



UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM — MINORITY STAFF
SEPTEMBER 2006

RESTORING HONESTY AND ACCOUNTABILITY IN WASHINGTON

PREPARED FOR
REP. HENRY A. WAXMAN

TABLE OF CONTENTS

EXECUTIVE SUMMARY	i
1. BAN SECRET MEETINGS WITH LOBBYISTS AND CLOSE THE REVOLVING DOOR	1
2. RESTORE OPEN GOVERNMENT	2
3. CLEAN UP FEDERAL CONTRACTING	3
4. BLOCK THE APPOINTMENT OF CRONIES	5
5. TAKE POLITICS OUT OF SCIENCE	6
6. PROTECT FEDERAL WHISTLEBLOWERS	7
CONCLUSION	8

EXECUTIVE SUMMARY

Over the last five years, public confidence in the federal government has plummeted. Growing government secrecy has bred suspicions about the actions of top officials at the same time that the revolving door on K Street has raised questions about the influence of special interests. The appointment of political cronies has called into question government competency, while increasing politicization of science has undermined trust in regulatory decisions. Reports of enormous waste, fraud, and abuse have squandered both taxpayer dollars and public support.

Rep. Henry A. Waxman and Democrats on the Government Reform Committee have developed six proposals to restore government honesty and accountability. Their plan would:

- (1) **Ban secret meetings with lobbyists and close the revolving door.** Committee Democrats would require the disclosure of contacts between lobbyists and Executive Branch officials, ending the secret meetings used to develop key Administration policies, like the Vice President's energy plan. Their proposal would also prohibit lobbyists who enter government from handing out favors to former clients.
- (2) **Restore open government.** Committee Democrats would reverse the Bush Administration's assault on open government by restoring laws promoting transparency, including strengthening FOIA and promoting

timely declassification of documents. In addition, they would ban government-sponsored covert propaganda and strengthen public disclosure of federally funded public-relations efforts.

- (3) **Clean up federal contracting.** Committee Democrats would reform federal acquisition practices by promoting competition, limiting the use of abuse-prone contracts, increasing contract oversight and disclosure of overcharges, and preventing contractor conflicts of interest.
- (4) **Block the appointment of cronies.** Committee Democrats would require minimum qualifications for political appointees holding public safety positions, including management and leadership credentials and a superior achievement record.
- (5) **Take politics out of science.** Committee Democrats would prohibit the manipulation of science for political purposes and strengthen the integrity and independence of expert scientific committees.
- (6) **Protect federal whistleblowers.** Committee Democrats would provide whistleblower protections to national security and contractor employees, while strengthening existing protections for all federal employees.

These six proposals are urgently needed to rebuild the public's faith in government. But all six proposals — even those with bipartisan support on the Government Reform Committee — have been blocked by the Republican leadership in the House.

1. BAN SECRET MEETINGS WITH LOBBYISTS AND CLOSE THE REVOLVING DOOR

Over the last five years, the close and secretive relationship between Washington lobbyists and top government officials has given special interests extraordinary influence in crafting federal policy. The White House energy plan was drafted by an energy task force that was headed by Vice President Cheney, a former energy industry official, and met secretly with energy company executives. Five years later, we are reaping the fruit of the Administration's energy policy: gasoline prices have doubled; home heating prices have soared; natural gas prices have risen to unprecedented levels; and we are more dependent than ever on imported oil. The Medicare prescription drug program, which has generated soaring profits for drug companies, was written by government and congressional officials who now represent the pharmaceutical industry.

The revolving door between K Street and the government undermines confidence in government at virtually every agency. At the new Department of Homeland Security and the White House Office of Homeland Security, over 90 officials — more than two-thirds of the senior leadership — have left government to work as lobbyists and executives for security companies. At key regulatory agencies, like the Environmental Protection Agency, the Mine Safety and Health Administration, and the National Highway Traffic Safety Administration, former industry executives and lobbyists have been charged with overseeing the same firms they formerly represented. J. Stephen Griles, the former Deputy Secretary of the Interior, used his high-ranking position to help his former energy and mining clients.

