

Amendment ____ – Prohibits the Payment of Bonuses to Government Contractors for Poor Performance

Taxpayers are outraged that in a time of economic crisis where working families are losing their jobs and making hard choices about how they spend their money, the federal government continues to pay out bonuses and award fees for contractors who perform unsatisfactory work.

This amendment would prohibit the Department of Homeland Security from paying out bonuses to government contractors that have failed to complete their contract work in a satisfactory manner.

The federal government has awarded billions of dollars of examples unwarranted federal bonuses over the past decade.

There are numerous examples of the Department of Homeland Security not getting the message on these award fees. According to GAO These include:

- (1) The Department of Homeland Security paid 100% of a bonus that a contractor failed to earn in an evaluation period in a later period.
- (2) In a Customs and Border Protection contract for maintenance of aircraft, the contractor switched to a more costly method of hazardous waste disposal to reduce its own perceived risks without communicating with the government. The evaluation noted that the contractor's approach was egregious and gave the contractor the minimum score while still passing, which allowed it to earn a partial fee for that period.
- (3) DHS officials are unaware of Office of Management and Budget guidance on award fees issued in 2007, which require that no award fees be given for unsatisfactory work.
- (4) Award fees are given out inconsistently across the Department of Homeland Security.
- (5) DHS does not collect data on the use of their award fees to determine whether they are improving the performance of their contracting or even achieving program outcomes.

(6) Contracting officials at DHS that develop and execute award fee guidance and practices were not specifically represented in interagency working groups created by OMB, **were not aware** of either of these groups, and **were not asked** to provide opinions, perspectives, or experiences to either group. The purpose of these groups is to improve award fee execution across the federal government.

The Department of Homeland Security could save taxpayers millions of dollars every year by linking award fees to outcomes and adding transparency to how federal bonuses are awarded.

This amendment simply requires that the Department of Homeland Security ensures that no award fee or bonus is paid for contractor performance that is judged to be below satisfactory performance or performance that does not meet the basic requirements of the contract or significantly exceeds the original cost estimate.

This amendment is already required by the Office of Management and Budget and is in law at the Department of Defense. GAO believes that this requirement and other guidance that improved the use of award fees has already saved around half a billion dollars at DOD.

The Department of Homeland Security has been paying awards and incentives to contractors that do not fulfill the terms and conditions of their contracts. These are intended to be paid only for outstanding performances on contracts but are routinely paid out without regard to performance.

This amendment seeks to end this process and require performance as a prerequisite for award fee bonuses. My amendment specifically requires that a contractor cannot receive an award fee unless the contractor has met the basic requirements of the contract.

This amendment has the potential to save the Department of Homeland Security millions of wasted tax dollars every year and improve contractor performance.

Award and incentive fees are often used in contracts to encourage outstanding performance. But too often these awards are given without regard to performance. This amendment prohibits unsatisfactory performance from being rewarded. It sets a higher standard for defense contractors and requires them at least to satisfy the basic requirements of a contract in order to be eligible for any award or incentive fee.

This amendment just makes it clear that unsatisfactory work should never be eligible for an award. Contractors can and must be held to a higher standard when families across the country are suffering.