

May 2, 1977

AMENDMENT TO SERVICE CONTRACT ACT **H.R. 314**

This bulletin analyzes the proposed changes in the Service Contract Act to extend its coverage to professional employees.

STATUS:

The bill was introduced on January 4, 1977, by Congressman Frank Thompson, Jr. (D-N.J.) and Congressman James C. Corman (D-Cal.) and was referred to the House Committee on Education and Labor chaired by Carl D. Perkins (D-Ky.). It is pending in the Labor-Management Relations Subcommittee where no action is scheduled. On March 10, 1977, Senators Lawton Chiles (D-Fla.), Richard Stone (D-Fla.), and John Sparkman (D-Ala.) introduced S. 969 as a companion bill to H.R. 314. It is in the Subcommittee on Labor of the Senate Human Resources Committee where no hearings have been held yet.

BACKGROUND:

The Federal Government now plays an enormous role in such areas as health, welfare, agriculture, labor, and education, apart from such traditional functions as the Defense and the Justice departments. Honest men will have differences about the proper role of the Federal government in our society; however, all will agree that the taxpayer deserves efficient and economical service. This not only applies to the basic function of an agency or a department such as Commerce, Defense, or Labor, but also to the support services such as R&D, maintenance, guards or security, food service, janitors, etc. If these services can be delivered at high quality, but be less costly than paying civil servants to do them, then it is to the taxpayers' best interests that these services be contracted out through competitive bidding. This happens to be exactly the official policy of the Federal government. In fact, since 1955 through the support of both Democratic and Republican Presidents, it has been the official policy of the Executive Branch to rely on the private sector for the goods and services the government requires to perform its missions.

The particulars of that policy are set forth in OMB Circular A-76. This circular gives guidelines to Federal agencies on the option of making objective cost comparisons between doing the work themselves,

or contracting it out to private industry where there is reason to believe that cost savings might be accomplished.

In a letter to Rep. William L. Clay (D-Mo.) dated March 4, 1977, from Bert Lance, OMB Director, Mr. Lance states, "OMB Circular A-76 states that the longstanding policy of the Government is to rely on the private sector, and was initially issued at the direction of President Johnson in 1966. Essentially, it provides that agencies should not engage in activities which provide a product or service that is commercially obtainable except when necessary for military readiness or if commercial sources are not available, are more costly, or would disrupt an agency mission. Circular A-76 does not single out any specific areas of work for attention, but applies to any Government activity providing a product or service that is obtainable from a private source."

PRODUCTIVITY:

The obvious way that the private sector can be more attractive in supplying products or services for a Government agency, is to be cost conscious and also have a higher productivity rate than civil service counterparts. This has been the case. In its 1975 Annual Report, the National Commission on Productivity and Work Quality found that the private sector continues to be 20% more productive than the Federal sector. According to the Commission, productivity grew by 11.1% for 1.7 million Federal civilian workers for fiscal years 1967-1973. However, during the same time, productivity of total nonfarm employees in the private sector increased by 13.4%, which shows that productivity in the private economy for these years outgrew the Federal growth rate by 20.7%.

In the matter of worker compensation, again, it seems that private industry is more cost effective. The White Paper, "Government Competition With Industry: Some Economic Realities," issued by the Aerospace Research Center, Washington, D.C., November 1975, showed the following statistics are illustrative of this point.

Based on government expenditures for purchases from the private sector and the resulting employment therein, the average sales dollars per employee is \$21,091. Assuming that the aerospace industry is typical of other government suppliers and using the standard aerospace industry formula that 50% of sales is in the form of compensation, the average annual compensation for private sector employees responsible for supplying the government with goods and services is \$10,546.

On the other hand, using data from the Department of Commerce and other government agencies, compensation for Federal government personnel (less military combat forces) averages \$14,267 per annum. The ratio (1:1.35) developed from these figures indicates that a one dollar purchase made

by the Federal government from the private sector would cost 35% more if the procurement was made in-house. This is consistent with comparative data on productivity measurements for both the public and private sector."

SERVICE CONTRACT ACT:

With the economic data showing that work performed by private contractors tending to be less expensive than that performed in-house, one would expect that the Congress would try to preserve this competitive factor. However, in 1965 the Service Contract Act was created which covered private employees on Federal government contracts, performing the unskilled or semi-skilled labor, such as janitorial, food service, housekeeping, and guard service work. The Act mandated that contractors, when bidding for Federal government contracts, would have to pay no less than a federally predetermined wage for certain types of job classifications. This Act not only eliminated wage competitiveness between contractors, but to a certain extent any competitive wage advantage that private industry had over the Federal government.

In mid-1972, the Department of Labor began to include clerical workers, keypunch operators, file clerks, secretaries, computer operators, and draftsmen in its wage and fringe benefit determinations under the Act; and on September 21, 1976, the House of Representatives passed H.R. 395-3, "to provide that all employees, other than bona fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such Act." The bill was H.R. 15246 which was introduced by Rep. Frank Thompson (D-N.J.). It is now Public Law 94-489. With this change in the Service Contract Act, the only area not covered by predetermined wage floors were professional employees, and on January 4, 1977, Rep. Frank Thompson introduced H.R. 314 which would "amend the Service Contract Act of 1965 to extend its coverage to professional employees."

PROVISIONS OF THE BILL:

Both H.R. 314 and S. 969 would mandate minimum salaries for professionals identical to those described in the National Survey of Professional, Administrative, Technical and Clerical Pay issued by the U.S. Department of Labor and prepared by its Bureau of Labor Statistics.

ARGUMENTS FOR:

This amendment would determine a minimum level of wages and fringe benefits to be furnished to professionals, and in successor contracts, to protect those essential fringe benefit levels reached through collective bargaining agreements. Furthermore, it would provide to professional the same protection that is presently provided to all

others under the Act. According to Senator Lawton Chiles (D-Fla.), "It would eliminate the specter of professionals with families and a mortgage scrambling to accept positions which require sophisticated technical expertise, yet barely pay the minimum wage." (Congressional Record - Senate, Thursday, March 10, 1977, P. S3933).

ARGUMENTS AGAINST:

Salaries and fringe benefits established by government would destroy the system of individual merit under which all professional employees are judged.

If these salary and benefits packages are predetermined ahead of time for each service contract, it would destroy the competitiveness that each company must have to "land" the contract.

Why would a government agency bother to contract out certain services, when the personnel compensation portion of the contract is comparable to salaries paid inhouse? With the facts that we have on hand about government productivity vs. private sector productivity, it is apparent that the taxpayer would lose by having the government agency provide all these goods and services inhouse.

Finally, by mandating minimal salaries and fringe benefits, this amendment to the Service Contract Act would further fuel the fires of inflation by adding more costs and increasing the time for the completion of these projects.

David A. Williams
Economics/Taxation