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## Commentary: Playing Chicken with the Debt Ceiling

Though it may be difficult to believe, Congress's budget trials and tribulations continue. While members of both parties are sorting through the details of April's fiscal year (FY) 2011 spending deal and sparring over the FY 2012 budget, the deadline to raise the nation's debt ceiling is fast approaching. Though the consequences of failing to increase the debt ceiling would be serious, some members of Congress have decided that they would rather play a game of "chicken" than address the issue in a responsible way.

In early August, the Department of the Treasury says, the federal government will hit the so-called "debt ceiling." Rather than quickly approve what should be a no-brainer, giving the Treasury authority to continue borrowing to finance spending decisions already agreed to by previous Congresses, some in Congress are letting the clock wind down as they argue over what conditions should accompany such a vote.

If Congress does not vote to raise the ceiling, the government will no longer be able to borrow money. And with the government borrowing 40 cents of every dollar it spends, the ability to borrow is essential to keeping the government operating.

Even more critical, however, is that without this borrowing ability, the federal government will default on its debt, throwing the world financial markets into turmoil. It would cause "catastrophic damage to the economy, potentially much more harmful than the effects of the financial crisis of 2008 and 2009," Treasury Secretary Timothy Geithner has warned.

Most Republicans and Democrats recognize that increasing the debt ceiling is one of a few "must-pass" pieces of legislation and are now making demands in return for their votes. What was once considered a simple part of making government work has turned into a politically loaded showdown with huge economic consequences.

Geithner has repeatedly called for a clean bill to increase the debt ceiling, but President Obama himself acknowledged that he will probably have to give in to some Republican demands. Compounding the failure of leadership, Senate Majority Leader Harry Reid (D-NV) first echoed the call for a clean bill but then softened his stance and endorsed deficit caps as a budget reform proposal "to prove that we're willing to do something about the debt."

In addition, some so-called budget hawks are demanding that a debt ceiling vote be tied to deficit reduction, while others are calling for significant budget cuts, spending caps, or a balanced budget amendment.

It seems strange to need a vote to raise the debt ceiling in the first place, much less a piece of legislation larded with other policy measures. After all, Congress has already decided to spend the money in question. Former Federal Reserve Chairman Alan Greenspan pondered this situation in an April appearance on *Meet the Press*:

> Why do we have a debt limit in the first place? We appropriate funds, we have tax law, and one reasonably adept at arithmetic can calculate what the debt change is going to be.... The Congress and the president have signed legislation predetermining what that number is. Why we need suspenders and belts is something I've never understood.

Indeed, in April, the House overwhelmingly approved a FY 2012 budget resolution that would add billions of dollars to the federal debt. Raising the debt ceiling is an unavoidable consequence of allowing the federal government to borrow money, money that Congress has already agreed to spend beyond the revenues it has agreed to collect. Failure to raise the debt ceiling would be Congress's "most asinine act," according to mega-investor Warren Buffett.

The consequences for not increasing the debt ceiling are grave. Right now, U.S. debt is considered the safest investment anyone can make; it is deemed to be risk-free. This is because investors trust the federal government to always pay off its debts. It's a reasonable trust because America has not defaulted on its debts in recent history and currently has more than sufficient means to continue to pay it off. However, if Congress refuses to raise the debt ceiling and the government cannot borrow to continue staying current on the debts already incurred, investors will likely find another country (like Germany) in which to relocate their money. This will greatly devalue U.S. debt, sending large ripples throughout the world economy. In a letter to its clients, economic analysis firm IHS Global Insight noted that "[f]ailing to service or redeem debt would lead to damage cascading though financial markets, as debt-holders would be unable to meet their own obligations..."

Additionally, the domestic economy, which is built on a bedrock of U.S. debt with low interest, could be thrown into chaos, as everything from home mortgage interest rates to credit card rates adjust to take into account the fact that U.S. debt is no longer the gold standard of risk-free lending. Federal Reserve Chairman Ben Bernanke testified before the Senate that default "would be extremely dangerous and [a] likely recovery-ending event." In the letter cited above, IHS analysts commented that "[i]t is hard to think of a bigger self-inflicted wound for a $10 trillion debtor than failing to service that debt."

In other words, not raising the debt ceiling should not be a policy option – not even as a threat.

