

Amendment 895 – Ending No Bid Contracts by Requiring Competitive Bidding

Establishes a deficit-neutral reserve fund to end abusive no-bid contracts by requiring all federal contracts over \$25,000 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 standard process that awards funding for federal projects based upon open and fair bidding between potential contractors, and to instead steer federal funds to politically well-connected companies.

In 2006, the federal government spent \$206.9 billion on contracts awarded without full and open competition, up from \$67.5 billion in 2000.¹

During his campaign for President, Barack Obama pledged to change the way Washington spends taxpayers' money, in part, by eliminating no bid contracts.

This amendment expresses the support of all Senators for President Obama's efforts to end abusive no-bid contracts by requiring all federal contracts to be competitively bid.

President Obama Has Pledged To End No-bid Contracts By Requiring Virtually All Government Contracts To Be Competitively Bid

Last year, then-candidate Barack Obama stated "for too long, Washington politicians have wasted billions on no-bid contracts" and he promised to "end abusive no-bid contracts."²

As part of his 'Blueprint for Change,' Obama pledged to 'ensure that federal contracts over \$25,000 are competitively bid.'³

¹ Obama for America, "THE CHANGE WE NEED IN WASHINGTON," September 17, 2008; http://obama.3cdn.net/0080cc578614b42284_2a0mvyxpz.pdf.

² Obama for America, "THE CHANGE WE NEED IN WASHINGTON," September 17, 2008; http://obama.3cdn.net/0080cc578614b42284_2a0mvyxpz.pdf.

Contracts and Grants Should Not Be Exempt From Existing Laws Requiring Competition For Federal Grants And Contracts

A “no-bid” grant or contract is government funding that is provided directly to an entity that bypasses the standard process for awarding government funding in which competing bids are solicited in order to select the most cost efficient and qualified entity to perform a service.

According to the most recently published Consolidated Federal Funds Report (CFFR), federal agencies award over \$880 billion in financial assistance alone: \$470 billion in grants, \$381 billion in contracts, and \$29 billion in direct loans.⁴

Competition Reduces Costs And Saves Taxpayers’ Money

The competitive process helps ensure that the government receives the highest-quality products for the least amount of money. Without competition, relying on earmarks and no-bid contracts to award government projects will cost American taxpayers billions of dollars more to pay for the same or lower quality services.

Competitive bidding is good for taxpayers because it ensures the government gets the best price to complete a project.

The New York Times reported earlier this week that competitive bidding of economic stimulus funding was saving money, ensuring more projects could be completed with less funding:

“Pennsylvania officials said contractors competing for their first round of road and bridge projects had offered bids 15 percent lower than the state had expected. Utah officials said some of their

³ Organizing for America (a project of the Democratic National Committee), “Obama Biden Blueprint for Change; Plan for Restoring Fiscal Discipline,” 2008; <http://www.barackobama.com/issues/fiscal/>

⁴ U.S. Census Bureau, “Consolidated Federal Funds Report for Fiscal Year 2005,” September 2007, p. v, at <http://www.census.gov/prod/2007pubs/cffr-05.pdf>.

bids were coming in 25 percent lower than expected. And a bid to build a 4.7-mile extension of Interstate 49 from Shreveport, La., toward the Arkansas state line came in at \$31.1 million, about \$4.7 million less than the Louisiana Department of Transportation and Development had estimated the project would cost. ... If the low bids keep coming and the price of construction material stays low, the Utah Department of Transportation hopes to get more work done with the stimulus money than expected, said Nile Easton, a spokesman for the agency. 'We're hoping that we can actually stretch that money,' he said. ... [I]f projects continued to cost less than expected, they added, they would simply tackle more of them. ... 'I think it's a good deal for taxpayers, and taxpayers need a good deal right now,' Patrick Cooney, a spokesman for the Oregon Department of Transportation, said."⁵

In contrast, the Government Accountability Office (GAO) 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 largely as a result of lucrative government contracts awarded with little competition.⁶ 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

⁵ Michael Cooper, "Companies Pretty Up Prices to Win Stimulus Projects," The New York Times, March 29, 2009; http://www.nytimes.com/2009/03/29/us/29bids.html?_r=1.

⁶ 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;

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.⁷

“No-bid” Government Contracts And Grants Are Increasing Dramatically

In 2000, the federal government awarded \$67.5 billion in non-competitive contracts; that figure rose to \$145 billion in 2005, an increase of 115%.⁸

According to a House Committee on Government Reform report 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.⁹

For Fiscal Year 2009, Pre-Disaster Mitigation grants, a competitive grant program, contained 51 earmarks totaling just under \$25 million, or close to a third of the funds available for the PDM competitive grant program.

The Senate Has Supported Competitive Bidding In The Past

In February of this year, the Senate voted 97- zero to require the use of competitive procedures to award contracts, grants, and cooperative agreements funded as part of the *American Recovery and Reinvestment Act of 2009*.

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.¹⁰

⁷ “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/>.

⁸ 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.

⁹ House Committee on Government Reform report: *Waste, Abuse, and Mismanagement in Department of Homeland Security Contracts*; July 2006, pg 3.

¹⁰ http://hsgac.senate.gov/index.cfm?FuseAction=PressReleases.Detail&Affiliation=r&PressRelease_id=%20494%20%20&Month=9&Year=2003

Three other similar amendments regarding no bid contracts were agreed to by unanimous consent in the Senate.¹¹

This Amendment Provides An Opportunity For All Senators, Regardless of Party, To Support The President's Effort To Change the Way Washington Spends Taxpayers' Money

This commonsense proposal put forth by the President would dramatically alter the way in which Washington spends money by basing spending decisions on what is best for taxpayers rather than special interests.

¹¹ 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 .2766, June 16, 2006, <http://www.congress.gov/cgi-lis/bdquery/D?d109:6:./temp/~bdAxyV:dbs=n:/billsumm/billsumm.php?id=2> ; 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>