractors," which must be evaluated on the basis of capacity (whether the bidding company has the staff and training necessary to carry out the task) as well as legal history. Though some federal agencies currently use a type of pre-award survey to screen contractors, the surveys are very limited, do not collect labor information, and fail to asses adequately a company's performance or record of compliance with the law.[68]

In the case of traditional cost contracts, bidders are expected to provide a budget that includes projected labor costs. But other types of contracts are performance-based and allow wide latitude for contractors to re-evaluate their projected costs once winning the contract. Deregulation of the contracting system under the Clinton administration led to a rise in the use of indefinite delivery/indefinite quantity, or IDIQ contracts in government parlance, cost-plus, and other types of untraditional contracts, which allow contractors not to disclose what they would charge for labor or how that money was actually spent.[69] The use of these

noncompetitive contracts expanded greatly under the Bush administration. For these untraditional contracts, there is very little information on contractors' labor standards or compliance available to the agencies contracting their services, and even less to the public.

The growing prevalence of no-bid contracts creates additional opportunities for obfuscation. Under the Bush administration, the number of contracts awarded without any competitive bid process at all has skyrocketed. A 2007 report by the House of Representatives Committee on Oversight and Government Reform found the value of no-bid and noncompetitive contracts awarded by the federal government had more than tripled under this administration, ballooning to $206.9 billion in 2006 from $67.5 billion in 2000.[70] Such no-bid contractors are under little pressure to prove their eligibility for a contract that is handed to them.

It is also important to note that excessive contracting, no matter the bid process, can weaken the government's ability to oversee contracts effectively. Work completed by the federal government is subject to a number of open-government rules, including the Freedom of Information Act, and the wages and benefits of workers is well known, but private contractors are not subject to the same level of openness.

In addition, excessive outsourcing can create a vicious circle, as agencies are starved of the resources necessary for them to monitor the newly outsourced activities. This opens up opportunities for corruption and the abuse of the competitive contracting process by businesses who undercut their more responsible competitors by paying low wages and skirting regulations.

Even less transparency for subcontractors

Many federal contracts call for services that the direct contractor is not in the business of providing. A typical weapons systems manufacturer for a Defense Department contract will not hire its own cleaners, for example. For these services—and most of the typically lowest paid service jobs—a contractor hires a subcontractor.

Because much of the work—sometimes the majority of labor—is carried out by subcontractors, the same protections and oversight that are required of contractors should be required of subcontractors as well. Indeed, federal law upholds the principle of equal accountability for any company receiving taxpayer money. Current Federal Acquisition Regulation provisions require both contractors and subcontractors to meet government expectations of responsibility: the capacity to compete the task, compliance with the law, and proper business ethics.[71]

Yet the information available for scrutiny becomes decidedly murkier the further one moves down the supply chain. Subcontractors, or those employers most likely to employ a low-wage workforce, receive the least scrutiny. Federal Acquisition Regulation provisions give broad latitude to employers to determine for themselves the responsibilities of their subcontractors. Though the federal government maintains the right to specify those responsibilities, in practice contractors are often assumed to monitor subcontractor standards and compliance with prevailing-wage laws on their own.

This lack of transparency for subcontractors makes it difficult to prevent workers and taxpayers from being harmed and also contributes to the problem described previously of contractors being reimbursed for high wages while their subcontractors are paying low wages to their employees. The government will soon begin compiling very limited information on subcontractors in a pilot study, such as the company name and dollar amount of the contract, in its Federal Procurement Data Systems database, which is a step in the right direction, but far more information is needed about subcontractors. Like the contractor information compiled in the Federal Procurement Data System, the subcontractor pilot survey will not compile wage or labor information. Unlike the FPDS, however, subcontractor survey information will not be made available to the public, only to federal contracting officers. There is clearly still an acute need for information about subcontractors to be more comprehensive and transparent.[72]

Contractor accountability shut down by the Bush administration

Instead of seeking to improve transparency, accountability, and working conditions for federal contractors, the Bush administration has taken a number of steps backward. The administration weakened worker protections and shut down efforts to increase transparency and accountability.

Undoing the contractor responsibility rule

One initiative by the Clinton administration to weed out contractors who had repeatedly broken the law, the Contractor Responsibility Rule, was immediately revoked by the Bush administration. Under current Federal Acquisition Regulation, contracting officers consider, among other factors, a company's past performance and capacity, in terms of possessing necessary organizational and technical capacity to complete a job, in determining its eligibility to bid. This changed the rules established by the Clinton administration's amendment to the Federal Acquisition Regulation, FAC 97-21, which clarified existing guidelines by which acquisition officers might find a contractor non-responsible—and thus ineligible to bid on future contracts—if "persuasive evidence" was found that a bidding company has a history of "substantial noncompliance" with the law, including labor, safety, and health regulations.