Congress's dithering is already impacting the nation. In order to give the legislative branch more time before the debt ceiling is reached, Treasury has ceased selling special bonds to state and local governments that help them finance their operations. As Geithner detailed in a letter to Congress, the move "is not without costs; it will deprive state and local governments of an important tool to manage their outstanding debt expenses." The costs will only grow as we get closer to early August.

## Commentary: Draft Executive Order on Contractor Disclosure of Political Contributions Is Important Accountability Tool

In late April, a draft executive order (E.O.) that had been circulating among federal agencies was leaked to the press. The draft order calls for potential federal contractors to disclose their political spending, and it has generated both support and harsh criticism.

In spite of the clamor emanating from conservatives and the business community, the draft E.O. is, according to some advocates (including OMB Watch), an important first step toward curbing the harmful effects of the deluge of corporate money that has begun flowing into our political system since the *Citizens United v. Federal Election Commission* case was decided by the U.S. Supreme Court in 2010. The draft E.O. is also a significant down payment on the president's campaign promise to address the growing influence of special interests in Washington.

As written, the draft E.O. would require "any entity bidding for a government contract to disclose political contributions to federal candidates or parties made within the past two years that, in aggregate, exceed $5,000." The disclosure would "include contributions made by the entity's directors and officers as well as its affiliates and subsidiaries." Disclosure would also include contributions made to third parties, including trade associations and 501(c)(4) organizations, that intend to use those funds to make independent expenditures in support of or opposition to candidates or to engage in electioneering communications, such as paid political ads. This is the first time third-party contributions would be publicly disclosed.

The disclosed information would be available through a searchable, downloadable database on Data.gov. Those that win federal contracts must certify that they have disclosed the information as a condition of receiving the award. The E.O. calls on the Federal Acquisition Regulatory (FAR) Council to develop rules to implement the E.O. by the end of 2011. Thus, the new disclosure requirements would apply to contract solicitations that occur before the next election cycle.

Conservative politicians and private industry trade groups, such as the U.S. Chamber of Commerce and the Professional Services Council (PSC), pounced on the leaked document, decrying what they claim is the draft order's partisan flavor. In what represents the standard refutation of the proposed E.O., 27 Republican senators sent a letter to President Obama on Apr. 26 urging him not to issue the order, which they contend "would make political considerations a part of every federal contract offer."

The letter makes three arguments. First, it states that the requirement that a potential contractor, including a company's directors, officers, affiliates, or subsidiaries, must furnish information about political activities to federal agencies would "have a chilling effect" on free speech. Second, the letter asserts that the requirement to submit this information directly to federal agencies would create "the appearance that contract award decisions could be predicated on – or influenced by – political contributions or considerations." Lastly, because the draft E.O. shares some similarities with the failed DISCLOSE Act, the senators claim that the order "may be an effort to circumvent Congress." Additionally, the letter raises a number of other operational questions, such as why the disclosure requirement looks back over a two-year period.

On the first point, there is nothing in the draft E.O. that would "chill" free speech. Detractors would like to paint this as the Obama administration attempting to pick political winners and losers through selective disclosure of political contributions. That argument, however, requires one to assume the president is acting in bad faith and using transparency as a shield. The charge withers when examined within the context of the Obama administration's efforts on government transparency.

In addition, corporations often act politically through their boards of directors, officers, affiliates, and subsidiaries, so it is not outrageous to ask for disclosure of their political contributions. And while free speech is an activity protected by the First Amendment, which implies some modicum of privacy, the Federal Election Commission (FEC) already requires disclosure of individuals' contributions when they exceed $200.

Critics are also peddling a false dichotomy when they make a related argument about the draft E.O. applying to the business community – an ostensibly pro-Republican lot – but not unions, an ostensibly pro-Democratic lot. First, the Internal Revenue Service (IRS) considers unions to be corporations under the tax code. Second, like any other potential contractor, a union would have to disclose its political contributions if it bid on a federal contract. Several unions currently bid for federal contracts.

More to the point, there is nothing in the E.O. that suggests that procurement officers are to use information about political contributions in determining who wins contracts. Final regulations can be clear that will not happen.

