



# Making Contracting Work

## Promoting good workplace practices in the federal procurement process

David Madland and Karla Walter | Center for American Progress Action Fund

Paul K. Sonn and Tsedeye Gebreselassie | National Employment Law Project

June 2009

---

### Executive summary

President Barack Obama announced on March 4th that he plans to overhaul the federal contracting process. This much-needed modernization provides the federal government with a significant opportunity to generate good jobs and help rebuild the middle class.

The federal government creates millions of jobs each year through the large sums of money it spends on purchasing goods and services. Yet these jobs are often substandard.<sup>1</sup> Many pay very low wages—often below the poverty level—and involve poor working conditions where labor law violations are all too common.

Reforming contracting to help create quality jobs will require the federal government to increase transparency in the procurement process, better enforce labor standards, perform rigorous responsibility screening on prospective bidders, reduce its use of outside contractors, and promote improved job standards.<sup>2</sup> Each of these components is key, but this report focuses exclusively on one aspect of the agenda: how to promote higher job standards by evaluating proposals based in part on the pay and benefits that contractors provide their workers.

Many federal, state, and local government contracting processes already promote high standards by evaluating offers based on price as well as whether companies provide good jobs or meet other social objectives. For example:

- The federal government uses non-cost factors in its offer evaluation process, including a company's past performance, whether the work will be performed in disadvantaged areas, and if prime contractors plan to meet small business subcontracting goals.

- California and Massachusetts utilize quantified point systems to evaluate and weigh a range of non-cost factors, including a company’s record of complying with labor, health and safety, and other laws.
- El Paso, Texas has implemented a scoring system that considers whether companies provide health insurance to their employees.

The federal government can adopt the best features of these bid evaluation systems and weigh, for example, whether companies provide health care and pay decent wages. Just as the bid evaluation process already helps promote small businesses, so too can it help promote good jobs.

Policies that value better workplace practices would be good for workers, taxpayers, and even many businesses. Taxpayers often bear additional hidden costs when workers under federal contract are poorly compensated—such as for Medicaid and food stamps—which in effect subsidizes low-road companies.<sup>3</sup> But when these workers have good jobs, taxpayers receive quality work and companies with higher standards are able to compete on a level playing field.<sup>4</sup>

---

## Federal evaluation of non-cost factors

About 95 percent of federal contracts that are competitively bid are awarded based on a best value approach in which the federal government considers both price and a number of other non-cost factors that may include a bidder’s past performance, small business subcontracting plan, technical approach, and managerial capacity.<sup>5</sup> These cost and non-cost factors are evaluated to determine the best overall offer.<sup>6</sup> The primary aim of this bid evaluation process is for the federal government to obtain the “best value,” but it also serves to advance social policy goals, such as promoting small businesses or directing contracting to underserved areas.

Non-cost factors are considered in two types of source selection processes—fully negotiated and lowest price technically acceptable—both of which are considered competitive, negotiated proposals. “Fully negotiated” proposals use a competitive process that enables contract officers to engage in discussions with bidders, consider trade-offs, and weigh cost as one among many evaluation factors in deciding the contract awardee. “Lowest price technically acceptable” proposals employ a selection process that awards contracts on the basis of the lowest evaluated price among proposals meeting minimum acceptability standards for non-cost factors.

These negotiated selection processes are in contrast to “sealed bidding” where contracts are also awarded competitively, but to the responsible bidder who submits the responsive bid—one that meets the government’s requirements and passes a prebid screening—with the lowest price.

The federal government only occasionally considers the wages and benefits paid to contracted workers when it evaluates negotiated bids.<sup>7</sup> It does regularly consider many other factors, including a company's past performance, whether the work will be performed in disadvantaged areas, and if prime contractors plan to meet small business subcontracting goals. The process of evaluating these non-cost factors can be improved upon, as discussed in the conclusion.

