



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

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Please oppose H.R. 417, which would arbitrarily slash the federal civil service workforce and force agencies to rely on more expensive contractors.

Dear Representative:

On behalf of the American Federation of Government Employees, AFL-CIO, which represents 670,000 federal workers in 65 federal agencies, I urge you to oppose H.R. 417, which would arbitrarily slash the size of the federal civil service by 270,000 positions through the imposition of arbitrary cuts and automatic caps. An almost identical bill introduced in the previous Congress encountered bipartisan opposition and was never marked up.

At a time when the Congress should focus on ensuring that the onerous sequestration spending caps are not imposed on federal agencies in FY16, the author of H.R. 417 would instead scapegoat the reliable and experienced federal civil service for Washington's gridlock and impose another onerous regimen of sequestration-style cuts on the federal government.

FEDERAL WORKERS HAVE ALREADY SACRIFICED \$159 BILLION SINCE 2011: Since 2011, federal employees have contributed more than \$159 billion towards deficit reduction, including an unprecedented three-year pay freeze, a 2.3% increase in pension contributions by federal employees hired in 2013, a 3.6% increase in pension contributions by federal employees hired after 2013, and \$40 billion in lost earnings due to sequestration furloughs and the past two years of meager pay increases well below the recommended baseline. That \$159 billion does not include the hardship that resulted from delayed paychecks, threats to credit ratings, and general disruption to the lives of federal employees and their families caused by the 16-day government shutdown in 2013.

SHRINKING FEDERAL CIVIL SERVICE: The number of workers employed by the federal government is currently at an all-time low—less than 2 percent of the total U.S. workforce. The last time the number was this low Dwight Eisenhower was President. There is now one federal employee for every 155 residents, compared to one federal employee for every 102 residents in 1965. That means the ratio of federal employees providing services to the American people has declined by more than 50 percent in just a matter of decades.

According to the most recent data from OPM, executive branch employment increased by just 5.5% from 2008, the last year of President Bush's Administration, to 2014. Eight agencies have lower employment now than in 2008, and four departments account for almost all of the increase: Defense, Homeland Security, Veterans Affairs, and Justice. However, H.R. 417 doesn't tell us which services related to our national security, our homeland security, our criminal justice system, and our care for wounded warriors that should be downsized or eliminated.

NO RATIONAL BASIS: What is the basis for the bill's proposed arbitrary cut of 270,000 in the number of civil servants? Was it based on workload analysis—how many civil servants are necessary to provide the services required by law? No. Is this arbitrary cut based on reductions of services? No. Does H.R. 417

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propose new methods of delivering services with significantly fewer civil servants? No. Or is the workforce cut of 270,000 proposed because it makes for a facile sound-bite?

If the amendment's authors believe that the federal government is overstaffed, then it is incumbent upon them to identify services that agencies should no longer perform and explain how other functions can be satisfactorily performed with significantly fewer federal employees. Rather than accept that challenge, arbitrary downsizing proponents simply demand that agencies continue to perform everything they are already doing as well as anything that might be asked of them in the future but to accomplish all of that without 270,000 employees.

The size of agencies' civil service workforces should be based on workloads and budgets—what services agencies must perform and how much money is available to perform those services. Managers should not be prevented from using federal employees to perform services simply because they are federal employees. Only in the event of “war or for reasons of national security; or an extraordinary emergency” are federal agencies spared from the Draconian cuts proposed by H.R. 417. That means agencies either could not provide services required by law or would be forced to use contractors even when it is known that contractors cost more or the services are inherently governmental (i.e., too important or sensitive to be privatized).

ARBITRARY DOWNSIZING COMPELS AGENCIES TO USE FAR MORE EXPENSIVE CONTRACTORS: In order to continue to fulfill their statutory mandates to perform services, history shows that agencies will simply contract out to get the work done when they are prevented from using federal employees—regardless of contrary requirements, including the meaningless one included in H.R. 417.^[1]

Contractors generally cost significantly more than civil servants, according to impartial experts. The Project on Government Oversight (POGO), which compared the cost of federal employees and contractors in a seminal 2011 study—*Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors*—determined that “on average, contractors charge the government almost twice as much as the annual compensation of comparable federal employees. Of the 35 types of jobs that POGO looked at in its new report—the first report to compare contractor billing rates to the salaries and benefits of federal workers—it was cheaper to hire federal workers in all but just 2 cases.”

Moreover, officials in the largest federal agency, DoD, have consistently acknowledged that contractors cost significantly more than federal employees. In 2010, then-Defense Secretary Robert Gates told *The Washington Post* “that federal workers cost the government 25 percent less than contractors.” Former Comptroller Robert Hale acknowledged to a Senate subcommittee in June 2013 that contractors are two to three times more expensive than civilians. In a September 2013 House hearing, the Army chief of staff echoed Hale's remark.

Thank you for your consideration. Please contact John Threlkeld (threlj@afge.org) if you have any question about our position on H.R. 417.

Sincerely,



Beth Moten
Legislative and Political Director

^[i] The requirement in H.R. 417 that service contract spending must be reduced commensurately with cuts in spending on the federal civil service is meaningless. There are several prohibitions already in law to prevent agencies from replacing downsized federal employees with service contractors, which are widely defied despite executive branch efforts to promote compliance. Defiance of those laws increases when arbitrary constraints are imposed on the size of in-house workforces, forcing managers to use contractors instead in order to get the work done. When faced with a decision either to follow, on the one hand, the law against replacing federal employees with contractors (and ultimately not providing services) or, on the other hand, follow the law that requires that services be performed, managers always decide in favor of the latter law.