Furthermore, if an entity does not wish to disclose its political contributions, it need not apply for a federal contract. But what do potential contractors have to hide? Are they ashamed of their direct and/or indirect political contributions? Given the numerous pay-to-play scandals over the years, it would seem that disclosure makes sense here as long as the rules are very clear that procurement officers are not to use political contributions as criteria in selecting awardees.

Thus, charges that the "force-feeding [of political contribution] information to government contracting officers, who would otherwise never consider such factors in a source selection ... [would] inject politics into the source selection process" are unfounded and run counter to the public interest.

The third charge about making an end-run around Congress is a backhanded way of saying that President Obama is staying true to his belief that disclosure of corporate campaign spending is essential to democracy, as he acts within the bounds of the executive branch to do so. Indeed, there is nothing improper or illegal about the administration addressing the deluge of corporate money that the *Citizens United* decision allowed to start flowing into the political process.

In effect, this order would place a reasonable requirement on those wishing to do business with the federal government. The government already makes those wishing to receive taxpayer dollars comply with a number of requirements, from how they can and cannot use the money, to environmental and labor standards. A requirement to disclose political contributions may be no more burdensome than those requirements.

However, the fleshing out of the draft E.O. through federal regulations will be important because specifics are going to matter. One could imagine both burdensome and relatively burden-free requirements to impose on potential federal contractors about the reporting of their political spending.

The draft E.O. leaves determinations of who exactly would have to disclose and how they would have to disclose to the FAR Council, made up of top officials at the Office of Federal Procurement Policy (OFPP), the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the General Services Administration (GSA).

Many within the good government community have questions about the draft E.O., namely regarding vague wording, lack of enforcement mechanisms, and the potential ability to circumvent the order. For example, when the FAR Council sits down to work out the implementation of the E.O., how will it define "affiliates" and "subsidiaries"? These affiliates and subsidiaries will have to be "within [the company's] control." How will the council define that?

What will the enforcement mechanisms be? There are already requirements for lobbyists to fill out disclosure forms whenever they meet with an executive branch official, yet these forms often go unreported because there is no enforcement of the requirement. How will the FAR Council prevent the same thing from happening here?

As for third-party groups and circumvention of the order, it is unclear how far the requirement to disclose indirect political contributions would go. What happens when Company X provides funds to a third-party group and the latter does not use the money to engage in political activities but turns around and provides those funds to another third party that does?

The FAR Council will have many issues to grapple with if President Obama signs this draft E.O. Notwithstanding those questions, if you assume that political contributions are currently influencing the federal contracting process – which does not require a huge leap of faith – then this proposed order is necessary to shed light on the issue. It is reasonable for the government to ensure that the contracting process is free from corruption and undue influence by requiring at least a degree of disclosure by those who are showering political dollars upon it.

## Senators Seek Medicare Transparency

A long-running dispute about access to Medicare claims data could be resolved by bills pending in the Senate. Proponents assert the measures could combat fraud and abuse in one of the federal government's most expensive programs and might also help improve health outcomes and consumer decision making.

Medicare is expected to spend $562 billion in fiscal year 2011, according to Congressional Budget Office (CBO) projections. Most estimates of waste, fraud, and abuse in Medicare range from $30 billion to $60 billion. By comparison, the entire budget for the Department of Homeland Security in FY 2011 is $42 billion. Moreover, Medicare expenses are anticipated to grow an average of 5.6 percent annually over the next decade.

### History

In 1977, the U.S. Department of Health, Education, and Welfare – now the Department of Health and Human Services (HHS) – announced plans to release data on reimbursements paid to all providers of Medicare services. The Florida Medical Association and a group of Medicare providers sued to prevent the department from releasing the data and in 1979 persuaded the U.S. District Court for the Middle District of Florida to enjoin the department from doing so. The court ruled that releasing the information would have invaded the doctors' privacy.

In 2007, the U.S. District Court for the District of Columbia required HHS to release similar information. However, the U.S. Court of Appeals for the DC Circuit overturned the ruling, and the U.S. Supreme Court declined to review the case.

Almost all attempts to access the data through Freedom of Information Act (FOIA) requests have failed. However, in 2010, the Center for Public Integrity (CPI) and the *Wall Street Journal* settled a FOIA request for the data. As part of the settlement, the *Journal* and CPI received a randomly selected five percent of the data, on the condition that they not disclose the identities of the Medicare providers involved. The *Journal* used the information as the basis for a series of articles investigating potential fraud in Medicare payments. In January, the *Journal* filed a motion to intervene in the original 1979 case, asking the district court to drop the injunction and permit fuller information to be released.

