



» [The Watcher](#) » [June 1, 2004 Vol.5, No.11](#)

In This Issue

Federal Budget

[Economy and Jobs Watch: Major Cuts to Domestic Services are on the Horizon](#)

[Budget Resolution Update](#)

Information Policy

[TSA to Expand "Sensitive Security Information"](#)

Nonprofit Issues

[ABA Task Force Calls on IRS to Protect 501\(c\)\(4\) Groups](#)

[FEC Commissioners Explain Rule Delay to House Committee](#)

[Report Says IRS Site on 527 Groups Needs Improvement](#)

[Republicans Jump on "527" Bandwagon](#)

[Judge Acquits Greenpeace in Victory for Free Speech](#)

[IRS May Investigate Catholic Diocese Political Communications](#)

[Public Outcry Forces DeLay to Cancel Fundraiser](#)

Regulatory Matters

[New Bush Regulatory Report: Ex-Agency Workers Describe Anti-Regulatory Agenda](#)

[Anti-Regulatory, Anti-Worker Bills Pass House](#)

Right-to-Know

[Bill to Extend Patriot Act Is Quietly Introduced](#)

[Questionable Contracts Are Up and Information About Contracts Is Down](#)

[Mistakes and Terrorism Fears Jail the Innocent, Miss Employee Misconduct](#)

[Park Service Superintendents Gagged by Agency](#)

Economy and Jobs Watch: Major Cuts to Domestic Services are on the Horizon

The White House's Office of Management and Budget (OMB) has instructed government agencies to plan for cuts to a wide range of domestic programs. In a memo dated May 19, 2004, ([download pdf](#)), the White House told agencies to prepare their budgets for fiscal year (FY) 2006 consistent with the FY 2005 budget proposal -- specifically, to "[a]ssume accounts are funded at the 2006 level specified in the 2005 Budget database." The database refers to the [OMB computer run that was circulated earlier this year](#).

These funding levels contain significant cuts and will impact a wide range of services.

This release, and the associated computer printout, detail the direct and significant attacks on valued and popular government programs. To take just one example, the Department of Veterans Affairs, is being instructed to cut back by over \$900 million in FY 2006.

On May 26th, [the Washington Post reported on the directive](#) saying that "[t]he Education Department; a nutrition program for women, infants and children; Head Start; and homeownership, job-training, medical research and science programs all face cuts in 2006. ... Also slated for cuts are the Environmental Protection Agency, the National Science Foundation, the Small Business Administration, the Transportation Department, the

Social Security Administration, the Interior Department and the Army Corps of Engineers." These are just a few of the programs slated to be reduced. For a full analysis of the implications, see the Center on Budget and Policy Priorities' [analysis of the OMB's 5-year budget blueprint](#). For details on the implications of the cuts on many specific program areas, including education, health programs, housing, nutrition and many others, see the Coalition on Human Needs' [2005 budget report](#).

These cuts to services appear to be the second phase of a plan by advocates of shrinking the government to alter the structure of government away from providing services that serve lower and middle income families, as well as the general public. It is further verification that their long-stated desire to dramatically slash programs is being diligently followed by the Bush administration. The first phase of the plan was to reduce federal revenues through changes to the tax law that benefit primarily upper income individuals -- which largely has been accomplished -- with tax receipts as a percent of gross domestic product at their lowest level in more than 50 years.

This reduction in government spending will also likely harm the economy. Reductions in job training, education, early childhood nutrition and many other areas will have a lasting impact on the skill levels of current and future workers. In addition, reductions in the Transportation Department, the National Science Foundation, the Army Corps of Engineers and other departments will have a lasting impact on our national infrastructure and our ability to grow the economy in the future.

Budget Resolution Update

As of June 1, there is still no budget resolution, even as the appropriations process is scheduled to begin.

