



Contracting that Works

How State and Local Governments Can Uphold High Standards for Workers, Business, and Taxpayers

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Introduction and summary

State and local governments finance millions of jobs across our economy with the hundreds of billions of dollars that they spend each year to purchase goods and services. Yet jobs created through government contracting are often substandard, paying very low wages and involving poor working conditions where workplace law violations are common.¹ Such jobs hurt not only the workers, but they also undermine the quality of goods and services that are delivered to government agencies and the public. This often results in significant hidden costs for taxpayers.

Scores of state and local governments have taken an important step to raise standards for workers by requiring that public contractors pay their workforces a nonpoverty wage—either through living wage laws or prevailing wage laws. These laws have a significant impact on the lives of workers who are employed by contractors, they uphold government’s promise to function as a model employer, and they help raise wage standards throughout the local economy.

But state and local leaders can do more to raise standards for government-supported work. Growing numbers of state and local governments are adopting additional “responsible contracting” reforms to improve the quality of jobs generated by their procurement spending—a suite of policies to help raise the wages and improve the benefits of workers who are employed by contractors; to ensure that only law-abiding companies that respect their workers receive government contracts; and to contract out only those services that public employees cannot capably and cost-effectively perform.

When governments adopt these standards, it is good not only for workers but also for law-abiding businesses that respect their workers. Indeed, without strong standards, these companies choose too often not to bid on contracts or are forced to compete against low-road companies that harm their workers by paying below-market wages, providing poor benefits, or reducing costs by committing wage theft or cutting corners in workplace safety.

For example, after the District of Columbia enacted legislation to help ensure that only companies that comply with workplace laws are able to receive government contracts,² Allen Sander, chief operating officer of Olympus Building Services Inc., explained:

*Too often, we are forced to compete against companies that lower costs by short-changing their workers out of wages that are legally owed to them. The District of Columbia's contractor responsibility requirements haven't made the contracting review process too burdensome. And now we are more likely to bid on contracts because we know that we are not at a competitive disadvantage against law-breaking companies.*³

Moreover, a review of state and local contracting practices by the National Employment Law Project found that adoption of contracting standards often has resulted in decreased employee turnover with corresponding savings in restaffing costs.⁴ For example, after San Francisco International Airport adopted a wage standard, annual turnover among security screeners fell from nearly 95 percent to 19 percent—saving employers about \$4,275 per employee per year in restaffing costs.⁵

Finally, by raising workplace standards among government contractors, state and local governments can ensure that taxpayers receive a good value. When workers are poorly compensated or do not receive all of the wages that they earn, taxpayers often bear hidden costs by providing services to supplement workers' incomes, such as Medicaid, Earned Income Tax Credits, and nutrition assistance.⁶

Also, research finds that when contractors shortchange their workers, they often deliver a poor-quality product to taxpayers. A 2003 survey of New York City construction contractors by New York's Fiscal Policy Institute found that contractors with workplace law violations were more than five times as likely to have a low performance rating than contractors with no workplace law violations.⁷

A 2013 report from the Center for American Progress Action Fund found that one in four companies that committed the worst workplace law violations and received federal contracts later had significant performance problems ranging from “contractors submitting fraudulent billing statements to the federal government; to cost overruns, performance problems, and delays during the development of a major weapons system 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.”⁸

Indeed, promoting higher standards helps ensure that taxpayers receive a good value by encouraging more companies to bid on projects. For example, after Maryland implemented a contractor living standard, the average number of bids for contracts in the state increased by 27 percent—from 3.7 bidders to 4.7 bidders per contract.⁹ Nearly half of contracting companies interviewed by the state of Maryland said that the new standards encouraged them to bid on contracts because it leveled the playing field.¹⁰

This report identifies the best practices in government contracting that are allowing state and local governments to significantly raise standards for workers and secure better value for taxpayers. The report is an update and expansion of a 2010 report by the Center for American Progress Action Fund and the National Employment Law Project.¹¹

Our recommendations include:

- Review carefully the decisions to contract out
- Prescreen contractors for responsibility
- Use comprehensive criteria to evaluate bidders
- Uphold high standards for wages and benefits
- Implement incentives to raise wages and benefits above the legal floor
- Perform strong post-award enforcement
- Increase data collection and transparency

The authorities who are adopting these models range from state, city, and county governments, to airport and economic development authorities, to community colleges and school districts. Governing bodies at all levels should use this toolkit to replicate and expand on these successful reform models. Even governments that have pioneered the contracting practices cataloged here have opportunities to improve them further.

