

September 2010

**FEDERAL
CONTRACTING**

**Assessments and
Citations of Federal
Labor Law Violations
by Selected Federal
Contractors**



GAO

Accountability * Integrity * Reliability

Why GAO Did This Study

In fiscal year 2009, the federal government obligated over \$500 billion on government contracts. Some in Congress are concerned that private companies may be awarded federal contracts even though they had been cited for violating federal laws that are meant to ensure that employees receive proper wages, have the right to bargain collectively, and are not subject to work-site hazards.

GAO was asked to (1) investigate the extent to which companies that received federal contracts during fiscal year 2009 had been assessed the 50 largest monetary penalties for closed inspections of occupational safety, health, and wage regulations for fiscal years 2005 through 2009, and (2) develop case studies of federal contractors that have been assessed occupational safety, health, wage, and collective bargaining penalties. To perform this work, GAO obtained and analyzed concluded wage and health and safety inspections from the Department of Labor's Wage and Hour Division (WHD) and Occupational Safety and Health Administration (OSHA) for fiscal years 2005 to 2009. GAO also obtained labor union organization and bargaining violations from the National Labor Relations Board (NLRB). To determine the value of contracts awarded to GAO's case-study companies, GAO analyzed Federal Procurement Data System-Next Generation (FPDS-NG) data for fiscal year 2009.

View [GAO-10-1033](#) or [key components](#). For more information, contact Greg Kutz at (202) 512-6722 or kutzg@gao.gov.

FEDERAL CONTRACTING

Assessments and Citations of Federal Labor Law Violations by Selected Federal Contractors

What GAO Found

The federal government awarded contracts to companies that previously had been cited for violating wage regulations enforced by WHD and health and safety regulations enforced by OSHA. GAO did not evaluate whether federal agencies considered or should have considered these violations in the awarding of federal contracts, thus no conclusions on that topic can be drawn from this analysis. Of the 50 largest WHD wage assessments during fiscal years 2005 through 2009, 25 wage assessments were made against 20 companies that received federal contracts in fiscal year 2009. From GAO's analysis of OSHA data, GAO also found that 8 of the 50 largest workplace health and safety penalties assessed during the same time frame of fiscal years 2005 through 2009 were assessed against 7 other companies that received federal contracts in fiscal year 2009. Because OSHA and WHD databases do not contain Data Universal Numbering System numbers, GAO's analysis was limited to the 50 largest WHD assessments and OSHA penalties, which GAO manually searched. Because of this, the full extent of the federal government's contracts awarded to companies cited for labor violations is not known.

GAO investigated 15 federal contractors cited for violating federal labor laws enforced by WHD, OSHA, and NLRB. The federal government awarded these 15 federal contractors over \$6 billion in government contract obligations during fiscal year 2009. Several of these companies also had other types of violations, such as hiring undocumented workers, violating environmental standards, and fraudulently billing Medicare and Medicaid.

Examples of Federal Contractors That Were Cited for Violating Federal Labor Laws

Type of service provided	Contracting agencies / fiscal year 2009 contract amounts	Description of citations
Food supplier	Departments of Defense, Agriculture, and Justice (\$500 million)	OSHA cited company for over 100 health and safety violations. For example, OSHA fined company after an employee was fatally asphyxiated after falling into a pit containing poultry debris. In 2009, federal court also ordered the company to properly compensate about 3,000 workers.
Security services	Departments of Defense and Homeland Security, and others (\$200 million)	NLRB found that the company violated fair labor laws when it coerced employees and, in a separate incident, refused to rehire an applicant based on prior union involvement. WHD assessed \$4.4 million in back wages for over 2,100 employees since fiscal year 2005. Company recently agreed to pay about \$290,000 in back wages to over 400 African-Americans for a discrimination suit.
Electrical motors	Departments of Defense and Homeland Security (\$200,000)	In 2007, an employee was killed by machinery that was lacking proper safety devices. OSHA investigators observed machinery without safety devices 1 month after the fatality. OSHA had previously cited the company for not ensuring that machinery had proper safety devices in 1998.

Sources: OSHA, WHD, and FPDS-NG.