The House narrowly passed the FY 2005 budget resolution conference report on May 19. In spite of wishful thinking that sheer momentum would ensure Senate passage, a vote in the Senate was postponed to avoid an embarrassing defeat. Four Republicans -- Senators McCain (AZ), Collins (ME), Snowe (ME), and Chafee (RI) -- continue to hold out against passing a budget that privileges tax cuts over everything else by requiring pay-as-you-go ("PayGo") for spending, but not for tax cuts. While a deal may still be reached, it is possible and even likely that there will be no resolution this year. This would be the first time that a single-party House and Senate failed to pass a budget.

While the budget resolution is non-binding, it does set broad spending and tax policies and establishes budget process rules. During the past few years, it has been used to make it easier to pass tax cuts, through the "reconciliation" process. Without a budget resolution, certain tax cuts will not be protected and, like other legislation, will require 60 votes to pass in the Senate, rather than a simple majority. In the current climate where the President and congressional majority are determined to make expiring tax cuts permanent, as well as pass even more unbalanced tax changes, the lack of a budget resolution may be a blessing.

Nevertheless, it is very likely that the extension of the so-called "middle-class" tax cuts that expire in 2005 (marriage "penalty," the 10 percent tax bracket, and expansion of the child tax credit) will garner the 60 votes needed in the Senate. However, the question of offsetting the cost may, and should, arise. These "middle-class" tax cuts could be paid for by rolling back some of the many tax breaks for the super-wealthy or closing tax loopholes so that corporations and billionaires would pay their fair share. Over 60% of corporations don't pay any federal tax -- and at a time when corporate profits are reaching record highs, Congress should be able to offset the costs and to keep from digging a bigger deficit hole.

Fixing the Alternative Minimum Tax (AMT) is another tax cut that is considered a "must-pass." The House has already passed those four tax cuts bills over the past few weeks, with no offsets, at a cost of a half trillion dollars over the next ten years. The Senate will likely consider this matter soon as well.

The House is also planning to take up a stand-alone bill to make changes to the budget process. Again, this is primarily designed to make tax cuts easier to pass and to reduce spending. This effort to radically shrink the government by slashing government revenue will continue to threaten big cuts in the government services and initiatives upon which all Americans depend.

With or without a budget resolution, America cannot afford costly tax cuts now, and their accelerating costs over the next few decades would prove disastrous.

What are some of the other implications of Congress' failure to pass a budget resolution?

- With the vehicle of the budget resolution into which a provision increasing the debt ceiling could be quietly inserted, the House will still be faced with finding a way to raise the ceiling sometime this summer. Without this increase, the U.S. Government would go into default -- an untenable scenario. Yet this measure may be included in the bill approving the \$25 billion request for supplemental funding for Iraq, making a "nay" vote look like a vote against supporting the troops, or in some other legislation. This would avoid the election-year impact of public attention to the fact that the policies of this Congress and Administration have created a structural deficit that increases the national debt by the hour.
- Appropriations will be enormously complicated, but this is primarily because the "302(b)" limits that divide up the total discretionary appropriations amount into the 13 appropriations bills will be impossibly low. Increases in military spending, homeland security, and other specific programs will mean that funding for other domestic spending will be severely squeezed. By passing the budget resolution, the House "deemed" the \$821.4 billion in total discretionary spending as the final level, allowing the Appropriations Committee to begin working on the spending bills, even if the Senate does not pass the resolution. In fact, the House Appropriations Committee has signaled its intent to move forward with three subcommittee markups during the week of May 31. However, some experts think that the end result may be a long-term continuing resolution (CR) funding government at last year's levels until, at least, after the election.

Congress returns this week. We can expect a long and contentious budget season ahead.

TSA to Expand "Sensitive Security Information"

The Transportation Security Administration (TSA) plans to expand the amount of information it can withhold from the public disclosure, according to a [May 18 Federal Register notice](#).

Shortly after the 9/11 attacks, TSA assumed authority to restrict information from the public if it is deemed "sensitive security information" (SSI). However, until this new notice, SSI was limited primarily to aviation information. The new rule expands this information category to include security plans submitted to TSA by maritime facilities and vessels. The policy will prevent the public from learning about security concerns for these entities and how they are being protected.