## Past performance evaluation

The federal government requires contracting officers to evaluate contractors' past performance on similar work for all negotiated bids expected to exceed \$100,000. Some form of past performance evaluation has been used for nearly 50 years.<sup>8</sup>

Past performance evaluations seek to help the federal government achieve its goal of "best value" by assessing the likelihood that a firm can successfully perform a contract.<sup>9</sup> Evaluating past performance encourages contractors to perform better because they know current performance will affect their ability to obtain future contracts. It is also a useful means of communication between contracting officers and contractors, because it provides feedback and evaluation for ongoing contracts, and helps to eliminate poorly performing contractors.<sup>10</sup>

Both the Office of Federal Procurement Policy, or OFPP, and the Department of Defense offer guidelines for evaluating past performance, but agencies have great leeway in how they conduct these evaluations. The Federal Acquisition Regulation lists examples of relevant information to consider, including the contractor's record of conforming to contract requirements, forecasting, and controlling costs; adhering to contract schedules; and integrity and business ethics. Yet there are few requirements for what contracting officers must include in their evaluations.<sup>11</sup>

Similarly, OFPP has a recommended weight for past performance evaluations, but agency officials have broad discretion.<sup>12</sup> Further, while some bids are scored on a point system, others are judged on color-coded scoring systems or adjective-based scoring systems that assign scores such as "exceptional, very good, satisfactory, marginal, or unsatisfactory."

OFPP does recommend that agencies use past performance as at least 25 percent of the total evaluation or have it equal the other non-cost evaluation factors to ensure significant consideration is given to past performance. OFPP's May 2000 Best Practices Manual notes that very low weights (5 to 10 percent) may reduce the overall perception of how important good contract performance is as an element of source selection processes.<sup>13</sup>

## Subcontracting plan evaluation to promote small business

Another factor considered within the bid evaluation process is how well potential prime vendors plan to utilize small business subcontractors while performing the contract. The Small Business Act was amended in 1978 to require prime vendors to submit a subcontracting plan detailing their goals for using small and disadvantaged businesses as subcontractors in all negotiated contracts exceeding \$500,000–\$1,000,000 for construction.<sup>14</sup>

Contracting officers also have the authority to set aside an entire procurement for small business, or a portion of a procurement opportunity. Set asides are separate and distinct from the process of giving weight to non-cost factors such as a small business contracting plan during the bid evaluation process.

The plan that contractors must submit with their proposal for prime contracts needs to describe the supplies and services that will be subcontracted to small businesses. It must also specify dollar and percentage goals for the use of small business subcontractors—including the types of small businesses to be used, such as those that are women owned, minority owned, or veteran owned—and describe its small business outreach and implementation efforts.<sup>15</sup>

Federal regulations do not specify detailed standards for subcontracting plan evaluation, but contracting officers must generally assess whether a plan's subcontracting goals are realistic, whether the plan employs proven methods for obtaining small business subcontractor participation, and, if applicable, the previous performance of any subcontractors listed in the plan during similar acquisitions.<sup>16</sup>

The actual weight given to the subcontracting plan evaluation varies from contract to contract, but contractors know they will not be considered without a plan that complies with subcontracting plan standards. As a Department of the Army contracting memo specifies: “Any apparently successful offeror who fails to submit a subcontracting plan *acceptable* to the contracting officer within the time limit prescribed by the contracting officer will be ineligible for award.”<sup>17</sup>

The government provides several resources to help companies develop subcontracting plans as well as aid contracting officers in evaluating the plans. See the “Small business and labor advisors” sidebar for additional details.

## Small business and labor advisors

### Small business and labor advisors help federal contracting officers implement socioeconomic policy goals

Small Business Administration, or SBA, procurement center representatives may review proposed awards involving subcontracting plans and submit advisory recommendations to contracting officers.<sup>18</sup> Each contracting agency also has an intra-agency Office of Small and Disadvantaged Business Utilization, or OSDBU, tasked with assisting procurement offices in identifying opportunities for small business, as well as conducting outreach to small business on behalf of the agency.

These advisors' role varies by agency, but all OSDBU directors report directly to agency heads and generally review subcontracting plans prior to evaluation by source-selection officials and submission to the SBA. Both the OSDBU and SBA work with contracting officers on an ongoing basis to ensure that contractors make a good faith effort to comply with their contracting plans.

Intra-agency labor advisors are also available to assist contracting officers. The scope of labor advisors' work varies by agency and is generally less formalized than the OSDBU officers. But labor advisor duties can include: assisting contracting officers in assessing prevailing wage rate determinations; providing guidance on relations with contractors during labor-management disputes; investigating accusations of labor law violations; and liaising with the Department of Labor, National Labor Relations Board, and Federal Mediation and Conciliation Service.<sup>19</sup>

### Historically Underutilized Business Zone price evaluation preference

The federal government also promotes social goals through the bid evaluation process with a program that encourages contractors to perform work in disadvantaged locations. The HUBZone program was created through the Historically Underutilized Business Zone Act of 1997 to “increase employment opportunities, investment, and economic development” in economically disadvantaged areas and serve as an alternative to race-based preferential contracting programs.<sup>20</sup>