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Abbreviations

Agriculture	Department of Agriculture
CBA	Collective Bargaining Agreement
CIGIE	Council of Inspectors General on Integrity and Efficiency
DBA	Davis-Bacon Act
DHS	Department of Homeland Security
DOD	Department of Defense
DOJ	Department of Justice
DOL	Department of Labor
DUNS	Data Universal Numbering System
Energy	Department of Energy
EPLS	excluded parties list system
FAR	Federal Acquisition Regulation
FLSA	Fair Labor Standards Act
FPDS-NG	Federal Procurement Data System–Next Generation
GSA	General Services Administration
HHS	Department of Health and Human Services
Interior	Department of the Interior
Labor	Department of Labor
NASA	National Aeronautics and Space Administration
NLRA	National Labor Relations Act
NLRB	National Labor Relations Board
OIG	Office of Inspector General
OSHA	Occupational Safety and Health Administration
SCA	Service Contract Act
SSA	Social Security Administration
Transportation	Department of Transportation
Treasury	Department of the Treasury
ULP	Unfair Labor Practice
VA	Department of Veterans Affairs
WHD	Wage and Hour Division

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United States Government Accountability Office
Washington, DC 20548

September 17, 2010

The Honorable Robert E. Andrews
Chairman
Subcommittee on Health, Employment, Labor, and Pensions
Committee on Education and Labor
House of Representatives

The Honorable Patrick J. Murphy
House of Representatives

In fiscal year 2009, the federal government obligated over \$500 billion on government contracts. Some in Congress are concerned that private companies may be awarded federal contracts even though they have violated federal laws that are meant to ensure that employees receive proper wages, have the right to bargain collectively, and are not subject to work-site hazards that could result in physical injury or death.

On the basis of your concerns regarding the federal government awarding contracts to companies with past large labor penalties and assessments, as requested we (1) investigated the extent to which companies that received federal contracts during fiscal year 2009 had been assessed the 50 largest monetary penalties for closed inspections of occupational safety, health, and wage regulations for fiscal years 2005 through 2009, and (2) developed case studies of federal contractors that have been assessed occupational safety, health, wage, and collective-bargaining penalties. As part of your request, we also determined whether these case-study firms provide health insurance to their employees.

To determine the number of large penalties involving citations for violating occupational safety and health regulations that had been assessed in fiscal years 2005 through 2009 against federal contractors that received contracts during fiscal year 2009, we obtained from the Department of Labor (Labor) a listing of all occupational safety and health penalties that had been assessed and closed by the Occupational Safety and Health Administration (OSHA) for fiscal years 2005 through 2009. We also obtained from Labor a listing of all wage assessments made by

Labor's Wage and Hour Division (WHD) for this same period.¹ For each of these listings, we identified the 50 largest monetary penalty assessments made by OSHA and the 50 highest monetary back-wage assessments made by WHD. The National Labor Relations Board (NLRB) does not issue fines or assessments against companies that violate collective bargaining laws. As such, we could not perform this analysis on the largest violations of collective bargaining laws. To determine whether those companies with violations received federal contracts during fiscal year 2009, we searched the contract data using the company's name from the Federal Procurement Data System–Next Generation (FPDS-NG) to determine whether those companies received federal contracts. However, the name-matching process was sometimes imprecise because contractor names can vary widely due to such factors as name combinations and parent/subsidiary relationships. Nevertheless, this was generally the only viable method available for identifying contractors involved in these cases because Data Universal Numbering System (DUNS)² numbers were not available. Therefore, due to name variations, we likely did not identify all of the contractors involved in the cases in the databases maintained by WHD and OSHA. To ensure that the federal contracts were significant, we excluded companies that received obligations of \$100,000 or less during fiscal year 2009.

For our case studies, we identified 15 cases that represent the types of labor-law violation citations that occur in various industries. To develop case studies, we analyzed fiscal year 2005 through fiscal year 2009 wage, health, and safety data from Labor and also obtained labor union organization and bargaining violations data from NLRB. We restricted our analysis to those cases that have been settled or adjudicated and where the company had received over \$100,000 in federal contract obligations during fiscal year 2009. In addition, we restricted our analysis to those WHD assessments of at least \$100,000 and OSHA fines of at least \$25,000. For our nine cases that have OSHA settlement agreements, because there was no adjudication and because these agreements generally contain language whereby the company denies violating labor standards, there is

¹From Labor's WHD database we looked at violations of the Service Contract Act, Fair Labor Standards Act, and Family and Medical Leave Act. Because GAO makes determinations on whether to suspend or debar companies for Davis Bacon Act violations, we did not include those types of violations in our review.

