



## National Federation of Federal Employees, IAMAW, AFL-CIO



### Support the CLEAN UP Act (S. 924)

**Position:** From 2001 - 2008, the proliferation of private companies working under federal contract exploded in size at great cost to taxpayers. During this time period, federal spending on contracting out increased by almost 140%, from \$222 billion to \$532 billion. The Correction of Longstanding Errors in Agencies Unsustainable Procurements (CLEAN UP) Act of 2009 (S. 924) would reduce waste, fraud, and abuse in government contracting by bringing much needed reform to the federal procurement process. NFFE strongly supports S. 924, which would clean up the mess caused by excessive contracting out of federal service.

#### How the Mess Was Made:

1. Work that should have been performed by federal employees because of its inherently governmental nature has been given to contractors, subverting the public interest, particularly in procurement.
2. Many agencies essentially stopped hiring federal employees; now, observers are fearful the “graying” of the civil service is creating critical shortages of federal employees.
3. Contractors acquire and retain work often without competing against other contractors, and even more infrequently against federal employees, increasing costs to taxpayers.
4. Although they win 83% of the OMB Circular A-76 privatization reviews, federal employees are never given opportunities to compete against contractors for new work and outsourced work, denying taxpayers potential savings.
5. Much to the detriment of taxpayers, agencies’ ability to oversee contractors and the OMB Circular A-76 process continued to decline—from Iraq to Katrina to Walter Reed to GAO reports detailing how costs often exceeded savings in the OMB Circular A-76 privatization process.

#### How Congress Started to Clean Up the Mess:

1. DoD was directed to establish an inventory of its service contracts to determine, among other things, how much the contractor really costs, whether the work is actually inherently governmental, whether the work is being done well, etc.

2. DoD was directed to implement policies to give federal employees opportunities to perform new work and outsourced work, particularly when work is contracted out without competition, when work is contracted out but is actually inherently governmental, and when work is contracted out but it is being poorly performed.
3. All non-DoD agencies would be required to implement the same insourcing policies with respect to federal employee performance of new work and outsourced work.
4. All agencies would be prevented from starting new A-76 studies.

**How the CLEAN UP Act Would Build on that Foundation:**

1. Ensure that work that meets the statutory and regulatory definitions of inherently governmental or closely related to inherently governmental is actually performed by federal employees. Agencies would identify where such work is instead being performed by contractors and devise schedules to incrementally insource that work over several years.
2. Encourage agencies to give federal employees opportunities to perform new work and certain types of outsourced work, including work that was contracted out without competition and work that is contracted out but is being poorly performed.
3. Require agencies to establish inventories of specific contracts identical to the one already developed by the Department of Defense. The inventory would be used to determine, among other things, which contracts include inherently governmental work, which contracts were let without competition, and which contracts are being poorly performed.
4. Task agencies with determining whether they are now experiencing or will in the future experience shortages of categories of federal employees and devise plans for addressing those shortages.
5. Allow agencies expedited hiring authority, which leaves intact both merit principles and veterans' preference, to accommodate any insourcing.
6. Encourage agencies to use internal reengineering as an alternative to the costly and controversial OMB Circular A-76 privatization process, albeit a regulated one that upholds existing collective bargaining requirements, prevents reorganizations from being used to change employees' collective bargaining rights, and stops in-house workforce cuts that are based on assumptions or formulae.
7. Reform the discredited OMB Circular A-76 privatization process by ensuring that all costs of conducting studies are considered, charging in-house workforces only for actual overhead costs, abolishing automatic recompetition of in-house workforces, and imposing firm time limits on studies.
8. Impose a temporary suspension on the use of the OMB Circular A-76 privatization process until the OMB Director and the Inspectors General of the five largest agencies determine that all of the reforms required by this measure have been substantially implemented.