The HUBZone program includes a 10- percent price evaluation preference for a qualified HUBZone small business concerns contractor competing against other firms.<sup>21</sup> In order to be eligible for the HUBZone program, a small business must be located in a historically underutilized business zone, owned and controlled by one or more U.S. citizens, and at least 35 percent of its employees must reside in a HUB Zone. Contracting officers give

offerers from HUBZone small business concerns a price evaluation preference by adding a factor of 10 percent to all other competing offerers.<sup>22</sup>

President Bill Clinton created a very similar program called “Empowerment Contracting” in 1996 through Executive Order 13,005, which also included a price evaluation preference for contractors working in economically disadvantaged areas.<sup>23</sup> And President Jimmy Carter issued Executive Order 12,072 which required the Government Services Administration to give priority to locations within a city’s “central business area” when meeting leasing space to meet federal real estate needs.<sup>24</sup> These and other executive orders suggest that President Obama has the existing authority to implement a range of policies to promote economical and efficient contracting, and indicates that this power includes requiring agencies to consider additional non-cost factors in the bid evaluation process.<sup>25</sup>

---

## State and local evaluation of non-cost factors

State and local contracting systems frequently give weight to non-price factors as part of the bid evaluation process. In fact, at least 47 states evaluate non-cost factors, according to a count by the Oregon State Procurement Office.<sup>26</sup> And at the state and local levels, these non-price factors commonly include consideration of how employers treat their workers—as measured, for example, by their record of complying with workplace laws or whether they provide health benefits to their employees.

Different state and local contracting systems use different approaches for factoring employers’ workplace practices into contracting decisions. But a number have moved toward systems that quantify employers’ records and assign them weighted values in the evaluation and scoring process.

## Quantified point systems for weighing contractor responsibility factors

Growing numbers of states have determined that employers with a poor record of complying with workplace laws are bad business risks that provide unreliable services and threaten the well-being of their workforces. In response, they have increasingly begun to factor evaluation of potential contractors’ workplace compliance records into their contracting processes.<sup>27</sup>

One approach that has begun to emerge as a best practice in state contracting is the use of a quantified point system for evaluating potential contractors’ records in this and other areas. This is typically done as part of a “prequalification” process—a preliminary assessment phase in the contracting process where potential contractors must achieve a specified minimum score in order to be eligible to bid for the contract.

Both California and Massachusetts use point systems as part of a prequalification process where potential bidders are evaluated to determine whether they should be allowed to submit full proposals. These systems illustrate the trend toward considering non-cost, labor practices in the contractor selection process. They also provide an example of a well-established methodology for doing so—one that could just as readily be applied during the final contractor selection phase.

California was one of the first states to move to a prequalification system using a quantified weighting system when it authorized state agencies to use the approach in 1999.<sup>28</sup> It is based on a questionnaire that requires applicant firms to report its violations of laws and regulations, history of suspensions and debarments, and past contract performance. It also includes questions about applicants' compliance with labor, health, safety, and other laws.<sup>29</sup>

Contracting agencies in California are instructed to apply a “uniform and objective” system for rating applicants, and the state provides agencies with a model scoring system that assigns points based on applicants' answers and recommends minimum passing scores.<sup>30</sup> For example, a passing score on a bidder's “compliance with occupational safety and health laws, workers' compensation, and other labor legislation” is 38 points out of a possible maximum score of 53 points. Participation in a state-approved apprenticeship program yields five points under this section, while bidders that do not maintain apprenticeship programs receive zero points. A bidder with four or more violations of Davis-Bacon prevailing wage standards receives zero points; one with three violations receives three points; and one with two or fewer violations receives five points. The better a bidder's history of workplace law compliance, the better its prequalification score.

Massachusetts has also adopted this approach. Firms in the state must achieve a specified minimum prequalification score in order to be eligible to bid on public works contracts.<sup>31</sup> This score is calculated based on: management experience (50 points maximum), which includes consideration of the applicant's safety record, compliance with workplace and tax laws, past termination, and compliance with equal opportunity goals; references (30 points maximum); and capacity to complete the project (20 points).<sup>32</sup> To prequalify, firms must satisfy certain mandatory requirements, and then receive a score of at least half of the available points in each category and at least 70 points overall.<sup>33</sup>

### Weighing the provision of health benefits in the contractor selection process

Cities and states have also begun to recognize the importance of factoring a contractor's provision of health benefits into the selection process. As the uninsured continue to increase the cost of the public health care system, more cities and states are concluding that contractors that do not provide quality, affordable health benefits impose substantial costs on the government.