A Feb. 5 [Congressional Research Service \(CRS\) report](#) discussed the controversies over SSI information noting concerns over management of the information and lack of accountability. In addition to TSA's ability to hide any information under a claim of SSI, nondisclosure agreements will further hinder the public's right-to-know. Airport administrations, local police departments, and TSA officials must sign nondisclosure agreements prohibiting anyone from speaking about an incident occurring on airport property. This causes confusion among many regarding exactly what information can be revealed to the public about law enforcement activity and prevents healthy public debate of security issues.

ABA Task Force Calls on IRS to Protect 501(c)(4) Groups

The American Bar Association (ABA) sent a letter May 25 to the IRS calling for two regulatory changes that would protect social welfare organizations exempt under 501(c)(4) of the tax code from losing exempt status if they are involved in election related activity.

The task force wrote, "Without regulatory action now to clarify the standards for Section 501(c)(4) groups on the issues of political activity and gift tax, the constitutional defects of overbreadth and vagueness in a case of speech protected by the First Amendment, are likely to result in years of protracted litigation, uncertainty, and wide variations in tax compliance practices, giving the edge to the risk-tolerant over the risk-averse in the political arena."

The report says the current uncertainty in the law, which only says 501(c)(4)s cannot make election activity their primary purpose, has been made worse by the effects of the Bipartisan Campaign Reform Act of 2002 (BCRA) and recent efforts to expand regulation of independent political committees that work on federal elections. These groups "face two huge uncertainties," the report said. First, there is no clear standard defining how much election activity is enough to make it a group's primary purpose. The task force recommended that a safe harbor be established, allowing 501(c)(4) groups to spend up to 40 percent of their funds for election-related activities.

The second uncertainty is whether gift tax rules apply to 501(c)(4)s. Gift taxes can be imposed on more than

half of all contributions over \$10,000 to 501(c)(4)s, but political committees exempt under Section 527 do not have to pay gift taxes. The task force said the law is unclear on application of the tax to 501(c)(4)s. They encouraged the IRS to announce it will not impose the tax on these groups.

FEC Commissioners Explain Rule Delay to House Committee

On May 13, the Federal Election Commission (FEC) voted to delay for 90 days action on a proposed new rule extending federal regulation to independent political committees. House Administration Committee Chair Robert Ney (R-OH) immediately set and held a hearing May 20, to shed some light on what questions and issues Committee members have about the rule, and what action the FEC might take at the end of the 90-day period. All agreed that no action on the rule is likely to take effect this year.

Ney opened the hearing by noting that donors are likely to start giving to independent groups sympathetic to Republicans ([see related article](#)). Ney, who opposed the Bipartisan Campaign Reform Act of 2002 (BCRA), said the blame for the state of the law rests with its drafters, not the FEC. Rep. John Mica (R-FL) expressed disappointment with the FEC's decision, calling the amount of money likely to be spent on this year's election "obscene". Ranking Committee member John Larson (D-CT) expressed concern about the risk of corruption arising from independent political committees, and the role of 501(c) organizations because they do not disclose their donors.

During testimony by four FEC Commissioners, two commissioners, Michael Toner (R) and Scott Thomas (D), defended their proposal that was rejected by the Commission May 13. The Toner-Thomas proposal was more limited than the original proposed rule, but would still have significantly extended the FEC's regulatory authority to groups whose "major purpose" is influencing federal elections, and that "promote, support, attack or oppose" federal candidates. These thresholds are undefined, and such a rule could have proven to be too vague and overbroad.

Both Toner and Thomas argued that regulation of independent groups must go beyond the express advocacy standard, which required an explicit statement urging votes for or against federal candidates. Thomas said the current rules that allow groups to split their regulated and unregulated funds based on a ratio using the express advocacy standard must be changed.