The initiative faced an immediate backlash from the contractor business lobby. The National Association of Manufacturers, United States Chamber of Commerce, Business Roundtable, Associated General Contractors of America, and the Associated Builders and Contractors vocally opposed the contractor-responsibility initiative and organized against it through the Capitol Group lobbying firm. These groups expressed fears that the executive order would give government contract officers the right to "blacklist" contractors found to be in violation of existing law.[73] Upon taking office, the Bush administration immediately ordered federal agencies to ignore FAC 97-21 and, through an act of incumbent rulemaking, replaced the order with FAC 2001-03.

Limiting federal contract workers' jobs security and right to organize

Upon taking office in 2001, President Bush issued three executive orders that used the contracting process to attack workers' job security and their rights to organize. He revoked Executive Order 12933 issued under the Clinton White House, which provided job security to service workers when federal service contracts changed hands by requiring the successor contractor to offer employment to its predecessor's workers.[74] This had provided job security to service workers and, under existing labor law, meant that unionized workers got to keep their union if sufficient numbers of them were hired by the successor contractor.

Bush also issued Executive Order 13201, which overturned an order requiring that employees be notified of their right to join a union and instead required that federal contractors inform workers of their rights not to join a union.[75] Finally, Bush issued Executive Order 12818 limiting the use of Project Labor Agreements for public projects. A PLA is a contract that companies and labor unions agree to before bidding on a government contract to encourage a good working relationship through the course of the project.[76]

In addition, as reported by The Wall Street Journal, in 2008, the Bush administration was considering issuing an executive order preventing government contractors from recognizing unions that had been elected using a card-check system in which workers can form a union if a majority of them sign a union-authorization card.[77] The final status of this proposal was not known as this report went to print.

Contractor compensation surveys shut down

Three government entities, the U.S. Army, the Department of Labor's Office of Federal Contract Compliance Programs, and the Office of the Director of National Intelligence, all made efforts to respond to the lack of information about wages and labor conditions for employees of federal contractors, yet the Bush administration for dubious reasons discontinued two recent surveys by the U.S. Army and OFCCP. A third survey covering contractors for federal intelligence agencies was made public in 2008 at the insistence of

Congress. Yet it did not cover low-wage service workers. The president then vetoed the Intelligence Authorization Bill for FY2008, which would have mandated the survey be continued. Each of these moves by the Bush administration merits closer examination.

U.S. Army wage survey

The shutdown of one wage survey of contractors demonstrates the extent to which labor information is kept inaccessible to the public. A pilot survey of defense contractors was conducted by the U.S. Army for FY2000, seeking to improve manpower-allocation and -prioritization decisions and identify redundancies among the $21 billion in services contracted by the Army. Among other information, the survey required Army contractors to report the work schedules and salaries paid to their employees, making it one of the first attempts to systematically collect this vital information.

Then the survey was shut down in 2001. The Department of Defense and the White House Office of Management and Budget asserted that the survey had violated federal rulemaking processes in the survey's design. Congressional outcry over the suppression of this survey led to the institution of a new DOD contractor reporting system. Under the Defense Authorization Act of 2006, defense contractors must report labor hours, total labor costs, and workforce size; however, salary and wage information is not collected. Currently the original survey data of 1,200 contractors representing $9.2 billion in service contracts is unavailable to the public.

Equal opportunity survey

Another unrelated survey ordered by the Department of Labor was similarly shut down by the Bush administration before it could be fully implemented. Under a new program developed by DOL's Office of Federal Contract Compliance Programs in 1999, contractors were to participate in an Equal Opportunity Survey so that the OFCCP could better determine how to detect and prevent discriminatory employment practices by federal contractors.

Two surveys were sent out in 2000 and 2003, soliciting compensation and personnel data from a total of 17,000 contractors. However, DOL determined the surveys to be of "limited utility" and discontinued the survey program. In a notice published in the Federal Register in 2006, the department cited both reports as having little predictive value. However, the authors of a report commissioned by DOL to evaluate the original survey results, Bendick and Egan Economic Consultants, disputed the decision by DOL to suspend the survey and maintained that their report "found exactly the reverse of what the Notice says it found."[78]

In an open letter, Dr. Marc Bendick maintains that the study did indeed have statistically significant predictive power to determine contractor noncompliance. Bendick urged the department to "implement the EO Survey requirement for all federal contractors."