To stop these abuses, Committee Democrats would enact the Executive Branch Reform Act (H.R. 5112). This legislation won bipartisan support in the Government Reform Committee, only to be blocked from floor consideration by the Republican leadership. The legislation would:

- **Ban Secret Meetings Between Lobbyists and Executive Branch Officials.** The legislation would stop the practice of secret meetings between lobbyists and Executive Branch officials by requiring all political appointees and senior officials in federal agencies and the White House to report the contacts they have with lobbyists and other private parties seeking to influence official government action.
- **Close the Revolving Door Between Lobbyists and Government.** The legislation would ban lobbyists who enter government from handing out favors to their former clients. Under the bill, lobbyists and executives appointed to high government positions would be deemed to have a prohibited conflict of interest if they take official actions affecting their former clients or employers within two years of entering government.

2. RESTORE OPEN GOVERNMENT

Government secrecy has soared under the Bush Administration. Laws like the Freedom of Information Act and the Federal Advisory Committee Act that promote government openness are being systematically narrowed, while laws like the Patriot Act that authorize secret government actions are being radically expanded.¹

The Bush Administration has reversed the presumption that government documents should be disclosed whenever possible, supported legislation to create new exemptions to FOIA, and imposed barriers on individuals requesting government information. At the same time, it has limited public access to historical records under the Presidential Records Act, promoted efforts to limit the application of open meeting laws, and encouraged the proliferation of pseudo-classifications like “sensitive but unclassified.” Together, these efforts have resulted in an unprecedented assault on open government.

While access to government information has contracted, the Administration has used “covert propaganda” to influence public opinion, secretly hiring media commentators to promote Administration policies. It has increased spending on public relations contracts.² And it has manipulated trusted government publications and websites to advance its campaign to privatize Social Security.³

Committee Democrats would reverse the Bush Administration’s assault on open government by enacting the Restore Open Government Act (H.R. 2331) and the Federal Propaganda Prohibition Act (H.R. 373). These bills would:

- **Restore the Presumption of Public Disclosure of Information.** H.R. 2331 would overturn the “Ashcroft Memo,” which restricts release of information under the FOIA, and the “Card Memo,” which urges agencies to stretch FOIA exemptions to withhold any “sensitive” information. It would restore the policy that agencies should release requested information absent some finding of harm.
- **Restore Public Access to Presidential Records.** H.R. 2331 would repeal President Bush’s executive order on presidential records, which severely curtailed release of important historical documents, reviving President Reagan’s balanced approach to presidential records.
- **Prohibit Secret Advisory Committees.** H.R. 2331 would prevent the White House from establishing advisory committees of government employees that meet secretly with

¹ Minority Staff, Special Investigations Division, Committee on Government Reform, *Secrecy in the Bush Administration* (Sept. 14, 2004).

² Minority Staff, Special Investigations Division, *Committee on Government Reform, Federal Public Relations Spending* (Jan. 2005).

³ Minority Staff, Special Investigations Division, Committee on Government Reform, *The Politicization of the Social Security Administration* (Feb. 2005).

industry groups, as did the Vice President's energy task force. Under the legislation, these advisory committees would be required to reveal their meetings and communications with private parties.

- **Eliminate Unnecessary Pseudo-Classification Designations.** H.R. 2331 would require the Archivist of the United States to report on the use of pseudo-classification designations, such as “sensitive but unclassified” and “for official use only.” Unnecessary pseudo-classification designations would be banned, and the use of other information control designations would be restricted.
- **Promote Timely Declassification of Government Documents.** H.R. 2331 would promote public access to information and help prioritize declassification by funding the Public Interest Declassification Board, requiring the Archivist of the United States to levy a fee on agencies to pay for the operations of the Board.
- **Ban Government-Sponsored Propaganda.** H.R. 373 would make the ban on “publicity and propaganda” a permanent part of the U.S. Code. It would also require that any advertisement or communication paid for by the federal government include a prominent notice of the funding source.