²A DUNS number is a unique nine-character number adopted by the Office of Management and Budget to identify and keep track of federal funds dispersed to organizations.

no adjudicated violation. For each case study, we reviewed inspections, settlement agreements, and other relevant documents that are related to the cited violations. We also searched public records and other sources to determine whether there have been any other citations for potential criminal or civil activities. We also interviewed management officials from those companies to determine the extent to which employees receive health insurance. We did not make inquiries with contracting officers to determine the extent to which labor law violation citations were considered or should have been considered in the award of federal contracts because it was beyond the scope of this investigation.

Our analysis and investigations did not include companies with labor citations that had not been closed by OSHA, WHD, or NLRB through fiscal year 2009. For example, OSHA had proposed fines of over \$55 million for a large petroleum company for cases opened between fiscal years 2005 and 2009. A large portion of the fines were assessed as a result of OSHA's safety and health inspections in 2005 after a massive refinery explosion where there were 15 deaths and almost 200 injuries. The firm's parent company received over \$2 billion in federal contract obligations during fiscal year 2009. In addition, OSHA had also proposed fines of about \$8.7 million as a result of inspections at a sugar refining company that were opened in fiscal year 2008. Five million dollars of these fines are related to a refinery factory explosion where there were 14 deaths and injuries to dozens of other workers. The federal government obligated about \$6.5 million on federal contracts with this firm during fiscal year 2009.

We analyzed OSHA and WHD databases and determined they were sufficiently reliable for purposes of our audit and investigative work. To determine the reliability of the databases, we analyzed selected case-file information to ensure that specific data elements matched those found in the databases. We also performed electronic testing to determine the reasonableness of specific data elements in the databases that we used to perform our work. We also determined that the FPDS-NG was sufficiently

reliable for this review by confirming the companies had federal contracts with selected company officials and other sources.³

We conducted the work for this investigation from April 2010 through September 2010 in accordance with the standards prescribed by the Council of Inspectors General on Integrity and Efficiency (CIGIE).

Background

The Department of Labor and the National Labor Relations Board (NLRB) are responsible for enforcing many of the country's most comprehensive federal labor laws ranging from occupational health and safety to minimum wage, overtime pay, and the rights of employees to bargain collectively with their employers.

Most private sector firms—regardless of whether they are federal contractors—must comply with safety and health standards issued under the Occupational Safety and Health Act.⁴ The act was meant “to assure safe and healthful working conditions for working men and women.” The Secretary of Labor established OSHA in 1970 to carry out a number of responsibilities under the act, including developing and enforcing safety and health standards, educating workers and employers about workplace hazards, and establishing responsibilities and rights for both employers and employees for the achievement of better safety and health conditions.⁵

³Our previous work, as well as the work of the federal Acquisition Advisory Panel, has identified limitations in the accuracy and timeliness of data in FPDS-NG. Both GAO and the Acquisition Advisory Panel have reported that while FPDS-NG has been the primary governmentwide contracting database for capturing and reporting on various acquisition topics, such as agency contracting actions and procurement trends, it has had data quality issues over a number of years. While FPDS-NG data are useful for providing insight, the data are not always accurate at the detailed level. However, no other viable alternative currently exists for obtaining governmentwide data on federal procurements. See GAO, *Federal Contracting: Observations on the Government's Contracting Data Systems*, [GAO-09-1032T](#) (Washington, D.C.: Sept. 29, 2009) and *Federal Acquisition: Oversight Plan Needed to Help Implement Acquisition Advisory Panel Recommendations*, [GAO-08-160](#) (Washington, D.C.: Dec. 20, 2007).

⁴The act (26 U.S.C. 651 et seq.) covers most private-sector employers and employees. Major exemptions include employees of state governments and their political subdivisions, and workers engaged in industries, such as the nuclear power industry, that are regulated by other federal agencies under other federal statutes.

⁵The act also authorized states to operate, with up to 50 percent federal funding, their own safety and health programs. OSHA, however, is responsible for approving state programs and monitoring their performance to make sure they remain at least as effective as the program operated by OSHA.

OSHA is authorized to conduct workplace inspections to determine whether employers are complying with safety and health standards, and to issue citations and assess penalties when an employer is not in compliance. OSHA characterizes violations as serious, willful, repeat, and other-than-serious, with civil penalties in specified amounts for these various types of violations. Table 1 describes the different violations and their associated penalties.