Without the surveys, the OFCCP currently must rely on compliance reviews, for which the department only has resources to monitor four percent of all contractors for equal-opportunity compliance. As with the U.S. Army survey, it is likely that concerns with secrecy, and not predictive capacity, motivated the suspension of the OFCCP survey.

Intelligence community personnel inventory

In response to congressional concern, the Director of National Intelligence John Negroponte ordered various intelligence agencies to take an inventory of both staff and contracted employees, starting in FY2006, to determine whether the outsourcing of intelligence work was appropriate. Agencies reported labor expenditures in order to estimate wage, benefit, and projected lifecycle pension costs per full-time employee.

While not a direct wage survey by worker, the inventory generated an important first-time comparison of the scope of private contracting of intelligence work and how much the intelligence community spends on private contractors. As the focus of the study, only "core" personnel involved in intelligence collection and analysis and computer networking were counted. Excluded from the survey were service workers such as cafeteria food servers and security guards.

The Office of the Director of National Intelligence initially refused to release the 2006 inventory's findings to the public, citing "risks to national security." Only after further congressional pressure were the findings of the 2007 inventory made public. The following year, Congress ordered the ODNI to submit annual comprehensive reports accounting for the work of private intelligence contractors in its Intelligence Authorization Bill for FY2008. That bill was vetoed by President Bush, though this provision was not cited as a principal reason for the veto.

These three studies—the intelligence community personnel inventory, the U.S. Army wage survey, and the Equal Employment Opportunity survey—represent some of the only attempts by any federal agency to track the actual wages and benefits being paid to employees of federal contractors in order to monitor contractor waste and compliance with the law. The fact that all three initiatives have been so strongly resisted or suppressed strongly suggests a political motivation by an administration and contractor community eager to limit transparency of the procurement process. In addition, as the Bush administration leaves office, it is considering issuing a rule to limit the amount of wage data reported by contractors covered by Davis-Bacon prevailing-wage laws.[79]

Congress taking steps in the right direction

In recent years, Congress has taken steps in the right direction to address some of the problems highlighted in this report, passing a bill to increase public disclosure and introducing several others to improve oversight and transparency. These bills are important first steps, but far more is needed to protect workers and taxpayers. Recent congressional efforts include

- **The Federal Funding Accountability and Transparency Act.** Introduced with bipartisan support from co-sponsors Sens. Barack Obama (D-IL), Tom Coburn (R-OK), Tim Carper (D-DE), and John McCain (R-AZ) and signed into law in 2006, this bill established the searchable online database on federal contractors, the Federal Procurement Data System. The database tracks all federal contracts and grants, listing contracting agency, the contractor, and the total value of the contract.

- **The Strengthening Transparency in Federal Accountability Act of 2008.** This follow-up bill, also co-sponsored by Sens. Obama, Coburn, Carper, and McCain and Rep. Murphy (D-CT) in the House, would require the government to track contractors' unpaid tax debts, their records of overall compliance with a range of laws, including labor, environmental, and tax law, and make this information publicly available online. It would also put copies of federal contracts, not just summary information, online.

Several other contracting reform bills were introduced in both chambers in 2007 and 2008 before being incorporated into the National Defense Authorization Act for FY2009 as part of a "clean contracting" amendment. The Defense Authorization Act was signed into law on October 14, 2008, and includes the following pieces of legislation:

- **The Contractors Federal Spending and Accountability Act.** Introduced by Rep. Carolyn Maloney (D-NY) in the House and Sen. Claire McCaskill (D-MO) in the Senate, this bill creates a database of federal contractor misconduct for internal use by agency contracting officers. The database, which will only be made available to federal agency contracting officers, will compile records of any civil, criminal, or administrative proceedings related to contractors' performance under previous contracts.

- **The Government Funding Transparency Act.** Introduced by Rep. Patrick Murphy (D-PA) in the House, this bill amends the Federal Funding Accountability Act of 2006 to additionally require large contractors to disclose executive compensation figures and limit abuse-prone sole-source and cost-plus contracts.

- **The Close the Contractor Fraud Loophole Act.** Introduced by Rep. Peter Welch (D-VT) in the House and by Sen. Hillary Clinton (D-NY) in the Senate as the Guaranteeing Real Accountability in Federal Transactions Act, these two bills amend the Federal Acquisition Regulation provisions to require contractors to report overpayments for contracted services, including for those performed outside the United States.

- **The Accountability in Contracting Act.** Introduced by Rep. Waxman in the House and Sen. Susan Collins (R-ME) in the Senate, the bill curbs the use of cost-reimbursement contracts that are prone to fraud, waste, and abuse.

