



March 14, 2018

Dear Representative:

As National President of the National Treasury Employees Union, representing over 150,000 federal employees in 32 different agencies, I am writing to express NTEU's views on two bills under consideration by the Committee on Oversight and Government Reform.

H.R. 1339, Freedom from Government Competition Act of 2018

NTEU **OPPOSES this bill** which would overturn the current A-76 competitive process which permits contracting out, and instead aggressively mandate the outsourcing of the majority of government work without requiring clear savings. Specifically, the bill requires agencies to periodically conduct a public-private competitive sourcing analysis for each agency function to determine whether to convert the function to performance by a contractor. If the agency head determines that a contractor performing the function, based on the analysis, would provide the "best value" to the government, the agency is to enter into a contract with a private sector entity to do the work. At the same time, the bill eliminates current provisions determining what would constitute "best value," such as requiring that the performance of a government activity by a contractor cost at least 10 percent less or \$10,000,000 less than the government and additional provisions ensuring that there is a fair playing field by mandating that the contractor cannot achieve these savings by providing health care or retirement benefits that costs less than the government or requiring the agency to include in its analysis the additional costs to the government because of the award of the contract. The bill also removes the requirement that the private sector meet the needs of the government other than cost, including quality, reliability, and timeliness.

NTEU has long maintained that federal employees, given the appropriate tools and resources, do the work of the federal government better and more efficiently than any private entity. When agencies become so reliant on federal contractors, the in-house capacity of agencies to perform many critical functions is eroded, jeopardizing their ability to accomplish their missions. This is critical as contractor employees are working for the benefit of their employer company—not the benefit of the American people—and conflicts of interest can arise. Such initiatives also have a demoralizing impact on the existing federal workforce as they wonder if their job is the next to be outsourced and has resulted in the outsourcing of functions that are inherently governmental or closely associated to inherently governmental functions.

Over the years, we have seen at agencies delivering vital services, contractors perform critical and sensitive work such as law enforcement, government facility security, prisoner detention, budget planning, acquisition, labor-management relations, hiring, and security clearances. According to the Government Accountability Office (GAO), the Department of Homeland Security has used contractors to prepare budgets, develop policy, support acquisition, develop and interpret regulations, reorganize and plan, and administer A-76 efforts.

One of the most egregious examples of the outsourcing of inherently governmental functions has been the IRS private tax collection program. The first privatization attempt to collect federal taxes came in 1996, when Congress authorized the IRS to conduct two pilot projects testing the use of private collection agencies (PCAs) to collect tax debts. The 1996 pilot was so unsuccessful it was cancelled after only 12 months. Contractors participating in the pilot programs were found to have regularly violated the Fair Debt Collection Practices Act, and the program resulted in a \$17 million net loss. In 2006, PCAs were paid to collect taxes on a commission basis, resulting in an unmitigated disaster with a net loss of almost \$5 million to the federal government as well as taxpayer abuse. Further, at one juncture in the program, the IRS had to assign 65 of its own employees to oversee the work of just 75 private collection agency employees. Given the obvious failures of this undertaking, and in the face of strong opposition by NTEU and a broad range of consumer and public interest groups, Congress voted to cut off funding for the program. Then, in March 2009, after conducting a month-long, comprehensive review of the program, including the cost-effectiveness of the initiative, the IRS announced it was ending it. Yet, Congress reinstated the program in late 2015 to offset the costs of the long-term highway funding bill, and through the end of Fiscal Year 2017, the program has resulted in a net loss of \$13.3 million after factoring in program costs of \$20 million and commission payments of \$1.1 million to the collection agencies. Further, the IRS has spent taxpayer money paying commissions to the private bill collectors for tax payments the IRS itself collected, and overall this program has disproportionately targeted low-income Americans, and placed some taxpayers into repayment plans they cannot afford. Given the continued failure of the tax collection privatization program---as it has clearly resulted in lost dollars and in harming American taxpayers, NTEU remains strongly opposed to the use of private tax collection agencies, as well as other attempts to use private companies to perform IRS functions, including telephone customer service, letter rulings, etc.

The aggressive targeting of federal jobs for public-private competition is not new. During the Administration of President George W. Bush, competitive sourcing was one of its top initiatives. As part of these efforts, we saw the rules of competition overhauled, quotas set for competed jobs, and grades given to agencies on their efforts in conducting competitions. The changes undoubtedly had the desired effect: between 2000 and 2008, spending on contracting doubled, since 2001, reaching over \$500 billion in 2008. The explosion in contract spending also led to a drastic increase in the size of the contract workforce in addition to waste, fraud and abuse.

The Obama Administration, noting several issues with the A-76 process, instilled a moratorium on outsourcing while it looked to improve the competitive process. Unfortunately, this work has not been completed, and therefore I urge this Committee to oppose passage of H.R. 1339 and instead ensure that the current A-76 moratorium be continued. By ensuring that the outsourcing process is fair and that federal employees are able to compete for work with contractors on an even playing field, federal agencies will be better able to provide high quality services and will save taxpayer dollars.

H.R. 3303, the First Responder Fair Return for Employees on Their Initial Retirement Earned Act of 2017 or the First Responder Fair RETIRE Act

NTEU **SUPPORTS** this bipartisan bill introduced by Representatives Gerry Connolly (D-VA), Peter King (R-NY), and Jim Langevin (D-RI), that would ensure Customs and Border Protection Officers, and other law enforcement officials, receive their full retirement should they become injured in the line of duty. NTEU would oppose any effort to reduce existing regular retirement and disability benefits.

If you have any questions about these bills and our views, please do not hesitate to contact Jennifer Tyree, Deputy Director of Legislation, at 202-572-5522 or Jennifer.Tyree@nteu.org.

Sincerely,

A handwritten signature in black ink that reads "Anthony M. Reardon". The signature is written in a cursive style with a large initial 'A'.

Anthony M. Reardon
National President