The Patient Protection and Affordable Care Act, which was signed into law March 2010, included a provision (Sec. 10332) that requires HHS to make some of the data available to certain users for performance reporting beginning in 2012. However, the provision placed conditions on the release and restricted the data from being used against a Medicare provider in court or administrative proceedings.

### Bills in Congress

In March, Sen. Chuck Grassley (R-IA) introduced the Strengthening Program Integrity and Accountability in Health Care Act. One provision of the bill would require HHS to make Medicare payment data available online. Grassley noted that USAspending.gov "lists almost all Federal spending, but it doesn't include Medicare payments made to physicians. That means virtually every other government program, including even some defense spending, is more transparent" than Medicare.

In April, Grassley and Sen. Ron Wyden (D-OR) introduced the Medicare Data Access for Transparency and Accountability Act, which expands on the provision in the earlier Grassley bill. The Medicare DATA Act specifies that the database must be searchable and free to the public. In addition, the bill clarifies that releasing the information does not qualify as an invasion of privacy.

Subsequently, Sens. Dick Durbin (D-IL) and John Cornyn (R-TX) introduced bills that would make the data available in a more limited fashion. Durbin's S. 856 would make summary data available to the public online and allow certain users to access the complete data with certain conditions. Cornyn's S. 848 would allow access for researchers, states, and certain other users, from whom the public would be allowed to request reports based on the data, with certain conditions.

All four bills have been referred to the Senate Committee on Finance, of which both Grassley and Wyden are members. None of the bills has been scheduled for mark-up.

### Administration's Release of Health Data

The Obama administration has also taken a number of steps to reduce fraud and to make health care data, including Medicare data, more accessible.

- In April 2010, HHS launched Data.Medicare.Gov.
- The same month, HHS released its Open Government Plan, which included a number of initiatives to open data to the public.
- In February, HHS launched Health.Data.gov.
- Also in February, the HHS inspector general launched a list of most-wanted health care fraudsters.
- In April, HHS launched a new tool to compare data on patient quality between hospitals.

## States Lead the Way on Contract Disclosure

Citizens have a right to know whether their tax dollars are being spent wisely. Unfortunately, the terms of government contracts are not routinely disclosed. A recent audit of ten federal agencies found that none of the agencies comprehensively posted contract information online. States, on the other hand, have begun innovating on contract disclosure.

Several federal agencies recently backed away from a proposal to make contract information available on the Internet, leaving public access to these contracts within the confines of the Freedom of Information Act (FOIA) process. However, posting government contracts online is not an impossible task. Indeed, several state governments post contracts online as part of their approach to procurement disclosure.

### Why contracts?

Increasingly, the federal government provides services through contracts with private firms. According to data on USAspending.gov, federal spending on contracts more than doubled from $263.4 billion in 2002 to $537 billion in 2010. Yet information on contract competition, terms, and performance are only partially disclosed through a hodgepodge of systems including FedBizOpps.gov, USAspending.gov, and the Federal Awardee Performance and Integrity Information System (FAPIIS).

Some statistics indicate that many users are unsatisfied with the sporadic information available through related government websites and are turning to FOIA. For instance, in 2010, over 20 percent of FOIA requests to the Office of the Secretary of Defense and Joint Staff included requests for contracts. (Notably, the same office has begun routinely posting all FOIA responses on its website, making those contracts disclosed available to the wider public.) In September 2010, 29 percent of open FOIA requests at the General Services Administration (GSA) included contract requests. Better access to contract information has been a frequent request from the open government community; for instance, OMB Watch called for online contract disclosure in recent congressional testimony.

**State Contracts Websites**

Currently, at least 41 states offer the full text of at least some contracts online, according to research conducted by OMB Watch with assistance from Good Jobs First. While several state procurement disclosure systems are notably inferior to the federal system in various ways, particularly usability, some states have taken measures beyond those of the federal government.