3. CLEAN UP FEDERAL CONTRACTING

Under the Bush Administration, spending on federal contracts has grown by \$175 billion, making federal contracts the fastest growing component of the federal budget. The federal government now spends nearly 40 cents of every discretionary dollar on contracts with private companies, a record level. This surge in contract spending has enriched private contractors, but it has come at a steep cost to taxpayers through rising waste, fraud, abuse, and mismanagement.⁴

Spending on no-bid and other forms of noncompetitive contracts has more than doubled over the last five years. Procurement reforms instituted in the 1980s and 1990s have been expanded and distorted by the Bush Administration, sometimes beyond recognition. The authority to buy “commercial items” without competitive bidding has been used to purchase military aircraft. Interagency contracts for information technology have become vehicles for hiring interrogators at Abu Ghraib. Travel and purchase cards have been used by wayward officials to buy luxury cruises, stereo equipment, and services at strip clubs. And the preference given to Alaska Native Corporations in federal procurement has become a vehicle for avoiding competition.

A large and recurring problem in contract management over the last five years has been insufficient and inept contract oversight. GAO has designated contract management at the Department of Defense, the Department of Energy, and NASA as “high risk” areas due primarily to the lack of oversight. The Inspector General at the Department of Homeland Security has

⁴ Minority Staff, Special Investigations Division, Committee on Government Reform, *Dollars, Not Sense: Government Contracting Under the Bush Administration* (June 2006).

found that a lack of oversight has left the Department vulnerable to procurement waste, fraud, and abuse. And too often, the independence of procurement officials has been compromised by corrupt relationships with government contractors, such as when Darleen Druyun, the former chief acquisition official for the Air Force, negotiated a lucrative deal to lease aircraft from Boeing in exchange for future employment.

Over the last five years, major government initiatives — including border and homeland security, the reconstruction in Iraq, and the recovery effort after Hurricane Katrina — have been undermined by billions in wasteful spending. In total, contracts collectively worth over \$762 billion have experienced significant overcharges, contract abuse, or mismanagement under the Bush Administration.⁵

Committee Democrats would protect federal taxpayers by passing the Clean Contracting Act. This legislation, which will be introduced later this month, would:

- **Promote Competition in the Award of Contracts.** The legislation would require agencies to minimize the use of no-bid contracts, establish time limits on the duration of noncompetitive contracts awarded during emergencies, and require competition in multiple award contracts.
- **Limit the Use of Abuse-Prone Contracts.** Over the last five years, the Administration has jeopardized taxpayer interests and squandered hundreds of millions of dollars by giving private contractors like Halliburton exclusive control over huge portions of the reconstruction effort in Iraq. The legislation would prohibit these monopoly contracts and put restrictions on other abuse-prone contracts, such as “layer cake” contracts that raise costs by employing multiple tiers of subcontractors and “cost-plus” contracts that reward contractors for increasing costs to taxpayers.
- **Increase Contract Oversight.** The legislation would require federal agencies to spend at least 1% of their procurement budget on hiring and training procurement officers, contract planning, and improved contract administration and oversight. In addition, the legislation would require the disclosure of contract overcharges and strengthen congressional oversight of problem contracts.
- **Prevent Contractor Conflicts of Interest and Strengthen Procurement Ethics.** Under the Bush Administration, federal agencies have increasingly outsourced the responsibility for contract oversight to private companies. The legislation would curtail this practice and prohibit agencies from hiring oversight contractors that have conflicts of interest. The bill would also close multiple loopholes in the law governing when government procurement officials can be hired by companies to whom they awarded contracts.

⁵ Minority Staff, Committee on Government Reform Democratic, *Database, Dollars, Not Sense: Government Contracting Under the Bush Administration* (online at <http://www.democrats.reform.house.gov/dollarsnotsense/>) (accessed Sept. 7, 2006).