FEC Vice-Chair Ellen Weintraub (D) defended the 90-day delay in the rulemaking, citing concerns about the impact the Toner-Thomas proposal would have on nonprofits, who have a right to criticize the government, even during an election season. She also expressed concern about the proposal's lack of definitions for the terms "major purpose" and "promote, support, attack or oppose."

FEC Chair Bradley Smith (R) also defended the delay, noting that BCRA did not change the definition of a regulated political committee and the Supreme Court did not address the question in its opinion upholding the law. He believes the FEC does not have the authority to go beyond the express advocacy standard for independent groups. However, he said the FEC could act on the allocation rules.

After the testimony Rep. Larson again raised the issue of 501(c) groups, asking if there is a corruption problem that needs to be addressed and whether political committees would change their tax-exempt status in order to avoid FEC regulation. Thomas said the "major purpose" and "promote, support, attack or oppose" tests would ultimately apply to 501(c) groups. Weintraub said the proposed rule fails because of the potential for loss of disclosure information if groups change their status from Section 527, which exempts political committees but requires disclosure of donors to the Internal Revenue Service (IRS), to 501(c)(4), which does not require donor disclosure.

Rep. Vernon Ehlers (R-MI) and Rep. John Doolittle (R-CA) asked questions about the effectiveness of campaign finance laws. Smith said he thinks disclosure is the best approach, and Weintraub said BCRA was successful in breaking the link between soft money and federal officeholders. Thomas said campaign finance law helps reduce the influence of special interests.

Ney said it may become necessary to retain "an attorney, an accountant and a bail bondsman" to run for federal office. If the Toner-Thomas proposal were adopted, the same could be true for nonprofits that criticize federal officials.

Report Says IRS Site on 527 Groups Needs Improvement

A May 12 report by the Treasury Department's Inspector General for Tax Administration found that the Internal Revenue Service (IRS) has complied with a 2002 Congressional mandate to make its website disclosing finances of Section 527 political committees searchable. However, the report said improvements are needed.

In 2000 Congress passed what was known as the "Stealth PAC law" to require political committees that do not report to the Federal Election Commission to disclose their contributors, donors and expenditures to the IRS. In 2002 the law was amended to mandate electronic filing and require the IRS to make the information available on the web in a searchable format. It exempted committees that work on state or local elections and report to state authorities from filing requirements.

The report, *Improvements Are Needed to the Updated Web Site for Political Organizations to Increase the Accuracy and Consistency of Search Results for Filing Information* (No. 2004-10-097), found that some search results yielded incomplete or inaccurate information, but noted the IRS is moving to address the problem.

Republicans Jump on "527" Bandwagon

Within days of the Federal Election Commission's (FEC) May 13 decision to delay action on its proposed rule expanding regulation of independent political committees (often referred to as 527 groups), Republicans began calling for aggressive fundraising for groups sympathetic to them. By the end of May some Republican Members of Congress were stretching the limits of the Bipartisan Campaign Reform Act of 2002 (BCRA) by agreeing to appear at fundraisers for groups like the Leadership Forum.

Before the FEC action made it clear rules would not change in this election cycle, Republicans in Congress and the Bush administration strongly criticized 527s focused on defeating President Bush this November, saying they were violating campaign finance laws by accepting substantial donations of unregulated [soft] money. After the FEC decision, BCRA sponsor Rep. Chris Shays (R-CT) joined House Speaker Dennis Hastert (R-IL) and Republican Congressional Committee Chair Rep. Tom Reynolds (R-NY) in a statement accusing groups sympathetic to the Democrats of operating "with no regard for the law" and predicting that groups sympathetic to Republicans would emerge. This was seen as a signal to Republican donors, including corporations, who had been waiting to see what action the FEC would take, to give to groups like the Club for Growth and Progress for America.

Bush-Cheney campaign chair Marc Racicot and Republican National Committee (RNC) Chair Ed Gillespie issued a statement predicting "The 2004 elections will not be a free for all." The Hill newspaper reported that the Republican switch began before the FEC decision, when Ken Mehlman, manager of the Bush-Cheney campaign, met privately with lobbyists on May 11 and predicted an immediate fundraising push by 527 groups sympathetic to Republicans. One attendee joked, "On Friday, don't pick up your phone because they're going to be asking for money."

