



Statement of Colleen M. Kelley
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On

**“Contractors: How Much Are They Costing the
Government?”**

Submitted to

**Senate Committee on Homeland Security and Governmental
Affairs Subcommittee on Contracting Oversight**

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Chairwoman McCaskill, Ranking Member Portman, and distinguished members of the Subcommittee, I would like to thank you for allowing me to provide comments on the costs of federal contracting. As President of the National Treasury Employees Union (NTEU), I have the honor of representing over 150,000 federal workers in 31 federal agencies and departments.

Madam Chairwoman, NTEU believes that in the current fiscal crisis, it is critical that the federal government look for ways to achieve cost savings wherever possible and to root out waste, fraud and abuse wherever they find it. One way in which NTEU believes that the federal government can best accomplish this is to reform the federal contracting process.

As you know, in recent years there has been an explosion in contract spending. This was primarily due to the previous administration's competitive sourcing agenda in which the jobs of federal employees were specifically targeted for public-private competition. As part of that effort, the rules governing these competitions were overhauled, quotas set for competed jobs, and grades given to agencies on their efforts in conducting competitions. The result of those efforts has been waste, fraud and widespread abuse in the contracting system and an over-reliance on federal contractors that has resulted in contractors performing functions that are clearly inherently governmental.

According to OMB, between 2000 and 2008, spending on Government contracts more than doubled, reaching over \$500 billion in 2008. Of greater concern was the amount of money spent on contracts awarded with no or inadequate competition during that period. According to OMB, total spending on contracts awarded without competition increased significantly from \$73 billion in FY 2000 to \$173 billion in FY 2008. Dollars obligated under contracts that were open to competition, but generated only one bid, also increased dramatically from \$14 billion in FY 2000 to \$ 67 billion in FY 2008. While there has been some fluctuation over the years, the percentage of contracts granted on a non-competitive basis has been in the range of 31 to 35 percent.

The explosion in contract spending has also resulted in a drastic increase in the size of the contract workforce, now estimated to be roughly five times the size of the civil service. With agencies so reliant on federal contractors, the in-house capacity of agencies to perform many critical functions has been eroded, jeopardizing their ability to accomplish their missions. It has also resulted in the outsourcing to contractors of functions that are inherently governmental or closely associated to inherently governmental functions.

One of the most egregious examples of the outsourcing of inherently governmental functions was the 2006 IRS private tax collection program. The program, under which private collection agencies were paid to collect taxes on a commission basis, was an unmitigated disaster. The program resulted in a net loss of almost \$5 million to the federal government and lead to taxpayer abuse. Further, at one juncture in the program, the IRS had to assign 65 of its own employees to oversee the work of just 75 private collection agency employees. Given the obvious failures of this undertaking, and in the face of strong opposition by NTEU and a broad range of consumer and public interest groups, Congress voted to cut off funding for the program. Then, in March 2009, after conducting a month-long, comprehensive review of the program, including the cost-effectiveness of the initiative, the IRS announced it was ending the program.

EFFORTS TO REFORM FEDERAL CONTRACTING

Madam Chairwoman, after taking office in 2009, President Obama quickly recognized that the federal contracting system was rife with waste, fraud and abuse and quickly took steps to reform the system. In 2009, the President directed agencies to save \$40 billion in contracting annually by the end of 2011 and apply fiscally responsible acquisition practices that better protect taxpayers from waste and cost overruns. The President's mandate has instilled a new sense of accountability in agencies, and the results are clear: after over a decade of dramatic contract growth that saw annual procurement budgets increase at an average rate of 12% per year between FYs 2000 and 2008, and by as much as 22 percent in a single year, the Administration has turned the tide and reduced contract spending.

OMB recently reported that federal agencies spent nearly \$80B less in FY 2010 than they would have spent had contract spending continued to grow at the same rate it had under the prior Administration. At that rate, contract spending would have reached a record \$615 billion. And in FY 2010, for the first time since 1997, overall contract spending declined from the previous year. In FY 2010, spending was \$535 billion versus \$550 billion in the prior year.

Agencies have achieved these savings through a combination of strategies including ending unnecessary or unaffordable contracts. They have also reduced their reliance on high-risk contracts, finding savings by competing contracts that, in the past, were awarded for higher prices on a sole-source or "no-bid" basis, as well as moving away from contracts where vendors are paid for the amount of time they spend working rather than for what they produce.