Even more instructive is the Federal Workforce Restructuring Act of 1994, which required the civil service to be cut by 272,000 federal employees, or by slightly more than 10%. Sounds familiar, doesn't it? Supporters of the law insisted that the required in-house downsizing would not lead to increased outsourcing. In fact, Section 5(g) of the 1994 law required the President to "take appropriate action to ensure that there is no increase in the procurement of service contracts by reason of enactment of" the Federal Workforce Restructuring Act—which is similar to the language in H.R. 417.

However, no such action, appropriate or otherwise, was ever taken. In fact, the Clinton Administration was forced to acknowledge that personnel ceilings forced agency after agency to replace downsized federal employees with contractors. According to OMB in 1994, several agencies—including the Departments of Agriculture, Health & Human Services, Housing & Urban Development, State, Education, Treasury, and the Environmental Protection Agency—could have saved millions of dollars by performing functions directly but had to contract out because of personnel ceilings.

Noting the pernicious practice at a particular agency, the National Association of Public Administration reported that "(b)ecause of staff shortages, (the Department of Housing and Urban Development) HUD has relied on contractor assistance in instances where considerations of efficiency and economy would favor performance in-house."^[ii]

In March 1995, GAO reported "that the personnel ceilings set by OMB frequently have the effect of encouraging agencies to contract out regardless of the results of cost, policy, or high-risk studies."^[i]

The DoD Inspector General noted, in a 1995 report, "the goal of downsizing the federal workforce is widely perceived as placing DoD in a position of having to contract for services regardless of what is more desirable and cost effective."^[ii]

That downsized federal employees were simply being replaced by contractors eventually became so obvious that the mainstream media noticed. As reported in a front-page article in *The New York Times*:

"Even as President Clinton and Congressional Republicans race to take credit for shrinking the Federal payroll, the Government's costs for outside, or contract, employees keeps rising...The Government spent \$103 billion in salaries and expenses for its employees in 1995. That is a very slight decline, about \$1 billion, from its payroll costs in 1993 and 1994. But the dollar value of Federal service contracts with private companies has risen more than 3.5 percent a year since 1993, to \$114 billion last year...President Clinton refers frequently to the elimination of more than 200,000 Federal positions—about 10 percent of the Federal work force—during his tenure, an indication that "the era of big government is over" ...Most of that decrease has been in civilian jobs at the Pentagon. But while those jobs have vanished on paper, many of the responsibilities are being fulfilled by outside contractors..."^[i]

Finally, this approach is failing miserably in the Department of Defense right now. In an attempt to prevent the Pentagon from shifting work from displaced civilian employees to service contractors, the Congress tried to impose a cap on the Department's spending on service contracts—not an actual reduction, as H.R. 417 calls for, but merely a cap. Report language to the House FY15 National Defense Authorization discusses how this effort has failed—at the expense of both taxpayers and the civilian workforce:

“The committee notes that a Government Accountability Office review found that the Department of Defense failed to adhere to the enacted limitations on contracted services in the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81), exceeding the limitations by more than \$1.0 billion in fiscal year 2012. Moreover, guidance for adherence to the extension of the limitations for fiscal year 2014 has yet to be issued. The committee is concerned that the Department does not have adequate policies, procedures, and controls in place to enforce limitations on the annual amounts expended on contracted services.

“The committee is also concerned that not all contracted services are being subjected to the spending limitations because of the exclusion of contracted services involving Economy Act transfers between and within Department of Defense components. Also, because of the disparity between the levels of contracted services captured in the Inventory of Contracts for Services, required under section 2330a of title 10, United States Code, and what the Department budgets for contracted services, the committee concludes that the Department does not deliberately plan for most contracted services. **At the same time the Department exceeded its spending limitations on contracted services, the Department furloughed a majority of its civilian workforce and, in the case of many Department of Defense components, under-executed civilian spending.**” (Emphasis added.)

Why is capping—let alone reducing—spending on service contracts so difficult, while reducing spending on the federal workforce comparatively easy? Because agencies have transparency into and control over spending on their in-house workforces, but not with respect to their service contractors.

Senate Armed Services Committee Chairman Carl Levin was the first to identify compliance with the inventory requirement and integration into the budget process as necessary if downsizing is to be done intelligently: “In the past, we’ve found that proposed cuts to contract services are nearly impossible to enforce because expenditures for service contracting are invisible in the department’s budget. For this reason, Section 806 of the National Defense Authorization Act for Fiscal Year 2008 required that budget justification documents clearly and separately identify the amounts requested in each budget account for procurement of services.”

As former House Armed Services Committee Chairman Buck McKeon noted, sagely, “A credible inventory that is fully integrated into the budget submission is necessary to identify and control contract costs, particularly in this time of fiscal constraints.”

Despite the efforts of former Chairmen Levin and McKeon, the Department has failed to implement the FY2008 inventory law, as reported recently by the Government Accountability Office (DOD Contract Services: Improved Planning and Implementation of Fiscal Controls Needed, GAO-15-115), so it can’t control service contract costs. Even more disturbing, the non-DoD agencies are even further behind with respect to the implementation of their service contractor inventories. None of this is reflected in H.R. 417 because it is a simplistic sound-bite that is uninformed by the complicated realities of government.