These contracting reform provisions, especially the creation of a federal contractor misconduct database, will be a step forward toward contractor accountability, if not greater transparency, for the database will not be made accessible to the public.[80] More can be done, however, by both the new Congress and the incoming Obama administration to ensure that contractors meet the high standards that taxpayers and workers deserve.

Recommendations

This report's findings make clear that the contracting process needs significant reforms. The federal government needs to live up to the letter and spirit of existing laws to ensure that contracted workers have decent jobs and taxpayers get the best value for their money. While better enforcement of existing laws and regulations will go a long way toward correcting many of the problems identified in this report, it will not solve them all. As a result, there is also a strong need to raise standards to protect workers better and ensure that the government is acting as a model employer.

Greater transparency

Currently, insufficient information about contractors and their workers is collected, the information that is collected is poorly organized, and too little information is available to the public. As a result, neither the government nor the public has the information it needs to make informed decisions when awarding and evaluating contracts. Improved transparency is necessary to ensure that contractors are complying with the law.

What is needed is a centralized system of records of federal contractors that can be accessed by federal contracting officers when evaluating bids. Such a system would not just monitor past contract performance but also link by a uniform identification the names of all companies currently doing, or seeking to do, business with the federal government to records of their compliance with all regulatory laws overseen by all federal agencies, as well as other information, such as Inspector General reports. The track record of potential contractors would be invaluable to help contracting officers protect workers and taxpayers when they are awarding contracts.

In addition, information on workers and labor standards that is currently left uncollected, such as the number of workers and their wages and benefits, must be compiled and made available as well through the same database. The U.S. Army wage survey and DOL's Equal Opportunity surveys are examples of projects that would have gathered this type of information.

The information in this centralized database should be made available to the public. In addition, federal contracts, not just summary information, should be available in the database. Only information that is truly secret should be prevented from being publicly disclosed.

The sunshine of public scrutiny is a powerful force for rooting out wasteful and abusive contracting. Contracting should not be a way to hide important information from the public.

The government has the greatest leverage to demand broader information from contractors during the bid process, rather than after it has awarded a contract. There is precedence at the state and municipal level for collecting a wide range of information during the bid process to screen contractors better. New York requires prospective contractors to complete a questionnaire that demands a company disclose any history of debarment or suspension by any government agency; violation of federal, state, or local law; and tax, financial, bonding, and other information. Additional questionnaires are submitted to each of the winning bidder's subcontractors and then fed into a centralized database accessible to all contracting officers.

Better enforcement and oversight

Too often, flagrant violators of employment, labor, safety, health, and tax law go unpunished and, in fact, are often rewarded with lucrative new contracts. Much can be done to correct these problems by simply enforcing the laws that are already on the books.

There is a need for more and better trained officers to ensure effective oversight. Currently, federal agencies do not have the human resources needed to review compliance records thoroughly of all companies bidding on federal contracts.[81] An increase in the hiring and training of contracting officers would significantly improve oversight of the bid process.

Targeted enforcement activities would also be a good first step to protect contracted workers from wage theft and ensure greater compliance with the law. Better monitoring of existing contracts and more extensive use of the debarment process to weed out the very worst contractors is also needed.

But trying to enforce high standards only after contracts have been awarded is particularly inefficient. Better is to prevent contracts from being awarded to low-road companies in the first place. Ensuring that workers and taxpayers are protected begins with proper scrutiny during the bid process—by subjecting all contracts to an open and competitive bid process that seeks to prevent contracts from being awarded to unscrupulous businesses in the first place.

An open and competitive process with important information available about a company's overall regulatory record in a centralized database will promote better-informed decisions and the awarding of contracts to only responsible businesses. An additional step toward promoting greater oversight during the bid process to prevent contracts from being awarded to companies with records of bad behavior is to require companies show proof of compliance with the law—such as payment of taxes and observance of worker-protection laws—as a precondition for entering into the contract bid process.

A number of states, including New York and Pennsylvania, currently use a type of pre-award survey to screen contractors.[82] Several federal agencies do as well, though their surveys are very limited and fail to adequately asses a company's performance or record of compliance with the law.[83]

Judicious use of contracting out

The outsourcing of federal jobs has rapidly increased under the previous two administrations. While determining exactly which types of services should be performed directly by the government and which should be contracted out is beyond the scope of this report, there is significant evidence that many inherently governmental functions, such as policy-making, procurement, and budgeting, are being performed by contractors.[84] Such inappropriate contracting can have profoundly harmful effects on the functioning of government.