Two major Republican leaning groups, the Leadership Forum and Progress for America, are stretching the limits of what is allowed under BCRA since the FEC decision. According to The Hill the Leadership Forum, run by the former chief of staff to House Majority Leader Tom Delay (R-TX), will feature House Speaker Hastert and Senator Rick Santorum (R-PA) at events this summer. BCRA prohibits federal officeholders from raising soft money, but FEC rules allow them to appear and speak generally without making a fundraising pitch.

Progress for America, a 501(c)(4) organization, announced plans to become a 527 group so that it can engage in more election-related activity. They plan on purchasing advertising praising Bush in 18 battleground states, and have hired a direct-mail specialist, Tom Synhorst, who is a partner in a firm that has done \$1.8 million in business with the Bush-Cheney campaign. The firm, Feather, Larson & Synhorst, said Synhorst will work in "silo", and not participate in the firm's work for Bush or the RNC.

The Club for Growth was operating prior to the FEC decision, sponsoring ads praising President Bush in five battleground states. They have raised \$9 million so far, and plan to spend \$10 million on issue ads in the presidential race. Americans for Tax Reform President Grover Norquist announced plans to create a separate segregated fund with a goal of raising \$6 million by election day. Americans for a Better Country also announced ambitious fundraising plans, but reportedly has not raised any money yet.

The overall impact of the Republican effort to promote 527 groups is unclear. The party has encouraged contributions of hard money to the RNC or Republican candidate committees, and has been very successful. By mid May Bush had raised \$100 million more than the Kerry campaign, outspending it by a 3-1 margin. However,

the effect has been moderated by liberal 527 groups' spending of \$86 million on anti-Bush ads.

Judge Acquits Greenpeace in Victory for Free Speech

On May 19, 2004, a federal court judge threw out the charges brought against Greenpeace by the United States Justice Department. Shortly after the prosecution rested their case, the judge decided that there was not enough evidence for the case to go to the jury and granted the motion for acquittal.

It was the first time in history that an entire organization was held liable for the actions of a couple of its supporters. Organizations including the American Civil Liberties Union and the Sierra Club opposed the Bush administration's move as an attempt to use the heavy hand of government to silence its critics.

Greenpeace was charged under an 1872 law that was meant to keep brothel recruiters from boarding ships. The U.S. Justice Department under Attorney General John Ashcroft tried to use the obscure law to convict an entire national organization for the acts of two activists who had climbed aboard a ship carrying Amazon mahogany wood into the Port of Miami. The two hung a banner that said, "President Bush: Stop Illegal Logging."

Unfortunately, the unprecedented prosecution of Greenpeace drew more of attention than the issue of American importation of illegal and endangered trees. *South Carolina Herald* reported that "the lucrative Brazilian wood was later unloaded in Charleston." A Brazilian lawmaker and former head of Brazil's environmental agency, who had signed the mahogany export moratorium in October 2001, said the acquittal will "help us fight in Brazil against such illegal activities."

IRS May Investigate Catholic Diocese Political Communications

A charity watchdog group has asked the Internal Revenue Service (IRS) to investigate and possibly revoke the tax-exempt status of the Roman Catholic Diocese of Colorado Springs.

Americans United for the Separation of Church and State (AU) sent a letter to the IRS stating that the diocese in Colorado Springs had crossed the partisan electioneering line. Organizations exempt from taxes under 501(c)(3) of the Internal Revenue Code are forbidden to support or oppose any candidate for office. Bishop Michael Sheridan wrote in a Catholic newspaper in May that Catholics should not receive communion if they vote for politicians who disagree with the church by backing abortion rights and other topics.

AU Executive Director Rev. Barry Lynn said, "By issuing this document in a church publication in his official capacity as head of a religious organization, Bishop Sheridan may have violated federal tax law and jeopardized the tax-exempt status of the Diocese." See *Denver Post* article.