- **Prevent the abuse of contract flexibilities.** The legislation would restrict the use of “commercial item” authority to true commercial items, limit the use of “other transaction” authority, require reform in the use of interagency contracts, and prevent abuse of government-issued credit cards. It would also require competition in the award of contracts valued at more than \$5 million to Alaska Native Corporations.

4. BLOCK THE APPOINTMENT OF CRONIES

The Bush Administration has repeatedly appointed inexperienced individuals with political connections to important government posts, including positions with key responsibilities for public health and safety. This has led to legitimate public concern that those in government, particularly those who are relied upon to keep us safe from harm, are not competent or independent in their judgments. According to Comptroller General David Walker, “There needs to be more emphasis on the qualifications of the individuals that have key positions.”⁶

The most infamous example of cronyism is the appointment of Michael Brown, a former commissioner of judges and stewards at the International Arabian Horse Association, to run the Federal Emergency Management Agency. Other examples include the appointment of an RNC and White House political operative to run the Homeland Security Advisory Committee, the appointment of President Bush’s personal travel assistant as Assistant Secretary for Trade in the Department of Commerce, and the appointment of another junior travel aid as Chief Financial Officer in the Department of Homeland Security. The nomination of Harriet Miers to the Supreme Court further exemplifies the role cronyism has played in Administration appointments over the last five years.

Committee Democrats would ensure that qualified individuals are appointed to key public safety positions by enacting the Anti-Cronyism and Public Safety Act (H.R. 3925). This legislation would:

- **Require minimum qualifications for political appointees holding public safety positions.** The legislation would require that all appointees to public safety positions have management and leadership credentials and a superior record of achievement in areas relevant to the position.
- **Prevent the appointment of former lobbyists.** The legislation would also bar the appointment of individuals who recently lobbied for entities subject to the authority of the agency.

⁶ *Appointees Must Be More Qualified, GAO Says*, Federal Times (Sept. 26, 2005).

5. TAKE POLITICS OUT OF SCIENCE

The Bush Administration has repeatedly subverted, suppressed, or manipulated science that conflicts with its political agenda. An August 2003 investigative report by the minority staff of the House Committee on Government Reform revealed more than twenty cases of the Administration's interference with science. The examples cited in the report include tampering with scientific research, stacking scientific advisory committees, and distorting and censoring the scientific information conveyed to the public.⁷

Prominent scientists, major scientific organizations, and leading scientific journals have criticized the Administration for interference with science. Over 9,000 leading scientists, including 49 Nobel laureates, 63 National Medal of Science recipients, and 175 members of the National Academies, have written that the Administration has “misrepresented scientific knowledge and misled the public about the implications of its policies.”⁸ The journal *Science* has editorialized that the Administration “invades areas once immune to this kind of manipulation”;⁹ its counterpart *Nature* has taken the position that the Administration's approach to science is “ideologically driven” and “remarkably ill-judged.”¹⁰

The scope of the interference with science is far-reaching. At NASA, a 24-year-old campaign worker censored the statements of leading U.S. scientists about the dangers of climate change. At FDA, top agency officials delayed the approval of the Plan B emergency contraception for years, overruling the conclusions of the expert advisory panel, the agency scientific officials in charge of over-the-counter and reproductive drugs, and the director of the Office of New Drugs. At HHS, officials spent hundreds of millions of dollars on abstinence education programs that taught false and misleading facts about reproductive health.

Committee Democrats would insulate science from politics by passing the Restore Scientific Integrity to Federal Research and Policymaking Act (H.R. 839). This legislation would:

- **Prevent the manipulation of science for political and ideological purposes.** The legislation would prohibit the obstruction of federally funded research, the censorship of scientific findings, and the intentional dissemination of false or misleading scientific information.
- **Strengthen the integrity and independence of expert scientific committees.** The legislation would prohibit appointments to federal scientific advisory committees based on political litmus tests. It would also strengthen protections against conflicts of interest for committee members.