El Paso, Texas is one city that has made employer provision of health benefits a significant, positive evaluation factor—along with price, reputation, technical qualifications, and past performance—that must be weighed by city agencies in making contract award decisions. City requests for proposals explain that along with cost, reputation, and quality, city agencies will consider “the long-term cost to the City to acquire the bidder’s goods or services.”<sup>34</sup>

El Paso asks offerers to identify their employee benefits—such as medical, dental, or vision insurance; retirement savings; education plans; and paid vacations—and indicate if the benefits are paid in full or in part by the business.<sup>35</sup> The city rates the health benefits that bidders provide on a scale of 0 to 10, with 10 points awarded to contractors that contribute in full to their employees’ health plans, and two points awarded to contractors that offer health insurance, but do not contribute.<sup>36</sup>

The resulting health care score is 10 percent of the overall score of the bid. Price remains the most significant factor, accounting for between 40 to 70 percent of the bid. The price of bids that the city receives from contractors that provide health benefits may tend to be a little higher, but El Paso representatives report that the net impact on the taxpayer is likely the same because it is offset by public health care system savings.<sup>37</sup>

These state and local policies recognize that employers who respect workplace laws and invest in their workforces with quality jobs often provide higher quality, more reliable service to government agencies. The policies also try to remove the indirect costs that are imposed on taxpayers by contractors with poor employment policies. The quantified point systems used by these and other cities and states provides an objective, readily administrable means of factoring into the contracting process the advantages that employers with strong workplace records offer government agencies.<sup>38</sup>

---

## Conclusion

The federal government should expand its process of evaluating non-costs factors to include consideration of how well a contractor treats its workforce. Doing so is feasible: the federal contracting system already evaluates and weighs non-cost factors, and new factors have recently been added by administrative and legislative actions.

However, evaluations of workplace factors should remedy the key problems with the existing federal process for considering non-cost factors.<sup>39</sup> The contracting evaluation process generally measures non-cost factors in subjective ways that lack explicit standards. The data on which these evaluations are made is sometimes not reliable or comprehensive enough for making the determination. And the weight given to each of the non-cost factors is often unclear.



The models that have begun to emerge in states and cities offer a roadmap for how the federal government can factor workplace practices into its own contracting process. The federal contracting process should consider contractors' workplace practices by:

- Establishing clear, objective measures for evaluating and scoring prospective contractors based on key employment practices, such as whether a company provides health benefits and pays wages above a specified level.
- Assigning workforce evaluations a clear and substantial weight in the overall contractor selection process, as several state and local governments do.
- Providing agencies and contracting officers with model practices, access to necessary data, and other technical assistance sufficient to ensure that implementation of the new process is consistent across agencies and not overly burdensome on contracting officers.

These best practices would significantly improve the federal contracting process and help reduce the amount of money the federal government spends providing services, such as health care and food stamps, to poorly paid federally-contracted workers. It would also ensure that companies that treat their workers well compete on a more level playing field. And most importantly, this improved bid evaluation process would help raise the pay and benefits of many federally contracted workers who are struggling to get by, and thus take an important step toward rebuilding the middle class.

---

## Endnotes

1 David Madland and Michael Paarlberg, "Making Contracting Work for the United States" (Washington: Center for American Progress, 2008); Kathryn Edwards and Kai Filion, "Outsourcing Poverty" (Washington: Economic Policy Institute, 2009).

2 See for example: Madland and Paarlberg, "Making Contracting Work for the United States"; National Employment Law Project, *The Road to Responsible Contracting: Lessons from States and Cities for Ensuring That Federal Contracting Delivers Good Jobs and Quality Services*, May, 2009; Testimony of Scott Amey, General Counsel, Project On Government Oversight, before the Subcommittee on Government Management, Organization, and Procurement on the Status of Contracting Reform Wednesday, February 27, 2008; The Contractor Responsibility Rule, or FAC 97-21; W. Samuel Niece, "Prequalification in Government Construction Contracts: How It Works, How Disputes Are Resolved," Howrey LLP, July 28, 2008.

3 See for example, Madland and Paarlberg, "Making Contracting Work for the United States"; Carol Zabin and others, "The Hidden Public Costs of Low Wage Jobs in California" (Berkeley: University of California Institute for Labor and Employment, 2004); UNITE HERE! "Conduct Unbecoming: Sweatshops and the U.S. Military Uniform Industry" (New York: UNITE HERE! 2006).