Public Outcry Forces DeLay to Cancel Fundraiser

A charity associated with Rep. Tom DeLay (R-TX) has finally decided to pull the plug on its fundraiser that was to take place during the week of the Republican National Convention in New York. The cancellation came after numerous complaints were filed to the IRS and an outpouring of criticism was rehashed in most major U.S. newspapers.

Within weeks, two members of Congress have cancelled charity events in response to public outcry and perception that they were really covert political fundraisers. This demonstrates how powerfully media can influence the decisions of policymakers, especially during an election year.

To learn more about DeLay and his charity read [More Complaints Filed Against Congressman DeLay.](#)

For more information on the other criticized charity events that were cancelled read [In the Name of Charity or Political Gain?](#) and [Democratic Senator Cancels Criticized Fundraiser.](#)

New Bush Regulatory Report: Ex-Agency Workers Describe Anti-Regulatory Agenda

Citizens for Sensible Safeguards released a new report documenting a systematic attack on regulatory protections to a standing-room-only crowd at an event that featured former federal workers who have resigned in protest of that attack.

The report, *Special Interest Takeover: The Bush Administration and the Dismantling of Public Safeguards*, was produced on behalf of Citizens for Sensible Safeguards by OMB Watch and the Center for American Progress.

It was released last Tuesday at an event held at The Wilderness Society. After introductory remarks by Carol Browner, former EPA director under Clinton, OMB Watch Executive Director Gary Bass characterized the last four years as an attack on regulatory protections unparalleled in its breadth and depth.

"What is happening to the regulatory system is truly, truly alarming," said Browner.

Dr. Philip J. Landrigan, director of the Center for Children's Health and the Environment, spoke about the special threat a weak regulatory system poses for children. Children are more likely to be adversely impacted by pollutants and toxins in our food, air and water. Landrigan pointed to evidence of a direct link between air pollution and an increase in asthma in children. He also showed how a stronger regulatory system markedly improves the health and well-being of our children. Landrigan concluded by expressing the need for national prospective cohort study of American children. This comprehensive long-term study would provide invaluable data on the health and well-being of American children. However, the Bush administration refuses to adequately fund such a study.

The event also featured a panel of former federal agency workers who voiced their frustrations over the sweeping assaults on regulatory policy.

The panelists, who had served under both political parties, argued that the policies of the current administration have undercut agencies' ability to implement protections opposed by industry. The Bush administration has undermined the rulemaking process by cutting off funding, limiting staff and resources, limiting the power of existing staff, and swamping government workers with unnecessary and costly cost-benefit analysis. As a former EPA administrator, "I'm shocked and embarrassed," said Sylvia K. Lowrance, former EPA acting administrator for enforcement in 2001 and 2002. "Sound analysis is required for anything EPA wants to do unless it's a rollback."

The breadth of the assault on regulatory measures is evident in the number of regulations enacted in the past four years. Whereas the EPA set 21 regulations during the term of Bush I, only eight have been enacted under the current administration -- of those, seven were mandated by the courts and the last was actually a rollback.

The ex-civil servants believe that their ability to formulate and enact sensible safeguards has been severely limited by the administration's policies. Whereas in previous administrations the career workers were able to contribute their expertise, they found themselves in the last three and a half years almost entirely cut out of the rulemaking process.

"There's always a 60-40, 40-60 swing," stated Bruce Buckheit, former director of the air enforcement division in EPA's Office of Enforcement and Compliance Assurance, "but now it's more like 99-1." Buckheit, who started working full time for EPA during the Ford administration, said "I have never seen anything like this. It is broad and it is deep."

Anti-Regulatory, Anti-Worker Bills Pass House

The House advanced the regulatory rollback this month by passing five bills, one of which threatens safeguards across the board while the other four specifically target workplace health and safety protections.