For instance, Delaware's contracting website allows users to look up contracts by item or service and review the full awarded contract, as well as addendum history and information on the bidding process, including who submitted bids. The site provides a level of detail on specific contract awards that many federal agencies are unwilling to provide because of claims of confidential business information. It should also be noted that Delaware provides this central site as a service the public, as well as to state agencies. State employees needing a product can look up the relevant contract and initiate a purchase order through the system.

In some cases, firms that contract with the federal government also have contracts with state governments, and the full text of those contracts is available online. For example, in the New York contract system, users can view the full contract between Science Applications International Corporation (SAIC) and the State of New York. The same transaction is listed in USAspending.gov, but only basic information about the contract – amount, recipient, location, etc. – is available. That disclosure of full contracts can be so common at the state level undercuts the federal argument that this level of transparency is impractical to pursue.

One state-level innovation of particular interest is the disclosure of all bids, rather than just a successful bid. The Ohio contract website has a "bid tabulation" function that lists all of the bids for some state contracts. The bid history allows the state to prove that it got the best deal available. The public should care about quality as well as price, but absent competitive price information, it is impossible to know when to ask questions about quality.

**State Approach and Attitude**

Preliminary research indicates that these state contracting websites were often initially developed for the internal purpose of improving procurement and eventually transitioned to providing public accountability for the process. For instance, Servando Patlán, Procurement Reform Policy Manager of the Washington Department of General Administration, reported to OMB Watch that Washington's highly functional procurement website had been developed in such a manner. "When we re-bid the contracts, having the current contract posted helps potential vendors to see how competitive the current contract is and how competitive they need to be to compete against the current contract holder," he said.

Patlán also noted that some of the limitations on posting information are driven more by format issues than by concerns of confidential business information. "The solicitation document, the proposal documents, the standard terms and conditions and special terms and conditions, insurance and bonds information" are not included, he said, because they "are still mostly managed in paper form." These documents are publically available, but to get access, "interested parties may call to make an appointment to have the documents pulled from the file room and put into a viewing room in our office for review," said Patlán.

Like Washington, Oklahoma's site from the Department of Central Services started as a way to streamline internal operations and has evolved over its twelve-year existence into a means for public disclosure. Sara Cowden, Director of Special Projects, explained to OMB Watch the purpose of the website: "We work for the public, they should see what we are doing." Every "state-level" contract is posted online in its entirety for agencies, the business community, and the public to see. On the effect of contract disclosure on businesses, Cowden stated, "State agencies appreciate a central location to go for their purchase needs. Vendors appreciate the visibility afforded by the posting of state awarded contracts, as they may in turn generate their business opportunities with other government entities."

It is not clear why at the state level, disclosure of contracts could be seen as a benefit to businesses, but at the federal level, the same transparency is considered potentially damaging.

### Conclusion

Despite the advances in federal government transparency, there are many promising innovations not yet pursued at the federal level. The success states have shown with their contracting websites proves that the federal government could implement such transparency while addressing agencies' and contractors' concerns.

## Push to Cut Oversight of Businesses Roils Senate

Sen. Olympia Snowe (R-ME) is pushing legislation that would make it more difficult for government agencies to set health, safety, environmental, and economic standards that protect the American people. Snowe is using the debate over her bill to reinforce untrue stereotypes about regulation's impact on the economy.

Snowe is pushing her bill, the Small Business Regulatory Freedom Act (S. 474), co-sponsored with Sen. Tom Coburn (R-OK), as an amendment to an unrelated bill (S. 493) that provides financial aid and other help to small businesses. She is doing so in such a vehement manner that her actions are threatening to derail the underlying bill altogether. Senate Majority Leader Harry Reid (D-NV) has said he will not allow a vote on the Snowe-Coburn bill as an amendment to the small business aid bill.

In a testy exchange on the Senate floor April 14, Reid said that the Snowe-Coburn bill was not germane to the small business aid bill and that her insistence on including it as an amendment would jeopardize passage of the bill when the Senate resumed debate the week of May 2. "I am disappointed my friend from Maine is killing this legislation," Reid said. Reid also pointed out that the Snowe-Coburn bill has not been the subject of a committee hearing. Snowe responded, "I am just surprised that there is a new standard here because we have passed numerous pieces of legislation on the floor of the Senate that may not be subject to a specific hearing."