4 See for example, Peter Philips, Garth Magnum, Norm Waitzman, and Anne Yeagle, "Losing Ground: Lessons from the Repeal of Nine Little Davis-Bacon Acts." Working Paper (University of Utah Department of Economics, 1995).

5 Percentage based on dollar value of 2008 contracts and is even higher when calculated based on number of contracts. Analysis includes negotiated proposals, sealed bid, two-step, basic research that results from a broad agency announcement, and architecture-engineer solicitation procedures. These competitive procedures make up approximately 50 percent of the dollar value of all 2008 contracts recorded in the FPDS data system. Analysis excludes single source solicitations, solicitations with no procedures used or no procedure given, alternative source solicitations, and simplified acquisitions. Sources: Federal Procurement Data System-Next Generation, available at <https://www.fpds.gov/>, and Carl Vacketta, "Federal Government Contract Overview, available at <http://library.findlaw.com/1999/Jan/1/241470.html>. (last accessed May, 2009).

6 FAR Subpart 15.3—Source Selection.

- 7 Evaluation of wages and benefits has been upheld. See for example, Decision of U.S. Comptroller General, January 14, 2003, Northrop Grumman Technical Services, Inc.; Raytheon Technical Services Company. In awarding a contract for the operation of the U.S. Army Kwajalein Atoll-Ronald Reagan Ballistic Missile Defense Site, the U.S. Army Space and Missile Defense Command evaluated bidders' proposed staffing levels, wages and benefits to determine whether they were realistic for the positions being filled and effective in both recruiting and retaining personnel. In a review of the bid process, the U.S. Comptroller General supported Army's decision to downgrade the losing bidders' evaluations based on insufficient staffing, and low pay and benefits. See also, General Security Services Corp., B-280959, Comptroller General, 1998 (approving bid award requiring security guard contractor to pay wages above rates set by Service Contract Act in order to assure service quality and continuity).
- 8 The requirement for past performance evaluations can be waived if contracting officers document the reason past performance is not an appropriate measure. Joseph West and Robert Wagman, "Past Performance Indicators: Briefing Papers, Practical Tight-Knit Briefings including Action Guidelines on Government Contracting Topics" (Federal Publications, A West Group Company, 1999).—FAR Subpart 9.1 Responsible Prospective Contractors—FN 6; FAR, Subpart 15.3—Source Selection.
- 9 Office of Federal Procurement Policy, "Best Practices for Collecting and Using Current and Past Performance Information," May, 2000. Past performance evaluation should not be confused with responsibility determinations. Responsibility determinations verify whether a firm is eligible to bid for a contract based on their capability to perform a particular contract and past performance. These evaluations provide a pass/fail determination rather than a comparative assessment.
- 10 Joseph West and Robert Wagman, "Past Performance Indicators: Briefing Papers, Practical Tight-Knit Briefings including Action Guidelines on Government Contracting Topics," Federal Publications, A West Group Company, 1999.
- 11 FAR, Subpart 42.15—Contractor Performance Information.
- 12 Ibid.
- 13 Office of Federal Procurement Policy, "Best Practices for Collecting and Using Current and Past Performance Information," May 2000.
- 14 Public Law 95-507, Section 211 (1978).
- 15 FAR, Subpart 15.3 —Source Selection and FAR, Subpart19.7—The Small Business Contracting Program.
- 16 FAR, Subpart19.7—The Small Business Contracting Program.
- 17 Department of the Army, U.S. Army Medical Command, Office of the Associate Director for Small Business, "Subcontracting Plan Guide." Emphasis added.
- 18 FAR, Subpart19.7—The Small Business Contracting Program.
- 19 See: Memorandum for ALMAJCOM/FOA/DRU (Contracting) from the Office of the Assistant Secretary, Department of the Air Force, November 30, 2007, available at <http://www3.safahq.af.mil/shared/media/document/AFD-080711-075.pdf>, U.S. Department of Housing and Urban Development, About the Office of Labor Relations, available at <http://www.hud.gov/offices/olr/aboutolr.cfm>; Department of Energy, Labor Management, available at [http://www.lm.doe.gov/benefits/labor/labor\\_mgmt.htm](http://www.lm.doe.gov/benefits/labor/labor_mgmt.htm).
- 20 FAR, Subpart 19.3—Historically Underutilized Business Zone (HUBZone) Program; Deirdre Roney, "HUBZones: The class-based idea," *American Bar Association Public Contract Law Journal*, 32 (933) 2003. The HUBZone program has been controversial largely because of its interaction of it with an older program for small, disadvantaged, minority-owned businesses (that also includes a 10 price evaluation preference in Department of Defense, Coast Guard and NASA contracts). A November 2008 U.S. Court of Appeals for the Federal Circuit ruling on *Rothe Development Corporation vs. Defense Department*—regarding a contract awarded to a small, disadvantaged business qualifying a 10 percent price evaluation preference—ruled that the DOD program was unconstitutional because it discriminated against white business owners.
- 21 FAR, Subpart 19.3—Historically Underutilized Business Zone (HUBZone) Program.
- 22 FAR, Subpart 19.3—Historically Underutilized Business Zone (HUBZone) Program. This excludes offers from other HUBZone small business concerns that have not waived the evaluation preference and otherwise successful offers from small business concerns.
- 23 Executive Order 13005 of May 21, 1996. Federal Register Vol. 61, No. 102. The implementing FAR regulations were withdrawn following the enactment of the HUBZone Act next year.
- 24 In *Helmsman Properties, Inc.*, B-278965, 1998 U.S. Comp. Gen. LEXIS 165, E.O. 12,072 was held not to improperly restrict competition, or otherwise violate the Competition in Contracting Act.
- 25 Presidents have also frequently used this power to introduce additional socioeconomic and labor policies within other parts of the contracting process, including, for instance, President Lyndon Johnson's Executive Order 11246, requiring federal contractors to adopt affirmative action plans to combat workplace discrimination, and President Obama's recent executive orders on Economy in Contracting, Non-displacement of Service Contract Workers, Use of Project Labor Agreements, and Notification of Labor Organizing Rights.
- 26 See Oregon State Procurement Office, available at [http://www.oregon.gov/DAS/SSD/SPO/reciprocal\\_detail.shtml](http://www.oregon.gov/DAS/SSD/SPO/reciprocal_detail.shtml). Washington has also cataloged state preference laws, available at <http://www.ga.wa.gov/pca/ recip.htm#>.
- 27 For examples on states and localities that consider a contractor's workplace practices in the bid evaluation program, see National Employment Law Project, "The Road to Responsible Contracting: Lessons from States and Cities for Ensuring that Federal Contracting Delivers Good Jobs and Quality Services," May, 2009.
- 28 CAL. PUB. CONT. CODE §20101.
- 29 California Department of Industrial Relations, "Prequalification of Contractors Seeking to Bid on Public Works Projects: The 1999 State Legislation and the Model Forms Created by the Department of Industrial Relations," available at [http://www.dir.ca.gov/od\\_pub/prequal/PubWksPreQualModel.doc](http://www.dir.ca.gov/od_pub/prequal/PubWksPreQualModel.doc).