The first of these bills, subtitled the "Paperwork and Regulatory Improvements Act of 2004," authorizes a pilot project for "regulatory budgeting" at three of five public health, safety, or environment agencies. Although modified somewhat from its first draft, in part because of pressure from the White House, the bill managed to leap from subcommittee and move through mark-up in the full House government reform committee with its essential character intact.

Among other things, the bill lays the groundwork for "regulatory budgeting," a dream of rationing protections of public health, safety, and environment by limiting the total amount of costs to industry from regulation. The bill would also require the Office of Management and Budget to submit its annual report on the costs and benefits of regulation as part of the White House's budget submissions, thus hiding the anti-regulatory projects launched each year through that report by burying it under the complexity of budget issues.

Democrats on the government reform committee attempted to weaken the bill through a series of amendments:

- One would have eliminated the regulatory budgeting study altogether.
- Another would have required OMB's Office of Information and Regulatory Affairs to make all stages of its interventions in the regulatory process open to the public. Although OIRA is now more open than it has been, it still insists on keeping secret its discussions with industry and other special interests in the early stages of regulatory activity.
- Two amendments would have fixed the factual preamble of the bill by noting the weaknesses in a study that purports to measure the burden of regulation and by pointing out the administration's record increase in paperwork.

Rep. Henry Waxman (D-CA) tried both in mark-up and before the full House to insert an amendment that would have established a panel to study the politicization of science, but it was defeated just before the House voted to pass the bill.

The House also passed four bills that seek to weaken protections of workers' health and safety. One bill would require taxpayers to pay the legal costs of small employers who prevail in any administrative or enforcement case brought by OSHA regardless of whether the action was substantially justified. Another would undermine the Secretary of Labor's authority to interpret and enforce the law by giving deference to the Occupational Safety and Health Review Commission -- the same commission that yet another of the bills would allow the administration to pack with two new members -- thus overturning a 1991 Supreme Court decision and effectively consolidating this administration's control over workplace safety issues for the long term.

The regulatory and OSHA bills have now been bundled as H.R. 2728, which is beginning to wend its way through the Senate.

Just as the League of Conservation Voters and a coalition of public interest groups that included OMB Watch worked to prevent House passage of the regulatory bill, now the Citizens for Sensible Safeguards coalition has set up an automated system so that people can alert their Senators to stop the combined bill from passing both houses.

Bill to Extend Patriot Act Is Quietly Introduced

Secrecy News reported the next salvo in the debate about the Patriot Act: On May 21, Sen. Jon Kyl (R-AZ) [and others] introduced a bill to make the Patriot Act permanent. S. 2476 would repeal sunset provisions of the most controversial sections of the Patriot Act, which are set to expire in 2005.

Speaking of *Secrecy News*, its editor, Steve Aftergood, was recently awarded a prize from the Playboy Foundation and the Creative Coalition for defending the first amendment with his unrelenting and undernoticed efforts to combat government secrecy.

Questionable Contracts Are Up and Information About Contracts Is Down

The House Committee on Government Reform's Minority Office recently released a report done for Rep. Henry A. Waxman (D-CA) examining current trends in the government's use of noncompetitive contracts. The report discovered that under the Bush administration the amount spent on these questionable contracts increased \$40 billion compared to Clinton's final year. Equally troubling is the fact that under a new development at Government Services Administration (GSA) the public will soon find it much more difficult and potentially much more expensive to explore how the government spends our tax dollars.

The Waxman report, Noncompetitive Federal Contracts Increase Under the Bush Administration found that out of \$300 billion spent on contracts in 2003, approximately \$107 billion was decided without full and open competition. Competition for federal contracts ensures that the government gets the most fair and reasonable price and that taxpayers' money is not wasted. By law the government is required to use open bidding with a few exceptions. In rare instances contracts may be awarded without competition when the government only invites a single company to bid on the contract â€" sole-source bidding.

The report found that the Bush administration uses these exceptions much more frequently. Without the pressures of competition forcing fair and equitable contracts the only remaining tool for accountability is information. Unfortunately, information on non-competitive contracts can be difficult to obtain. Recent changes in the management of the government's procurement data may make the task even more difficult.