In addition, agencies have been directed to strengthen the acquisition workforce to help rebuild the capacity and capability that is needed to achieve and sustain better acquisition outcomes and improved government performance.

While NTEU believes good progress had been made in reforming the contracting process, we believe much more can be done. That is why we strongly support continuing the current moratorium on new A-76 competitions for federal work until the administration has fully implemented its plans to reform the contracting process. The President's budget proposes extending the moratorium through FY '13 and we would ask congress to support the President's request.

We also ask for your support for S.991, the "Correction of Longstanding Errors in Agencies Unsustainable Procurements (CLEAN UP) Act of 2011." This critical legislation, introduced by Sen. Barbara Mikulski (D-MD), would reduce waste, fraud, and abuse in government contracting by making substantive and long overdue reforms to the competitive sourcing process. These include ensuring that inherently governmental work or work closely related to inherently governmental work is actually performed by federal employees and by directing agencies to identify where such work is instead being performed by contractors and to bring that work back in-house over several years. The bill would also encourage agencies to give federal employees opportunities to perform new work and outsourced work that is being poorly performed and require agencies to establish contractor inventories to help determine which contracts include inherently governmental work, which contracts were awarded without competition, and which contracts are being poorly performed.

This legislation would also bring much needed reform to the discredited OMB Circular A-76 competitive sourcing process by ensuring that all costs of conducting competitions are considered and by imposing a temporary suspension on the use of A-76 studies until the OMB Director and the Inspectors General of the five largest agencies determine that all of the reforms required by this measure have been substantially implemented.

NTEU strongly believes the “CLEAN UP Act of 2011” will help reform and clean up the broken competitive sourcing process and ensure that federal sourcing is both fairer to federal employees and more accountable to taxpayers and we would ask for your support for this critical legislation.

CAPPING CONTRACTOR SALARIES

Madam Chairwoman, in addition to obtaining savings by reforming federal contracting and focusing on wasteful contract spending, NTEU believes further savings can be achieved by capping contractor salary reimbursement rates. Currently government contractors can charge taxpayers almost \$700,000 for the salaries of their top five employees, based on an executive compensation benchmark last amended in 1998. Employees of government contractors outside of the top five can and do earn taxpayer-funded amounts in excess of the current benchmark. Furthermore, according to OMB, unless Congress acts to limit executive compensation, they will be forced to raise the compensation level to nearly \$750,000 in the near future, in line with the congressional mandate to maintain parity with the private sector.

NTEU strongly believes that at a time when our economy is struggling, millions of Americans are unemployed, and our national debt and deficit continue to grow, taxpayers should not fund government reimbursements for private contractor salaries that are more than three times higher than the pay earned by Cabinet Secretaries.

Recently, Congress approved the National Defense Authorization Act of 2011 which extended the current salary reimbursement cap to all defense contractor employees, not just the top five employees. While the cap was not lowered and only would apply to defense contractors, NTEU believes it is a positive first step in reforming contractor pay. In the Second Session of the 112th Congress, NTEU will advocate instituting a cap on salary reimbursement for all contractor employees government wide, and lowering that cap to \$200,000. Recent studies have shown that lowering the cap to \$200,000 for all contractor employees would save \$50 billion over ten years.

We would note that Rep. Paul Tonko (D-NY) has introduced legislation in the House H.R. 2980, the “Stop Excessive Payments to Government Contractors Act of 2011,” that would institute a \$200,000 cap on salary reimbursement for all contract employees government wide, while in the Senate, Sen. Boxer (D-CA) and Sen. Grassley (R-IA) recently introduced bipartisan legislation, S.2198, the “Commonsense Contractor Compensation Act of 2012” which would cap salary reimbursements at \$400,000, equal to what the President earns. S.2198 was referred to the Committee on Homeland Security and Government Affairs and NTEU strongly urges the committee to consider this critical legislation.

CONCLUSION

Madam Chairwoman, thank you, again, for the opportunity to submit our views on federal contracting. NTEU believes that by continuing to require federal agencies to cut wasteful contract spending, reduce overreliance on contractors, and improve oversight and accountability, the federal government can better ensure that agencies are able to accomplish their mission and provide taxpayers with the best value.