30 Ibid.

31 MASS. GEN. LAWS ch. 149 § 44D 1/2; 810 MASS. CODE REGS. § 9.00 *et. seq.*

32 810 MASS. CODE REGS. § 9.05(4) (listing prequalification criteria and subfactors); “Massachusetts Application for Prime General Contractor Certificate of Eligibility” (asking prequalification candidates to disclose whether, within the past five years, they have been involved in litigation relating to “a violation of any state or federal law regulating hours of labor, unemployment compensation, minimum wages, prevailing wages, overtime pay, equal pay, child labor or workers’ compensation”), available at [http://www.mass.gov/Eoaf/docs/dcam/dlforms/certification/prime\\_general\\_contractor\\_application\\_1\\_20\\_09.doc](http://www.mass.gov/Eoaf/docs/dcam/dlforms/certification/prime_general_contractor_application_1_20_09.doc).

33 Ibid; 810 MASS. CODE REGS. § 9.08(9).

34 Sample City of El Paso Request for Proposal (on file with authors).

35 Ibid.

36 Interview with Purchasing Director Terry Freiburg, City of El Paso Purchasing Division (on file with authors).

37 Interview with El Paso City Representative Suzy Byrd; Interview with former El Paso Mayor Raymond Caballero (on file with authors).

38 For a more extensive survey of state and local contracting reforms relating to employer workplace practices, see National Employment Law Project, “The Road to Responsible Contracting: Lessons from States and Cities for Ensuring That Federal Contracting Delivers Good Jobs and Quality Services,” May, 2009.

39 See for example, Government Accountability Office, “Better Performance Information Needed to Support Agency Contract Award Decisions,” April 2009.