Moreover, governments can broaden the reach of these standards by expanding their coverage to include other private-sector jobs supported with taxpayer dollars or with significant government oversight. This can include, for example, broadening the types of governing authorities that are adopting these requirements and extending coverage to nonprofit organizations, as well as to companies that are receiving economic development subsidies. (for more on this topic, see text box on page 16)

Finally, some of the best practices profiled here are incomplete without the adoption of others. For example, without strong post-award enforcement that allows for stakeholder involvement and reporting, law-breaking companies may violate living wage laws and yet continue to receive government contracts. And while prescreening of contractors for responsibility ensures an even playing field for law-abiding companies that are competing for government contracts, these policies should be used in addition to prevailing standards and a comprehensive bidder evaluation process that reviews factors such as price, experience, and past performance. This will provide an advantage to companies that take the high road.

In the following pages, we present detailed descriptions and examples of governments that are adopting each of these key strategies as an example for other locales to learn and implement new measures. This in turn ensures that the government procurement process benefits workers, taxpayers, and high-road companies.

The effects of state pre-emption laws on local contracting reform efforts

Local governments are increasingly at the forefront of enacting progressive reforms to ensure that all residents have access to good jobs that pay family-supporting wages and provide decent benefits. In recent years, for example, a number of cities—including Oakland, California; Seattle, Washington; Washington, D.C.; Louisville, Kentucky; and Chicago, Illinois—have raised municipal minimum wages or enacted earned sick leave for all residents.¹²

Yet local government's power to boost communitywide wage and benefits standards above state and federal requirements is largely derived from state law. And conversely, state governments have the authority to pre-empt local authority to raise wage standards. Groups such as the American Legislative Exchange Council, or ALEC, and state affiliates of both the National Restaurant Association and the National Federation of Independent Business are increasingly focused on lobbying state lawmakers for legislation to prohibit progressive local wage and benefit standards.¹³

As a result, a growing number of state governments have pre-empted cities from establishing local minimum wage and

benefits standards, such as earned sick leave requirements. While a number of these pre-emption laws cover only municipalitywide efforts to raise standards, at least 13 states have enacted legislation, including 12 in the past five years, that pre-empts local governments from establishing wage and benefit requirements for workers on government contracts.¹⁴

Local officials should carefully review the state statutes before determining what to include in a contractor responsibility reform agenda. Other best practices outlined in this toolkit—including reviewing carefully the decisions to contract out; prescreening contractors for responsibility; using comprehensive criteria to evaluate bidders; performing strong post-award enforcement; and increasing data collection and transparency—are less likely to be subject to state-level pre-emptions.

Local officials should also work to overturn these pre-emptions and thereby ensure that state laws empower cities to innovate and experiment—with the hope that it leads to successful policy models that can be replicated by other cities, as well as by state and federal governments.

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The Center for American Progress Action Fund is an independent, nonpartisan policy institute and advocacy organization that is dedicated to improving the lives of all Americans, through bold, progressive ideas, as well as strong leadership and concerted action. Our aim is not just to change the conversation, but to change the country.

Our Values

As progressives, we believe America should be a land of boundless opportunity, where people can climb the ladder of economic mobility. We believe we owe it to future generations to protect the planet and promote peace and shared global prosperity.

And we believe an effective government can earn the trust of the American people, champion the common good over narrow self-interest, and harness the strength of our diversity.

Our Approach

We develop new policy ideas, challenge the media to cover the issues that truly matter, and shape the national debate. With policy teams in major issue areas, The Center for American Progress Action Fund can think creatively at the cross-section of traditional boundaries to develop ideas for policymakers that lead to real change. By employing an extensive communications and outreach effort that we adapt to a rapidly changing media landscape, we move our ideas aggressively in the national policy debate.

