Talking Points: Non-Competitive Contracts Coburn Amendment #176

Amendment Would require all contracts, grants and cooperative agreements awarded under this act be competitively bid.

The Federal Government awards hundreds of billions of dollars annually in contracts and grants.

It is becoming a common practice for agencies and Congress to bypass the federal process for competitively awarding contracts and grants.

To ensure that Members of Congress and the Federal government are good stewards of American taxpayer dollars, this amendment would simply require that all grants and contracts awarded under this act follow the government's guidelines and be competitively bid

Contracts and Grants Awarded Under This Bill Should Not Be Exempt From Competition

Under normal circumstances, federal funding for grants and contracts is required to undergo competitive procedures.

A "no-bid" grant or contract is government funding that goes to an entity without having to go through standard competitive procedures.

Specifically, the amendment requires all funding to comply with the following competitive contracting laws:

 Section 303 of the Federal Property and Administrative Services Act of 1949: This section of law requires that competitive procedures be in place for all procurements with a limited number of exceptions. 10 U.S. Code 2304: This section requires that competitive procedures be used for all Defense contracts.

Federal Acquisition Regulation: This is the 2,000-page regulatory guide for federal procurement that provides a detailed explanation of how to conduct "full and open competitions."

"No-bid" Contracts and Grants have been on the rise in recent years

According to the most recently published Consolidated Federal Funds Report (CFFR), federal agencies award over \$1.2 trillion in financial assistance in 2008:

- More than \$400 billion in grants,
- \$453 billion in contracts, and
- \$22 billion in direct loans.¹

In 2000, the federal government awarded \$67.5 billion in non-competitive or limited competition contracts; that figure rose to \$145 billion in 2005, an increase of 115%.²

The House Committee on Government Reform issued a report on the number of contracts awarded without full competition at DHS increased 739 percent from 2003 to 2005, to \$5.5 billion, more than half of the \$10 billion in contracts awarded by the Department that year.³

According to the Sunlight Foundation, the amount of contracting dollars not subject to any competition at all has risen between 2004 and 2007:⁴

\$121 billion in 2004 \$119 billion in 2005

\$134 billion in 2006

\$135 billion in 2007 (latest year for which complete data is available)

¹ http://www.census.gov/prod/2008pubs/cffr-07.pdf; http://usaspending.gov/

² Dollars, Not Sense: Government Contracting Under the Bush Administration. United States House of Representatives, Committee on Government Reform - Minority Staff, Special Investigations Division, p. 7-9.

³ House Committee on Government Reform report: *Waste, Abuse, and Mismanagement in Department of Homeland Security Contracts*; July 2006, pg 3.

⁴ www.fedspending.org

The Stimulus Contains Billions in Non-Competitive Earmark Spending

Earmarks are a form of non-competitive spending, and the bill contains billions of dollars in earmarks.

\$2 billion is allocated to the FutureGen clean coal powerplant in Matoon, Illinois.

\$75 million is allocated to a State Department training facility in West Virginia.

\$750 million for the National Computer Center in Maryland.

It is unfair to the taxpayer when Congress or the Administration awards contracts and grants without requiring them to go through a merit competition.

The bill should put safeguards in place to ensure that the remaining hundreds of billions of dollars in the bill are shielded from non-competitive procedures.

Competition Reduces Costs and Saves Taxpayers' Money

The competitive process helps ensure that the government receives the highestquality products for the least amount of money.

Without competition, earmarks and no-bid contracts have caused the American taxpayer to spend untold billions on wasteful purchases.

The Government Accountability Office has placed the Department of Defense contract management on its High-Risk List in part because of the increase in non-competitive contracting.

The tally for Hurricane Katrina waste has surpassed \$1 billion dollars because of lucrative government contracts awarded with little competition.⁵

⁵ Hope Yen. "Katrina waste: \$1 billion just a beginning?; Auditors expect figure to balloon when no-bid contracts get scrutiny," The Decatur Daily/Associated Press, December 26, 2006;

Several of the contracts were hastily given to politically connected firms in the aftermath of the 2005 storm and were extended without warning months later. Critics say the arrangements promote waste and unfairly hurt small companies.

According to a report issued by the Democrat staff of the House Government Reform Committee, the government awarded 70 percent of its contracts for Hurricane Katrina work without full competition.

The report found that out of \$10.6 billion in contracts awarded after the storm, more than \$7.4 billion were handed out with limited or no competitive bidding.

In addition, 19 contracts worth \$8.75 billion were found to have wasted taxpayer money at least in part, costing taxpayers hundreds of millions of dollars, according to the report.⁶

The Senate Has Supported Competition in The Past

In May 2006, the Senate voted 98 to zero to require that emergency hurricane relief and recovery contracts exceeding \$500,000 be subject to competitive procedures.⁷

Three other similar amendments regarding no-bid contracts were agreed to by unanimous consent in the Senate.⁸

<u>lis/bdquery/D?d109:6:./temp/~bdAxyV:dbs=n:|/billsumm/billsumm.php?id=2|</u>; Senate Amendment 4624 to H.R.5441, July 12, 2006, http://www.congress.gov/cgi-

lis/bdquery/D?d109:7:./temp/~bdAxyV:dbs=n:|/billsumm/billsumm.php?id=2|

⁶ "Study: Millions wasted in Katrina contracts; 70% of contracts awarded without full bidding, Democratic report says," MSNBC, August 24, 2006; http://www.msnbc.msn.com/id/14502390/.

⁷http://hsgac.senate.gov/index.cfm?FuseAction=PressReleases.Detail&Affiliation=r&PressRelease_id=%20494%20 %20&Month=9&Year=2003

⁸ Senate Amendment 2605 to S. 2020, November 17, 2005, http://www.congress.gov/cgi-lis/bdquery/D?d109:1:./temp/~bdAxyV:dbs=n:|/billsumm/billsumm.php?id=2|; Senate Amendment 4254 to S.2766, June 16, 2006, http://www.congress.gov/cgi-