⁷ Special Investigations Division, Minority Staff, Committee on Government Reform, *Politics and Science: The State of Science Under the Bush Administration* (Aug. 2003).

⁸ Union of Concerned Scientists, *Restoring Scientific Integrity in Policymaking* (Feb. 18, 2004) (online at http://www.ucsusa.org/scientific_integrity/interference/scientists-signon-statement.html).

⁹ Donald Kennedy, *An Epidemic of Politics*, *Science*, 625 (Jan. 31, 2003).

¹⁰ *No Way to Run a Superpower*, *Nature Magazine* (Aug. 2003).

- **Protecting scientific discourse.** The legislation would provide protection to federal employees who speak out about political interference in federal science.

6. PROTECT FEDERAL WHISTLEBLOWERS

Whistleblowers report waste, fraud, and abuse of U.S. taxpayer dollars. They ensure that health and safety standards are upheld. Yet over the last five years, federal whistleblowers have too often been retaliated against for speaking out, rather than recognized for their courage.

Among senior Administration officials, Army Chief of Staff General Eric Shinseki was rebuked after he told Congress that “several hundred thousand soldiers” would be needed to secure Iraq. Lawrence Lindsay, the Director of the National Economic Council, was fired by President Bush after he estimated that the cost of the war in Iraq could reach \$200 billion. And Treasury Secretary Paul O’Neill was forced to resign for disagreeing with White House proposals for tax cuts.

Rank and file employees are even more vulnerable. Although Karl Rove faced no consequences for revealing the identity of a covert CIA agent, the Administration has repeatedly revoked the security clearances of national security employees for raising questions about Administration policies. When a procurement official at the Corps of Engineers, Bunnantine Greenhouse, voiced her objections to special treatment for Halliburton, she was demoted and reassigned.

Employees of federal contractors are also subject to retaliation. One Halliburton employee in Iraq, James Warren, was fired after he tried to warn a senior company executive about wasteful practices; another, Rory Mayberry, was transferred to Fallujah after speaking to government auditors. Under current law, contract employees can protest company retaliation to the agency head, but have no remedy if the agency refuses to act.

Committee Democrats would strengthen whistleblower rights by enacting the Federal Employee Protection of Disclosures Act (H.R. 1317) and the whistleblower provisions of the Executive Branch Reform Act (H.R. 5112). These bills won bipartisan support in the Government Reform Committee, but have not moved beyond the Committee due to opposition from the Republican leadership. The bills would:

- **Provide protection to national security and TSA whistleblowers.** Currently, federal employees who work on national security issues or at the Transportation Security Administration (TSA) have no effective recourse if they are the victims of retaliation after disclosing abuses. H.R. 5112 would give national security employees full whistleblower protections, including the right to appeal revocations of security clearances, and H.R. 1317 would extend whistleblower protections to TSA employees.
- **Provide protection to contract employee whistleblowers.** Like national security employees, employees of federal contractors also lack effective whistleblower

protections. H.R. 1317 would allow these employees to challenge retaliation in court if they fail to receive relief from the agency head.

- **Strengthen government-wide whistleblower protections.** A series of adverse decisions by the Court of Appeals for the Federal Circuit have left federal whistleblowers across the government vulnerable to retaliation. H.R. 1317 would close loopholes created by the Federal Circuit rulings by clarifying what statements are considered protected disclosures and ensuring a reasonable standard of proof for the whistleblower to demonstrate that he believed that there was a violation of law.

CONCLUSION

Over the past five years, public trust in the federal government has been eroded by the rising influence of special interests, the growth in government secrecy, the appointment of political cronies to high office, recurring procurement abuses, the subversion and manipulation of science, and retaliation against whistleblowers. Rep. Waxman and Democrats on the Government Reform Committee have developed six proposals, articulated in comprehensive legislation, that would help restore an honest and accountable government in Washington.