



# High-Road Government

## A Contracting Policy that Helps Workers, Taxpayers, Businesses and the Environment

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The way that the government chooses contractors may seem like an arcane and unimportant topic, but President Obama can actually provide a big win for workers, taxpayers, law-abiding companies, and the environment by adopting a high-road contracting policy.

The federal government contracts out everything from janitorial services to the design and manufacture of sophisticated weapons systems, and spends more than \$500 billion per year employing a massive contracting workforce. Federal contracting has expanded rapidly in the last decade so that 43 percent of all employees who do the government's work are now employed by private businesses.

A high-road contracting policy would help raise job standards, ensure that only law-abiding companies receive government contracts, improve the quality of services provided to the government, and prevent waste of taxpayer dollars. It does this by encouraging federal agencies to contract with companies that invest in their workers and not doing business with companies that significantly or persistently violate environmental, workplace, and other laws.

The federal government has been awarding contracts and leases to low-road companies that egregiously violate the law, damage the environment, and treat their workforce poorly for far too long. As the BP oil disaster clearly demonstrates, companies that persistently break the law are a bad business risk for taxpayers and can cause substantial harm to the public interest.

And when companies can't hold onto their employees because of extremely low wages and benefits, taxpayers often receive low-quality work and bear additional costs through programs such as Medicaid and the Earned Income Tax Credit—in effect providing a subsidy for low-road companies. A study of federal apparel contractors found that workers commonly had to supplement their meager incomes with government assistance. Each 100-person factory qualified for approximately \$292,000 in public assistance annually.

Previous executive orders to reform government contracting have successfully raised standards not only for contracted workers, but also across the broader economy. Because companies that have contracts with the federal government employ 22 percent of the entire American workforce, high-road contracting has the potential to improve conditions for millions of workers.

### Solution

The Center for American Progress Action Fund and the National Employment Law Project together have developed the high-road contracting proposal that would ensure that the government:

- Doesn't reward companies with federal contracts that significantly or persistently violate workplace, environmental, tax, or other laws
- Encourages federal agencies to do business with companies that invest in their workers

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## Proposal elements

Significant or persistent violators of workplace, environmental, tax, consumer protection, fraud, or other laws should not be awarded federal contracts.

Current rules are supposed to ensure that the government only does business with responsible, law-abiding companies with good performance records. But the existing tools to ensure this actually happens are woefully inadequate.

The high-road contracting proposal would help fix this problem by establishing a strong responsibility review that pre-screens companies based on their overall record before they can receive a new contract. The high-road proposal would enable agency officers to make thorough and accurate responsibility determinations by:

- Clarifying the standards for evaluating whether bidders demonstrate a satisfactory responsibility record
- Strengthening the existing contractor responsibility database by including contractors' complete records of legal violations—including workplace law violations
- Requiring that appropriate government agencies supply guidance to government procurement officials on how to interpret a company's legal record
- Increasing public access to responsibility and workplace information

The government should encourage federal agencies to do business with companies that invest in their workers.

The high-road contracting guidelines should require federal agencies to evaluate contract bidders on the quality of their labor and workplace practices. Most federal contracts are awarded based on a “best value” approach in which the government considers price along with a number of noncost factors, which may include bidders' past performance, small business subcontracting plan, technical approach, and managerial capacity.

The primary aim of this evaluation process is for the federal government to obtain the best value. But it also serves to advance socioeconomic goals such as promoting small businesses or directing contracting to underserved areas. Scoring the quality of labor practices will increase the likelihood that companies with better practices will win contracts and therefore encourage companies to adopt more positive workplace practices.

This will help improve job standards for workers on government contracts and likely have ripple effects across a much wider swath of the American labor market. The millions of workers who do not work directly on government contracts but are employed by companies that profit from federal contracts are also likely to benefit, just as they have benefited from similar executive orders, such as those by Presidents John F. Kennedy and Lyndon Johnson ensuring that women and minorities can compete for contracting jobs free of discrimination. Weighing the quality of labor practices will also benefit taxpayers through reduced hidden costs to public assistance programs and performance improvements associated with high-road employment practices.

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## Implementation

Contracting reforms will require effective and ongoing implementation. State and local governments have effectively implemented similar policies, and the high-road proposal builds upon these best practices by calling for a centralized evaluation process and ongoing stakeholder input to ensure that the proposal is both practicable to administer and effective in promoting its policy goals.

Centralized administration and stakeholder oversight of high-road contracting will ensure that the federal government is able to streamline and standardize processes; contracting officers are not overburdened; agencies consistently apply responsibility and job quality standards; and contracting agencies buy into the process.