



At Our Expense

Federal Contractors that Harm Workers
Also Shortchange Taxpayers

By Karla Walter and David Madland December 2013

Introduction

The federal government spends hundreds of billions of dollars every year contracting out government services ranging from the design and manufacture of sophisticated weapons systems to janitorial and maintenance work. Yet the review process to ensure that only responsible companies receive federal contracts is very weak, and too often the government contracts with companies with long track records of violating workplace laws. New analysis from the Center for American Progress Action Fund, or CAP Action, shows that contracting with companies with egregious records of workplace violations also frequently results in poor performance of government contracts.

Our analysis builds on a 2010 report from the Government Accountability Office, or GAO, which scrutinized the companies levied with the 50 largest workplace health and safety penalties and those that received the 50 largest wage-theft assessments between fiscal year 2005 and fiscal year 2009. The GAO investigation found that even after committing such violations, these companies frequently received new government contracts.¹ CAP Action—reviewing the same universe of companies analyzed by the GAO²—found that the companies with the worst records of harming workers were also often guilty of shortchanging taxpayers through poor performance on government contracts and similar business agreements in ways that defraud the government or otherwise provide a bad value for taxpayers.³

Among the 28 companies that received the top workplace violations from FY 2005 to FY 2009 and subsequently received federal contracts, a total of seven companies—or 25 percent—also had significant performance problems.⁴

These performance problems ranged from contractors submitting fraudulent billing statements to the federal government; to cost overruns, performance problems, and schedule delays during the development of major weapons systems that cost taxpayers billions of dollars; to contractors falsifying firearms safety test results for federal courthouse security guards; to an oil rig explosion that spilled millions of barrels of oil into the Gulf of Mexico.

Although the federal government does not provide data on the frequency of performance problems across all federal contractors for comparison, the fact that one in four contractors with persistent or egregious workplace violations subsequently provided bad value for the government signals a serious cause for concern.

While this CAP Action analysis represents new evidence that companies who flout workplace laws also often show disregard for taxpayer value, our evaluation is not the first to find this link. Thirty years ago, the U.S. Department of Housing and Urban Development found a “direct correlation between labor law violations and poor quality construction” on HUD projects, and found that these quality defects contributed to excessive maintenance costs.⁵

Similarly, a 2003 Fiscal Policy Institute survey of New York City construction contractors found that contractors with workplace law violations were more than five times more likely to receive a low performance rating than contractors with no workplace law violations.⁶ And a 2008 CAP Action report found a correlation between a contractor’s failure to adhere to basic labor standards and wasteful practices.⁷ Indeed, it is increasingly common for private-sector companies to factor in a bidder’s workplace safety record in contracting decisions.⁸

The federal government could have prevented many of these performance problems by reviewing companies’ records of workplace violations before awarding a government contract and excluding those companies with persistent or egregious violations. This sort of examination is supposed to occur—federal regulations require that contractors have a satisfactory record of performance, integrity, and business ethics,⁹ in order to ensure that the government only does business with responsible companies with good performance records.¹⁰

The existing tools to ensure that this actually happens, however, are woefully inadequate. The federal database tracking contractor responsibility—the Federal Awardee Performance and Integrity Information System, or FAPIIS—is largely dependent on self-reported data even though official records such as workplace and environmental violations are already collected by enforcement agencies and made publicly available in government enforcement databases.¹¹

The FAPIIS database includes only the legal violations committed by a company while working on federal contracts or grants, but not information on these contractors' private-sector compliance history.¹² What's more, most workplace violations are excluded due to high thresholds for reimbursement, restitution, and damages.¹³ This means that federal contracting officers may miss more than half the story about a company's record of compliance.

Moreover, enforcement agencies provide no analyses of contractors' legal records, and contracting officers receive no guidance from existing regulations on how to evaluate bidders' responsibility records. A contracting officer would have to sift through millions of compliance records—evaluating everything from companies' tax and environmental violations to workplace safety and pay records—and use their own judgment about whether past violations are enough to find a contractor not responsible.¹⁴ As a result, the new database has not formed the basis of rigorous responsibility review.

We profile the performance problems of the contractors revealed by our analysis in the following section.

CAP Action has previously detailed a number of policy reforms that would help address these issues,¹⁵ but in order to maintain focus on the problems in the contracting system, we do not repeat our recommendations here.

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