Table 1: Types of OSHA Violations

Type of violation	Definition	Penalty amount
Serious	Substantial probability that death or serious physical harm could result, and the employer knew or should have known of the hazard.	Up to \$7,000
Willful	Employer knowingly commits a violation or commits a violation with plain indifference to the law.	\$5,000 to \$70,000. If an employee dies and the employer is convicted in a criminal proceeding, the court may fine up to \$250,000 for an individual or \$500,000 for a corporation, or sentence imprisonment up to 6 months, or both.
Repeat	Violation found in current inspection is substantially similar to one found in a prior inspection. The inspection was conducted within 3 years of the final order or abatement date of the previous citation, whichever is later.	\$5,000 to \$70,000
Other-than-serious	Direct and immediate relationship to worker safety and health, even though hazardous condition cannot reasonably be predicted to cause death or physical harm.	May be assessed up to \$7,000
Unclassified	Typically a violation that was initially classified as willful or repeat. In exchange for significant concessions, a company may accept unclassified violations, perhaps to avoid losing coverage under state workers' compensation programs or to minimize adverse publicity attached to the violations as originally classified.	Pays all or almost all of proposed penalty for initial violation classification.

Source: OSHA.

WHD works to enhance the welfare and protect the rights of the nation's workers through enforcement of the federal minimum wage, overtime pay, record keeping, and child labor requirements of the Fair Labor Standards Act; the Family and Medical Leave Act; and employment standards and worker protections provided in certain other laws. Additionally, WHD administers and enforces the prevailing wage requirements of the Davis-Bacon Act (DBA),⁶ the Service Contract Act (SCA),⁷ and other statutes

⁶40 U.S.C. §§ 3141-3144, 3146 and 3147.

⁷41 U.S.C. § 351 et seq.

applicable to federal contracts for construction and for the provision of goods and services.

When WHD finds violations during enforcement actions, it computes and attempts to collect and distribute back wages owed to workers and, where permitted by law, also imposes penalties and other remedies.⁸ If employers refuse to pay the back wages and any penalties assessed, WHD officials, with the assistance of attorneys from Labor's Office of the Solicitor, may pursue the cases in court. When WHD finds violations under the Government Contract statutes, which includes the SCA, DBA, and Contract Work Hours and Safety Standards Act, the agency may pursue administrative action to recover wage and benefit payments and to debar the contractor from future federal contracts. WHD may also request that the federal agency withhold contract payments to protect the back wages and benefits and may request that the federal agency terminate a contract.

The National Labor Relations Act (NLRA) is the primary federal law governing relations between labor unions and employers in the private sector and is administered by the NLRB. Under Section 8 of the act,⁹ it is illegal for employers to interfere with workers' right to organize or bargain collectively or for employers to discriminate in hiring, tenure, or condition of employment in order to discourage membership in any labor organization, and such behavior is defined as an unfair labor practice.¹⁰ After concluding that a violation has been committed, the board typically requires firms to cease and desist the specific conduct for which an unfair labor practice is found. The board may order a variety of remedies, including requiring the firm to reinstate unlawfully fired workers or restore wages and benefits to the bargaining unit. In some cases, the board

⁸Penalties are fines that WHD may impose when employers violate certain labor laws or are found to have willfully or repeatedly violated certain labor laws. They are known as "civil money penalties."

⁹29 U.S.C. § 158(a) provides that it is a violation or an unfair labor practice for an employer to (1) interfere with, restrain, or coerce employees in the exercise of their rights to self-organize; (2) dominate or interfere with the formation or administration of any labor organization; (3) discriminate in hiring, or any term or condition of employment, to encourage or discourage membership in any labor organization; (4) discharge or otherwise discriminate against an employee for filing charges or giving testimony under this act; and (5) refuse to bargain collectively with the majority representative of employees.

¹⁰29 U.S.C. § 158(b) violations refers to unfair labor practices committed by unions. Because unions are typically not federal contractors, we did not include 8(b) violations in this report.

will also issue a broad cease and desist order prohibiting the firm from engaging in a range of unlawful conduct. If an employer to whom the federal government owes money (such as a federal contractor) has failed to comply with an order by the board to restore wages or benefits, the government has the option of withholding from any amount owed to that employer (including payments under a federal contract) any equal or lesser amount that the contractor owes under the board order.