Since 1979 the Federal Procurement Data System has provided for a nominal processing fee for access to information on federal contracts. The system has been used by journalists, investigators, academics and others to identify waste, questionable deals, and irresponsible spending. But now the Bush administration has contracted out management of the contracting data.

Under this contract, Global Computer Enterprises (GCE) receives \$24 million to take over the collection and distribution of government contract information from the General Services Administration (GSA). This may have serious implications for public access because as the database passes outside the government it may also move beyond the Freedom of Information Act.

Even though taxpayer dollars pay to compile the data at each agency, if the public wants a copy of the information or to search data they will have to pay GCE an as yet undetermined fee. GCE said pricing will not be determined until July, but a recent Mother Jones article reported that full access could cost as much as \$35,000 compared to the GSA's original \$1,500 price tag.

The new financial hurdles will reduce the scrutiny federal contracts receive and further weaken the integrity of the federal contracting process, which has already begun with the rise in noncompetitive contracts.

Mistakes and Terrorism Fears Jail the Innocent, Miss Employee Misconduct

When authorities in Philadelphia found a motion sensor along some railroad tracks, they worried terrorists might be installing triggering devices to launch an attack against trains along the busy eastern rail corridor between Boston and Washington. But they soon found out terrorism concerns overshadowed the real problem of employee misconduct.

Days after public warnings were issued, an employee came forward to admit he had installed the device to wake him up when his supervisors were coming while he slept during the overnight shift. The story made national news and heightened fears of a terrorist attack on U.S. soil. Continued fears of terrorism attacks, echoed in recent days by announcements from the U.S. Department of Justice, continues to preclude efforts by the public to make themselves safer from other public health and environmental threats.

The need for accountability in terrorism investigations also arose in another case that earned national media attention. A Portland lawyer was freed after law enforcement authorities mistakenly tied him through fingerprints to the Madrid train bombings. News reports covered the arrest of Brandon Mayfield as a material witness to a terrorist attack, a charge which allowed the government to hold Mayfield indefinitely. His release after authorities found that his fingerprints did not match those found at the Madrid bombings highlighted the far-reaching material witness powers of the federal government.

Such problems highlight the need for disclosure about the government's use of these broad powers and adequate safeguards for their use.

Park Service Superintendents Gagged by Agency

National Park Service (NPS) superintendents now must adhere to agency-prescribed "talking points" when speaking with the media. According to a May 12 press release by the Public Employees for Environmental Responsibility (PEER), the talking points try masking budget cutbacks by painting a rosy picture of national parks under the Bush administration.

The talking points specifically refer to budget cuts as "service level adjustments." Sample sound bites read, "Clear Skies should do for visibility in the Great Smoky Mountain National Park what the Acid Rain Trading Program did for acid rain reductions in the Adirondacks," or the "Administration is very committed to preserving the resources of the National Park System." If a Park Service employee wants to divulge information beyond the prescribed points, then the information must be "blessed" by the regional or federal offices.

PEER executive director Jeff Ruch characterized the talking points as "nothing new" but said the gag order accompanying the script is a recent change. In PEER's press release he states, "The reason that feel-good institutions like national parks have turned into bad-news bears for the Bush Administration is solely because of misplaced attempts like this one to suppress facts, hide problems and spread disinformation."

Last December, NPS placed the U.S. Park Police Chief on administrative leave after she discussed the problem of low staffing levels in an interview with the Washington Post. She is currently not allowed to give media interviews without official clearance.

The budget cuts which the talking points are designed to glaze over received additional attention last week when the Coalition of Concerned National Park Service Retirees released a report revealing massive NPS budget cuts. The report was based on information leaked by insiders from 12 U.S. parks and refutes recent statements by NPS director Fran Mainella that parks would not face budget cuts this summer.



© 2001-2004 OMB Watch
1742 Connecticut Avenue, N.W., Washington, D.C. 20009
202-234-8494 (phone)
202-234-8584 (fax)
ombwatch@ombwatch.org