Excessive contracting out is also more directly related to this report's focus on the working conditions of federal contractors. An over-reliance on contracting can lead to a transfer of jobs from government sectors where wage and benefit information, compliance with the law and performance records are easily known and enforced, to the private sector where they are not. In addition, excessive contracting can also hollow out government, depriving it of key staff with the knowledge and experience necessary to oversee contracts. Finally, contracting out is often done without public-private competition, even though federal employees often win such direct competition. Several agencies have saved taxpayers money by seeking to insource work.[85]

Efforts to address problems of poor performance and low job standards must therefore re-evaluate the drive to outsource so many federal jobs and ensure that only those services that are more capably and efficiently provided by the private sector are contracted out. Though deciding exactly what should be contracted out is beyond the scope of this report, carefully evaluating those services that are best contracted versus maintained in house would be a key step toward limiting fraud, waste, and abuse by bad contractors.

Raise job standards

While minimum standards are important in assuring that competition for federal contracts doesn't encourage low wages and poor working conditions, they do not go far enough. Even when the standards are adequately enforced, they exclude too many people and often fail to promote good jobs. The federal government should go beyond the prevailing-wage standards and adopt reforms that would better assure that government contracting leads to good jobs.

As a start, all contract workers should be covered by prevailing-wage laws, and prevailing-wage calculations should be reformed. But in addition, federal agencies should encourage a "best value" system that gives special consideration to responsible contractors with track records of delivering results and providing fair wages and benefits. Our procurement system should have explicit and enforceable mechanisms to reward and encourage contractors who treat their employees fairly.

Encouraging best value should be part of the contract bid process. Just as contractors should be required to demonstrate capacity and compliance with the law, so too should their employment practices (and those of their subcontractors) be a significant factor in the bid evaluation process.

Conclusion

Congress and the new Obama administration have a tremendous opportunity and responsibility to reform the contracting system so that it ensures that contracted workers have decent jobs and taxpayers get the best value for their money. Improving working conditions and holding companies accountable for how they treat workers not only helps uphold the federal government's role as a model employer but also benefits taxpayers by eliminating hidden welfare costs, improving the quality of services, and preventing wasteful and abusive contracts.

By making these needed reforms, we can protect taxpayers and federally contracted workers and ensure the contracting system works as it should. To the extent that any single recommendation might impose an additional cost on the government, which studies suggest is unlikely, it would be dwarfed by the agenda's ability to prevent waste, fraud, and abuse. As a result, promoting high standards is the right and the smart thing to do.

Congress has taken several steps in the right direction, but we can and must go further. Together, Congress and the Obama administration can reform government contracting so that it is transparent, holds companies accountable, and helps rebuild the American middle class.

Endnotes

1 "Welcome to USASpending.gov: Where Americans Can See Where Their Money Goes," available at http://www.usaspending.gov (last accessed July 2, 2008).

2 "US Department of Commerce Bureau of Economic Analysis: US Gross Domestic Product by State," available at http://www.bea.gov/regional/gsp (last accessed June 5, 2008).

3 Curtis Copeland, "The Federal Workforce: Characteristics and Trends" (Washington, D.C.: Congressional Research Service, 2008).

4 Paul Light, "Fact Sheet on the New True Size of Government" (Washington, D.C.: Brookings Institution, 2006).

5 Scott Amey, "Responsibility in Federal Homeland Security Contracting," Testimony before House Committee on Homeland Security, April 20, 2007.

6 U.S. Government Accountability Office, "Service Contract Act: Wage Determination Process Could Benefit from Greater Transparency, and Better Use of Violation Data Could Improve Enforcement" (2005).

7 Jane Zhang, "How Government Adds to Ranks of Uninsured," The Wall Street Journal, March 25, 2008.

8 Ibid.

9 Chauna Brocht, "The Forgotten Workforce: More than 1 in 10 Federal Contract Workers Earn Less Than a Living Wage" (Washington, D.C.: Economic Policy Institute, 2000). The study estimated more than 26 million workers, or 28 percent of the total contract workforce, were being paid below $8.20 per hour—the minimum necessary wage for a full-time worker with a family of four to live above the poverty line. Of those, one-third worked in the manufacturing sector, three percent worked in construction, and the majority (62 percent) worked in service occupations.

10 "Federal Contract Awards by Type of Product or Service," available at http://www.usaspending.gov (last accessed July 2, 2008).

11 William G. Whittaker, "Federal Contract Labor Standards Statutes: An Overview" (Washington, D.C.: Congressional Research Service, 2006).