The row stems from Snowe's insistence that business lobbyists should be given additional opportunities to influence the rulemaking process and that agencies should water down health and safety standards if businesses object to their compliance costs. The Snowe-Coburn bill would require agencies to form panels of business representatives to review rules prior to the public comment period. It would also require agencies to conduct look-back reviews of existing rules on a regular basis and to consider reducing or waiving penalties if businesses are found in violation of health and safety standards.

To enforce the requirements on agencies, the Snowe-Coburn bill authorizes agency inspectors general to impose a one percent budget cut at an agency if it fails to review a rule properly. The bill would also allow businesses to sue agencies over the cost-benefit analyses they prepare during the rulemaking process, effectively allowing businesses to tie rules up in court before they can even be finalized.

Snowe says the bill is needed because the costs of regulation are too high. She regularly cites a study prepared by two economists, Nicole Crain and Mark Crain, for the Small Business Administration's Office of Advocacy. That study claims that the annual cost of regulations is $1.75 trillion. The statistic is included in the findings of the Snowe-Coburn bill, and Snowe also cited the figure in an opinion piece authored for *The Hill* and on the Senate floor.

However, the Crain and Crain study has been widely discredited. In an assessment of the study, the Congressional Research Service found shortcomings with the models used by Crain and Crain to predict regulatory costs and also noted that the study does not acknowledge the economic benefits of regulation. The nonprofit Center for Progressive Reform (CPR) published a report in February that found severe methodological problems with the study and concluded that "policymakers should disregard its misleading conclusions as they consider matters of regulatory policy."

Evidence actually shows that regulations can benefit the job market and the economy as a whole. A recent paper published by the Economic Policy Institute found that regulation can spur job creation in certain industries. The paper also found that regulations are generally beneficial for society and that cost-benefit analyses prepared by agencies before rules take effect often overstate costs and understate benefits.

Snowe also wrote in *The Hill*, "Too often, new regulations are piled on top of existing regulations without substantial consideration of the impact on those who will have to comply." However, agencies already comply with a host of analytical requirements under existing laws and executive orders. Agencies' regulatory cost-benefit reports, often hundreds of pages long, are exhaustive and can take years to develop. Additionally, two laws already exist requiring agencies to consider regulations' impacts on small businesses.

Snowe couches her bill as an attempt to help small businesses, but small businesses may be hurt and big businesses are likely to benefit from the legislation. As Rena Steinzor, president of CPR, points out, many firms that meet the legal definition of small businesses may employ 1,000 or more individuals, including petroleum refineries, which are permitted to employ up to 1,500 workers before losing their status as "small." These businesses could be tapped for the business panels all agencies would be required to form under the Snowe-Coburn bill, potentially squeezing out true small businesses. (Under existing law, only the Occupational Safety and Health Administration and the U.S. Environmental Protection Agency are required to form these panels.)

The Snowe-Coburn bill also calls for budget increases for the Small Business Administration's Office of Advocacy. To offset the increase, the bill would eliminate three existing small business programs: one to encourage drug-free workplaces, one to promote energy efficiency among small businesses, and one to help veterans start and maintain small businesses.

A May 4 vote to end debate on S. 493 failed, with only 52 Senators voting for cloture (eight short of the 60 needed). The vote could prove fatal to the small business aid bill, because the Senate is now expected to proceed to other issues. The vote fell strictly along party lines, with 52 Democrats and Independents voting for, and 44 Republicans voting against. (Three senators, including Coburn, did not vote.)

## Watch What You Eat: A Groundbreaking Report on Food-Pathogen Combinations

Four months after President Obama signed the Food Safety Modernization Act (FSMA), a groundbreaking report from the Emerging Pathogens Institute (EPI) has highlighted the ten food-pathogen combinations that are the greatest burden on public health.

The FSMA, signed into law on Jan. 4, is a significant step toward implementing a proactive, public health-oriented food safety agenda, which the Obama administration laid out in July 2009. The FSMA expands the Food and Drug Administration's (FDA) regulatory authority by allowing it to order recalls of contaminated foods and requiring it to increase the number of inspections it conducts at high-risk food facilities.