By statute, federal agencies are required to award contracts only to “responsible” sources. This statutory requirement has been implemented in the Federal Acquisition Regulation (FAR). The FAR establishes “a satisfactory record of integrity and business ethics” as one of the general standards a prospective contractor must meet to be responsible.¹¹ Also, contracting officers are required to query the excluded parties list system (EPLS) to determine whether the prospective contractor has been debarred or suspended from federal contracts.¹²

Federal Government Awards Contracts to Companies with Wage Assessments and Health and Safety Citations

The federal government has awarded contracts to companies that had been cited for large back-wage liabilities by Labor. Restricting our analysis to the 50 largest WHD assessments from fiscal year 2005 through fiscal year 2009, we found that over 60 percent of these assessments were made against companies that subsequently received contracts in fiscal year 2009. Specifically, we found that 25 out of the 50 largest WHD assessments were charged to 20 federal contractors. WHD assessed these 20 federal contractors for over \$80 million in back wages. According to FPDS-NG, the federal government awarded over \$9 billion in federal contract obligations to these 20 contractors during fiscal year 2009. None of the 20 federal contractors had been debarred or suspended from federal contracts. Further, we do not know the extent, if any, that contracting

¹¹FAR 9.104-1.

¹²To protect the government’s interests, any agency can exclude, that is, suspend or debar, businesses or individuals from receiving contracts or assistance for various reasons, such as a conviction of or indictment for criminal or civil offense or a serious failure to perform to the terms of a contract. For example, under the Contract Work Hours and Safety Standards Act, Labor may debar contractors in the construction industry for “repeated willful or grossly negligent” violations of safety and health standards issued under the Occupational Safety and Health Act. A suspension is a temporary exclusion of a party pending the completion of an investigation, while a debarment is a fixed-term exclusion. Generally, the period of debarment does not exceed 3 years, though some are indefinite. 40 U.S.C. 3701 et seq.

officers considered WHD assessments in the awarding of the federal contracts.

The federal government has also awarded contracts to companies that Labor has assessed large fines against for violating health and safety regulations. From our analysis of the 50 largest OSHA fines for health and safety violations for closed investigations from fiscal year 2005 through fiscal year 2009, we found that almost 40 percent of these fines were made against companies that subsequently received federal contracts in fiscal year 2009. Specifically, we found that 8 of the 50 largest OSHA fines were made against 7 other federal contractors for safety violations. Further, these 7 companies accounted for about \$3.7 million in OSHA fines. According to FPDS-NG, the federal government obligated approximately \$180 million in federal contracts to these contractors during fiscal year 2009. None of the 7 federal contractors had been debarred or suspended from federal contracts. Further, we do not know the extent, if any, that contracting officers considered OSHA fines in the awarding of the federal contracts.

Currently, the inspection databases maintained by OSHA, WHD, and NLRB do not contain DUNS numbers for all their cases. The OSHA and WHD data primarily identify companies by their names and, for WHD, employer identification numbers, when they were available. These firms may incur violation citations under multiple names due to the existence of multiple subsidiaries and corporate mergers. As such, the full extent of the federal government's contracts awarded to companies with wage, health and safety, and collective bargaining violations is unknown.

Examples of Federal Contractors That Were Cited for Violating Federal Labor Laws

Each of the 15 companies we reviewed were cited for failing to follow wage, health and safety, or collective bargaining laws enforced by WHD, OSHA, and NLRB, respectively. Seven of these companies also had other types of violations, such as hiring undocumented workers, violating environmental standards, fraudulently billing Medicare and Medicaid, and billing for services not rendered. Most of these 15 federal contractors had contracts with the Department of Defense (DOD), the largest contracting agency. Other federal agencies that contracted with these companies include the Departments of Agriculture, Homeland Security, and Justice; General Services Administration (GSA); and National Aeronautics and Space Administration (NASA). According to FPDS-NG, these 15 companies received over \$6 billion in federal contract obligations in fiscal year 2009. See table 2 below for detailed information on our 15 cases.