12 Code of Federal Regulations, Title 48, Chapter 1, Part 9, Subpart 9.1—Responsible Prospective Contractors. Responsible Prospective Contractors details eligibility requirements for companies bidding on federal contracts, including satisfactory business ethics and compliance with applicable laws and regulation, and outlines contracting officers' duties in obtaining compliance information from bidders.

13 Eileen Boris, Home to Work: Motherhood and the Politics of Industrial Homework in the United States (Cambridge: Cambridge University Press, 1994).

14 Herbert C. Morton, "Public Contracts and Private Wages: Experience under the Walsh-Healey Act" (Washington, D.C.: Brookings Institution, 1965).

15 Whittaker, "Federal Contract Labor Standards Statutes."

16 Service Contract Act, S. Rep. No. 798, 89 Cong. 1 sess. (Government Printing Office, 1965). Reprinted in 1965 U.S. Code Cong. & Admin. News 3737.

17 Whittaker, "Federal Contract Labor Standards Statutes."

18 Ibid.; Fort Hood Barbers Association v. Herman, 137 F. 3d 308 (5th App 1998).

19 Ibid.

20 Whittaker, "Federal Contract Labor Standards Statutes."

21 Nooshin Mahalia, "Prevailing Wages and Government Contracting Costs" (Washington, D.C.: Economic Policy Institute, 2008).

22 David Card and Alan Krueger, Myth and Measurement: The New Economics of the Minimum Wage (Princeton, NJ: Princeton University Press, 1995).

23 Carol Zabin, Arindrajit Dube, and Ken Jacobs, "The Hidden Public Costs of Low Wage Jobs in California" (Berkeley, CA: University of California Institute for Labor and Employment, 2004).

24 U.S. Government Accountability Office, "Service Contract Act."

25 Ibid.

26 Federal Contractors: Historical Perspective on Noncompliance with Labor and Worker Safety Laws. Testimony before the Subcommittee on Oversight and Investigations, Committee on Education and the Workforce, House of Representatives, 105 Cong. 2 sess. (GPO, 1998).

27 U.S. Government Accountability Office, "Worker Protection: Federal Contractors and Violations of Labor Law" (1995).

28 Federal Contractors.

29 In contrast, a total of 12,919 fatalities occurred in all workplaces in the United States in the same two-year period. It is likely that accidents at these federal contractors occurred at a much higher rate than the national average. Workplace accident and fatality rates vary by industry, with most concentrated in agriculture, construction, trucking, and warehousing, and they are calculated per worker. The most recent data available from the Bureau of Labor Statistics show the national workplace accident rate to be 4.4 accidents per 100 workers in 2006 and the fatality rate to be 3.7 per 100,000 workers in 2007. See: Bureau of Labor Statistics, "Workplace Injuries and Illnesses in 2006" (Department of Labor, 2007); Bureau of Labor Statistics, "National Census of Fatal Occupational Injuries in 2007" (Department of Labor, 2008).

30 For example, "Hearing on Adequacy of Labor Enforcement in New Orleans," available at http://domesticpolicy.oversight.house.gov/story.asp?ID=1377 (last accessed June 25, 2007).

31 "Hearing on the Adequacy of Labor Enforcement in New Orleans: Chairman Kucinich's Opening Statement," available at http://domesticpolicy.oversight.house.gov/story.asp?ID=1394 (last accessed June 25, 2007).

32 Testimony of Paul DeCamp on Adequacy of Labor Law Enforcement in New Orleans, Hearings before the House Committee on Oversight and Government Reform Subcommittee on Domestic policy, 110 Cong. 1 sess. (GPO, 2007).

33 Testimony of Jeffrey Steele on Adequacy of Labor Law Enforcement in New Orleans, Hearings before the House Committee on Oversight and Government Reform Subcommittee on Domestic policy, 110 Cong. 1 sess. (GPO, 2007).

34 For examples: Mahalia, "Prevailing Wages and Government Contracting Costs;" "National Alliance for Fair Contracting: Prevailing Wage Studies," available at http://www.faircontracting.org/NAFCnewsite/prevwage.htm (last accessed November 2008); "SMACNA: Prevailing Wage Studies," available at http://www.smacna.org/legislative/index.cfm?fuseaction=studies (last accessed November 2008); "Fiscal Policy Institute: The Economic Development Benefit of Prevailing Wage," available at http://www.fiscalpolicy.org/FPI%20Prevailing%20Wage%20Brief%20May%2006.pdf (last accessed November 2008).