The FSMA was drafted in response to concern about the prevalence of foodborne illness in the United States. According to figures from the Centers for Disease Control and Prevention (CDC), one in six Americans is sickened by foodborne illnesses each year. While most of these illnesses are mild, more than 100,000 Americans are hospitalized and 3,000 die as a result. Although this is an obvious area of concern for FDA and the Food Safety and Inspection Service (FSIS), the two regulatory agencies with the primary responsibility for guaranteeing our foods are safe, they are left with relatively little actionable information: the CDC tracks foodborne illness by pathogen but does not link the data to specific foods.

Researchers at EPI found that more than 95 percent of the annual illnesses and nearly 98 percent of the deaths can be attributed to only fourteen pathogens (disease-causing agents, such as bacteria, viruses, or other microorganisms). Because the impact of the different pathogens can be difficult to compare (e.g., the public health burden of a very rare but often deadly pathogen versus one that is more common but milder), the researchers set out two standard indexes of the burden posed by these top fourteen pathogens: monetary cost of the illness and the loss of Quality Adjusted Life Years (QALYs), a public health measurement of the discomfort and temporary or permanent disabilities caused by an illness. (One year of perfect health equals one QALY.)

By comparing this impact data to expert studies and records of foodborne illness outbreaks over the past eleven years, they produced the first-ever list of the ten food-pathogen combinations with the greatest cost to public health:

- *Campylobacter* in poultry, which costs $1.3 billion and causes a loss of 9,500 QALYs
- *Toxoplasma* in pork, which costs $1.2 billion and causes a loss of 4,500 QALYs
- *Listeria* in deli meats, which costs $1.1 billion and causes a loss of 4,000 QALYs
- *Salmonella* in poultry, which costs $700 million and causes a loss of 3,600 QALYs
- *Listeria* in dairy products, which costs $700 million and causes a loss of 2,600 QALYs
- *Salmonella* in complex (multi-ingredient) foods, which costs $600 million and causes a loss of 3,200 QALYs
- *Norovirus* in complex foods, which costs $900 million and causes a loss of 2,300 QALYs
- *Salmonella* in produce, which costs $500 million and causes a loss of 2,800 QALYs
- *Toxoplasma* in beef, which costs $700 million and causes a loss of 2,500 QALYs
- *Salmonella* in eggs, which costs $400 million and causes a loss of 1,900 QALYs

This ranking suggests obvious targets for reducing the incidence and impact of foodborne illness. While several of these pathogens are familiar, some of the conclusions suggested by the report are surprising:

- Foodborne pathogens are equally likely to be found in foods regulated by the FDA or FSIS. The EPI report suggests that diseases caused by contaminated poultry, pork, and beef – primarily regulated by FSIS – costs about $5.7 billion and 30,000 QALYs annually. Those in produce, dairy products, seafood, breads, beverages, and complex foods – within FDA's jurisdiction – cost about $6 billion and 24,000 QALYs.

  Deli meats and eggs, which are jointly regulated, cost an additional $1.8 billion and 7,000 QALYs. Salmonella, which causes more disease than any other foodborne pathogen, is found in foods regulated both by the FDA and FSIS.

  The FSMA focuses on increasing the FDA's food safety tools but does not include a parallel effort for FSIS. Some advocates have begun to call for legislation focused on strengthening regulations on meat and poultry production. In the meantime, however, there are opportunities for the agencies to work together on the most important food-pathogen combinations: the EPI report's authors suggest that the recently-formed Interagency Food Safety Analytics Collaboration, which includes CDC, FDA, and FSIS, could be used to explore interagency initiatives.

- Poultry is the single riskiest food, primarily due to contamination with *Campylobacter* or *Salmonella*. New FSIS regulations for these two pathogens are set to go into effect in

July 2011.

Department of Agriculture (USDA) data suggest that the public health impact of these rules will be quite small: a two percent reduction in incidence of salmonellosis and a less than one percent change in campylobacteriosis, according to experts. Nevertheless, these regulations are an important step forward: it has been more than 15 years since USDA tightened performance standards for *Salmonella*, and this is the first time USDA has acted to regulate *Campylobacter*. The agency's research suggests that a number of slaughter establishments will fail to meet the new standard.

