

## **Two union-backed outsourcing measures added to Senate Defense bill**

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Legislation to give civil servants new rights to challenge government outsourcing decisions inched closer to law Monday when the Senate attached it to the fiscal 2005 Defense authorization bill.

The legislation, sponsored by Sens. Susan Collins, R-Maine, and Carl Levin, D-Mich., would let federal workers appeal the outcome of public-private job competitions to the General Accounting Office - a right currently enjoyed only by contractors.

In separate action, the Senate added an amendment from Sens. Edward Kennedy, D-Mass., and Saxby Chambliss, R-Ga., to the Defense bill that would make it easier for the Pentagon to shift work from contractors back to government employees. The provision is seen as a Senate counterpart to the Langevin-Cooper [amendment](#) that was added to the House version of the Defense bill last month. "This amendment expands competition, which is good for both the government and the private sector," said Chambliss in a statement issued Monday.

Both measures were approved by unanimous consent, a victory for federal employee unions, which had lobbied for them. "Contractors knew they didn't have the votes to stop either amendment," said John Gage, president of the American Federation of Government Employees.

Collins' measure would amend the 1984 Competition in Contracting Act to let GAO hear proposals from two officials: the "agency tender official," the formal representative of in-house teams, and an official chosen by a majority of employees in a competition. Collins said her proposal would "level the playing field" on appeal rights.

But contractor advocates criticized the Senate's actions, saying it had approved far-reaching proposals without debate or, in the case of Collins' bill, holding a hearing. "This overturns fifty years of federal procurement and labor policy without any debate or even a vote," said Stan Soloway, president of the Professional Services Council, an Arlington, Va.-based contractor association.

Cathy Garman, vice president for public policy at the Contract Services Association, another contractor group, said the Senate's Republican leadership let the amendments go forward to help move along the Defense bill. "They're not necessarily happy with this stuff, but they don't feel in the scheme of things, with the country at war . . . that these are the types of issues you want to waste time on floor debate with," she said. Garman said contractors hoped the measures would be stripped from the Defense bill during an expected House-Senate conference over the legislation.

"Conference," she said, "is the only game that's left in town."

In recent years, Congress has frequently passed legislation to tweak outsourcing rules-- particularly at Defense--only to be beaten back by Bush administration officials during House-Senate conference proceedings.

But Defense officials on Tuesday signaled they had fewer qualms with the Kennedy-Chambliss amendment than they did with the corresponding House-side language. In particular, they said that a provision requiring Defense to consider using federal workers to fulfill new work requirements, which often are given to contractors, would not be difficult to implement. "We think this is much less onerous," said Joe Sikes, director of competitive sourcing and privatization at Defense.

Sikes and others [have criticized](#) the Langevin-Cooper measure for requiring the Pentagon to let civil servants compete for a set percentage of jobs now filled by contractors. But the Kennedy-Chambliss provision drops this requirement. Instead, it instructs agencies to let civil servants a chance to perform new work as a matter of policy.

"Office of Management and Budget Circular A-76 shall be revised to ensure that the heads of all federal agencies give fair consideration to the performance of new requirements by federal government employees," states the provision. John Threlkeld, an AFGE lobbyist, said this would reverse policy that has steered new work to the private sector for years. "It represents a fundamental change from decades and decades of shrinking the federal sector in favor of the contractor sector," he said.

But Garman said the amendment was bad policy. "To me, what we're doing is putting the federal government into the position of business development and going after work they shouldn't go after," she said.

Giving federal workers the chance to compete for new work is a long-standing priority for AFGE. In 2001, the union supported a provision from Rep. Neil Abercrombie, D-Hawaii, that forced the Pentagon to subject [equal numbers](#) of government and contractor jobs to public-private job competitions each year. The Abercrombie provision did not become law.

But the Kennedy-Chambliss amendment does not require federal workers to triumph in a competition before taking on new work -- a good feature, according to Sikes. "It gives us some flexibility in [Defense] because it says if you want to do new requirements in-house, you wouldn't have to hold a public-private competition first," he said. Sikes said Defense would not protest the competition provision in the Kennedy-Chambliss amendment.

Sikes added that Defense does object to other provisions in Kennedy-Chambliss, including language that gives in-house teams a 10 percent or \$10 million cost advantage in job competitions involving 10 or more federal jobs. This provision makes it difficult for small businesses to be competitive in job contests, he said.