35 Special Coverage The Oregonian: Charity series, available at http://blog.oregonlive.com/oregonianspecial/charity_series/ (last accessed November 2008); U.S. Government Accountability Office, "Federal Disability Assistance: Stronger Federal Oversight Could Help Assure Multiple Programs' Accountability" (2007).

36 Scott Higham and Robert O'Harrow Jr., "The High Cost of a Rush to Security," Washington Post, June 30, 2005.

37 Personal communication from Scott H. Amey, General Counsel, Project on Government Oversight, August 30, 2005, available at http://www.pogo.org/pogo-files/letters/contract-oversight/co-rcv-20050830.html.

38 Peter Philips, Garth Magnum, Norm Waitzman, and Anne Yeagle, "Losing Ground: Lessons from the Repeal of Nine Little Davis-Bacon Acts." Working Paper (University of Utah Department of Economics, 1995).

39 Zabin, Dube, and Jacobs, "The Hidden Public Costs of Low Wage Jobs in California."

40 UNITE HERE! "Conduct Unbecoming: Sweatshops and the U.S. Military Uniform Industry" (New York: UNITE HERE!, 2006).

41 "POGO Federal Contractor Misconduct Database," available at http://www.contractormisconduct.org/ (last accessed July 19, 2008).

42 POGO argues that settlements belong in the contractor-misconduct database website because: "The majority of the misconduct instances involve civil, criminal, or administrative settlements. This should not come as a surprise, as corporations frequently resolve cases prior to a trial or widespread media exposure. Rather than risk going to trial, they often choose to settle the matter as a cost of doing business, often without having to admit culpability or wrongdoing. Many times, settlements provide companies with more control over the terms of the agreement and the public disclosure of the alleged wrongdoing. Nevertheless, inclusion of such agreements and settlements is essential for the government to learn more about a contractor's complete record of responsibility."

43 Labor-law violators include Boeing, found liable for gender and disability discrimination, recently awarded U.S. Army contract to build 11 new CH-47F Chinook helicopters; and Bechtel, found liable for age discrimination and retaliation against worker complaints, recently awarded Department of Energy contract for environmental cleanup at Oak Ridge, Tennessee. See "Boeing Awarded U.S. Army Contract for 11 New CH-47F Chinook Helicopters," available at http://www.boeing.com/news/releases/2008/q1/080227b_nr.html (last accessed November 2008); "Bechtel 2008 News," available at http://www.bechtel.com/2008.html (last accessed November 2008).

44 "County Asks For Bids To Replace Wackenhut On Metrorail Security," available at http://www.nbc6.net/news/16640661/detail.html (last accessed June 18, 2006).

45 Jeff Bobo, "Wackenhut workers at HAAP win $2.5 million in back pay," Kingsport Times-News, December 4, 2007.

46 UNITE HERE! "Conduct Unbecoming: Sweatshops and the U.S. Military Uniform Industry."

47 Whittaker, "Federal Contract Labor Standards Statutes."

48 "Contracts—Service Contract Act Labor Relations: Chapter 3—Applicability and Coverage," available at http://www.usace.army.mil/publications/eng-pamphlets/ep1180-1-1/c-3.pdf (last accessed November 2008).

49 For example: U.S. Department of Labor, "Compliance Assistance Employment Law Guide: Prevailing Wages in Service Contracts" (2007).

50 For examples: "Wage Determinations OnLine.gov," available at http://www.wdol.gov/ (last accessed November 2008).

51 U.S. Government Accountability Office, "Service Contract Act."

52 David Madland and Karla Walter, "Enforcing Change: Five Strategies for the Obama Administration to Enforce Workers' Rights at the Department of Labor" (Washington, D.C.: Center for American Progress, forthcoming).

53 Brennan Center for Justice, "Protecting New York's Workers: How the State Department of Labor Can Improve Wage-and-Hour Enforcement." (New York: NYU School of Law, 2006).

54 See for example, http://clinton.senate.gov/news/statements/record.cfm?id=289990, and GAO 2005.

55 U.S. Government Accountability Office, "Service Contract Act."

56 Ibid.

57 For other examples of repeat lawbreaking contractors: "POGO Federal Contractor Misconduct."

58 Assistant Secretary for Administration and Management, U.S. Department of Labor, "Evaluation of the Department of Labor's Policies and Procedures to Debar or Suspend Federal Contractors" (Department of Labor, 2000); U.S. Government Accountability Office, "DCAA Audits: Allegations That Certain Audits at Three Locations Did Not Meet Professional Standards Were Substantiated" (2008).

59 U.S. House of Representatives Committee on Oversight and Government Reform Majority Staff, "More Dollars, Less Sense: Worsening Contracting Trends under the Bush Administration" (2007).