- Four of the top ten pathogen-food combinations carry special risks for pregnant women: both listeriosis and toxoplasmosis can cause miscarriage, stillbirth, and neonatal death. The EPI report does not break out illnesses associated with pregnancy; however, it does cite previous studies that suggest that public education could make a difference. Pregnant women are often educated about the link between toxoplasmosis and pet cats but are less likely to know about the risk of contracting the disease from undercooked meat. Fewer than one in five pregnant women knew about the pregnancy-specific risks of *Listeria*, and less than one-third of the women who were aware of the risk understood which foods to avoid.

It has long been clear that America's food is not safe enough. Taken together, the top ten food-pathogen combinations cost about $8 billion and 37,000 QALYs each year. The EPI report offers both policymakers and regulators a roadmap to the most important risks on Americans' plates.

## Workers Memorial Day and New Report Highlight Risk to U.S. Workers

April 28 marked Workers Memorial Day and the 40th anniversary of the Occupational Safety and Health Administration (OSHA). On the same day, the AFL-CIO released its annual report on the state of the health and safety of American workers, *Death on the Job: The Toll of Neglect*.

Workers Memorial Day was first celebrated in 1989 and is an international day of remembrance of workers who have died or been injured on the job, according to AFL-CIO's website. The date is especially notable this year because of OSHA's anniversary. 2011 also marks the 100th anniversary of the Triangle Shirtwaist Fire (March 25) and the one-year anniversaries of two other historic incidents, the BP Deepwater Horizon oil spill disaster (April 20) and the Upper Big Branch mine collapse (April 5).

Despite these reminders of workers maimed and killed on the job, there is a pronounced anti-regulatory environment on Capitol Hill and continuous attacks from corporations and business associations, which argue that a "tsunami" of regulations prevents job creation and hinders economic recovery.

*Death on the Job* annually tracks statistics on the numbers of workers who die or are injured on the job and highlights the most dangerous industries. The 2011 edition of the report notes that "the cost of job injuries and illnesses is enormous—estimated at $159 billion to $318 billion a year for direct and indirect costs of disabling injuries."

The most recent data in the report on deaths and injuries are from 2009 and rely mostly on preliminary data from the Bureau of Labor Statistics (BLS). According to BLS, on average, 12 workers die each day on the job. An estimated 50,000 workers die each year from occupational diseases.

In 2009, there were about 4,340 worker fatalities, down from the 5,214 deaths reported in 2008. "Industry sectors with the highest fatality rates were agriculture, forestry, fishing and hunting (26.0 per 100,000), mining (12.7 per 100,000) and transportation and warehousing (12.1 per 100,000)," according to the report.

The report argues that the BLS statistics are understated due to the lack of reporting or underreporting of injuries by employers. The report notes:

> In 2009, more than 4.1 million workers across all industries, including state and local government, had work-related injuries and illnesses that were reported by employers, with 3.3 million injuries and illnesses reported in private industry. Due to limitations in the injury reporting system and underreporting of workplace injuries, this number understates the problem. The true toll is estimated to be two to three times greater—or 8 million to 12 million injuries and illnesses a year.

The Occupational Safety and Health Act was signed into law in 1970 by President Richard Nixon and created OSHA, which began operations on April 28, 1971. *Death on the Job* contains data on OSHA standards, compliance staffing, and investigations, as well as data on state-level OSHA actions.

For example, the report contains a table on federal OSHA safety and health compliance staffing from 1973-2009, which displays total compliance staffing, the number of workers, and the number of compliance staff per million workers. These numbers illustrate, for example, that compliance staffing declined for six of the eight years of the George W. Bush administration, even though employment rose through 2007 before the most recent recession took hold.

Under the Obama administration, total compliance staffing and the number of compliance officers per million workers has been restored to about where it was at the beginning of the Bush administration, despite the decline in the number of workers during the recession. These numbers pale in comparison, however, to the peak numbers of compliance officers in the late 1970s. The report laments current enforcement numbers at OSHA, further debunking the anti-regulatory arguments that agencies, and particularly OSHA, are stifling business:

The number of workplace inspectors is woefully inadequate. The federal Occupational Safety and Health Administration (OSHA) and the state OSHA plans have a total of 2,218 inspectors (925 federal and 1,293 state inspectors) to inspect the 8 million workplaces under the OSH Act's jurisdiction. Federal OSHA can inspect workplaces on average once every 129 years; the state OSHA plans can inspect them once every 67 years. The current level of federal and state OSHA inspectors provides one inspector for every 57,984 workers.



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