60 Tresa Baldas, "Iraq Contractors Tap Law Firms," The National Law Journal, September 5, 2007.

61 Amey, "Responsibility in Federal Homeland Security Contracting."

62 "Stop Wasteful Spending and Curb Influence of Special Interest So Government Can Tackle Our Great Challenges," available at http://obama.3cdn.net/0080cc578614b42284_2a0mvyxpz.pdf (last accessed November 2008).

63 Ibid.

64 Project on Government Oversight, "Federal Contractor Misconduct: Failures of the Suspension and Debarment System" (Washington, D.C.: POGO, 2002).

65 Assistant Secretary for Administration and Management, "Evaluation of the Department of Labor's Policies and Procedures to Debar or Suspend Federal Contractors;" Government Accountability Office, "DCAA Audits."

66 Personal communication from William T. Woods, Director of Acquisition and Sourcing Management, GAO, December 30, 2003, available at http://www.gao.gov/new.items/d04295r.pdf.

67 Amey, "Responsibility in Federal Homeland Security Contracting."

68 For example: Charles Tiefer, "Non-responsibility in DHS Contractors: Who's Responsible? What can be Done?" Testimony before House Homeland Security Subcommittee on Management, Integration, and Oversight, April 20, 2007; U.S. Government Accountability Office, "Making Responsibility Determinations," (2007).

69 For a detailed analysis of the bid process for IDIQ contracts: Scott Lilly, "A Return to Competitive Contracting" (Washington, D.C.: Center for American Progress, 2007).

70 U.S. House of Representatives Committee on Oversight and Government Reform Majority Staff, "More Dollars, Less Sense."

71 Code of Federal Regulations, Responsible Prospective Contractors.

72 Robert Brodsky, "Pilot Program to Gather Subcontracting Data Moves Forward," GovernmentExecutive.com, Sept. 13, 2007, available at http://www.govexec.com/story_page.cfm?articleid=38015&dcn.

73 Federal Contractors.

74 The White House, Executive Order 13204: Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts (2001); Rescission of Regulations Pursuant to Executive Order 13204, issued February 13, 2001.

75 The White House, Executive Order 13201: Notification of Employee Rights Concerning Payment of Union Dues or Fees (2001).

76 The White House, Executive Order 13202: Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects (2001).

77 Kris Maher, "White House Prepares Order On Union Organizing," The Wall Street Journal, August 29, 2008, p. B4.

78 Office of Federal Contract Compliance Programs, "Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Equal Opportunity Survey" (Department of Labor, 2006).

79 73 Fed. Reg. no. 203, Monday, October 20, 2008.

80 "President Bush Signs Law Creating Contractor Responsibility Database," available at http://www.pogo.org/pogo-files/alerts/contract-oversight/co-fcmd-20081015-1.html (last accessed October 15, 2008).

81 "Ranks of Contracting Officers Grow, But Not Enough," available at http://www.ombwatch.org/article/blogs/entry/4989/52 (last accessed November 2008).

82 "Vendor Responsibility Documentation Requirements," available at http://www.osc.state.ny.us/vendrep/faqs.htm#c (last accessed November 2008); "Pennsylvania Dept. of General Services Procurement Handbook: Part I, Chapter 14, Contractor Responsibility," available at http://www.portal.state.pa.us/portal/server.pt?open=512&objID=1281&&PageID=244188&level=5&css=L5&mode=2&in_hi_userid=2&cached=true (last accessed November 2008); National Alliance for Fair Contracting, Inc. Resource Manuel Table of Contents," available at http://www.faircontracting.org/pdf/index.php (last accessed November 2008).

83 For example: Tiefer, "Non-responsibility in DHS Contractors."

84 Amey, "Responsibility in Federal Homeland Security Contracting;" "Federal Acquisitions Regulation, Subpart 7.503," available at http://www.arnet.gov/far/current/html/Subpart%207_5.html#wp1078196 (last accessed November 2008); "Inherently Governmental Functions: Government Agency vs. Private Sector Management," available at http://www.balancedscorecard.org/BSCResources/ArticlesWhitePapers/InherentlyGovernmentalFunctions/tabid/110/Default.aspx (last accessed November 2008).

85 Elise Castelli, "The Case for Insourcing," Federal Times, September 21, 2008.

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Acknowledgements

The authors would like to acknowledge the following people for their assistance: Lucas Lockhart, Jackie Iwata, Anthony Raglani, Steven Pennington, Scott Amey, Marc Bendick, Daniel Guttman, Adam Hughes, Gary Kalman, Paul Light and Tim Shorrock.

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