Table 2: Examples of Federal Contractors with Labor Law Citations

Case	Product or service provided	Contracting agencies	Details
1	Food supplier	Department of Agriculture (Agriculture), DOD, Department of Justice (DOJ)	<ul style="list-style-type: none"> • Federal agencies awarded about \$500 million in federal contracts to the company during fiscal year 2009. • Over 100 OSHA health and safety violations, including 1 willful violation, since fiscal year 2005 totaling \$200,000 in fines. • OSHA cited the company for one serious violation and a \$7,000 fine when employee who fell into a wastewater pit containing poultry debris was fatally asphyxiated when the debris lodged into his throat in 2004. • 13 WHD investigations resulted in \$30,000 in assessments for back wages since fiscal year 2005. The firm agreed to pay these assessments. • WHD determined that multiple employees were wrongfully terminated and denied thousands of dollars of pay between 2006 and 2008 for taking lawful family medical leave, including caring for a hospitalized spouse. • In 2009, a federal jury determined that the company was in violation of the Fair Labor Standards Act for failing to properly pay approximately 3,000 workers \$250,000. In this case, Labor had sought \$8 million. • Company officials report that the company offers health insurance to its employees.
2	Healthcare services	DOD, DOJ, Department of Health and Human Services (HHS), Department of Veterans Affairs (VA)	<ul style="list-style-type: none"> • Federal agencies awarded about \$48 million in federal contracts to the company during fiscal year 2009. • WHD assessed \$1.3 million in back wages for about 500 employees since fiscal year 2005. The firm agreed to pay these assessments. • In 2007, WHD computed approximately \$250,000 in back wages when the company failed to pay overtime to hourly employees from 2004 to 2006. Although the firm agreed to pay these assessments, WHD documentation notes that the firm had a history of and was continuing attempts to avoid reporting all employees who were due back wages. • Company officials report that health benefits are offered to employees that work at least 30 hours per week.

Case	Product or service provided	Contracting agencies	Details
3	Security guard services	Department of Homeland Security (DHS), DOJ, General Services Administration (GSA), Department of Transportation, Department of the Treasury (Treasury)	<ul style="list-style-type: none"> • Federal agencies awarded about \$300 million to the company in federal contracts during fiscal year 2009. • WHD assessed over \$3.7 million in back wages for over 2,500 employees since fiscal year 2005. The firm has agreed to pay these assessments. • WHD investigators noted that the company had a lack of regard for the Collective Bargaining Agreement (CBA) and considered debarment for the firm's history of violations; however, the firm was never debarred. • Company agreed to pay \$18 million in a settlement to the U.S. government in 2007 for allegedly violating contract requirements, such as weapons qualifications, for civilian guards at eight U.S. Army bases. • Company officials report that health benefits are negotiated in the CBA and vary for each contract.
4	Security guard services	Agriculture, DHS, DOD, Department of Energy, GSA, NASA, Nuclear Regulatory Commission, VA	<ul style="list-style-type: none"> • Federal agencies awarded about \$200 million in federal contracts to the company during fiscal year 2009. • WHD assessed \$4.4 million in back wages for over 2,100 employees since fiscal year 2005. The firm has agreed to pay these assessments. • OSHA has cited the company for seven cases of health and safety violations and assessed \$9,000 in penalties since fiscal year 2005. • In 2005, the NLRB ruled that the company violated the NLRA by threatening employees with the loss of the company's government contract and loss of their jobs if they formed a union. • The NLRB also ruled in 2006 that the company violated the NLRA for refusing to rehire an applicant due to his prior union activities. • The company engaged in hiring discrimination against African-Americans from January 2002 through December 2003, according to Labor. In 2010, the company agreed to pay \$290,000 in back pay and interest to 446 rejected African-American job applicants. • In a 2007 testimony before a congressional committee, an inspector general discussed concerns about the firm's contract performance, including unguarded entrances, lack of training on handling toxic substances, 24-hour shifts with dozing guards, unsecured firearms and ammunition, and other problems. • The company billed a Florida county \$6 million for phantom services, according to a county manager's 2008 audit report. • Company officials report that health benefits are negotiated in the CBA and vary for each contract.

Case	Product or service provided	Contracting agencies	Details
5	Petroleum-base liquid propellants and fuels	DOD	<ul style="list-style-type: none"> DOD awarded about \$100 million in federal contracts to the company during fiscal year 2009. OSHA has cited the company for 18 health and safety violations, including 17 serious violations, resulting in \$60,000 in fines since fiscal year 2005. A 2008 OSHA inspection revealed that oil refinery employees were exposed to explosions and other hazards that could result in severe burns and death. In a related OSHA press release, an OSHA official stated that company management was “gambling with employees’ safety” by operating unsafe equipment. In the agreement, the company denied that it violated the safety standards but settled to avoid the expense of litigation. In 2007 the company agreed to a settlement of \$400,000 in civil penalties and to spend more than \$48.5 million for new and upgraded pollution controls at three refineries to resolve alleged violations of the Clean Air Act. Company official reports that health insurance benefits are offered to all full-time employees.
6	Guard services; courier and messenger services	Agriculture, DHS, DOD, NASA	<ul style="list-style-type: none"> Federal agencies awarded about \$50 million in federal contracts to the company during fiscal year 2009. WHD has assessed over \$2 million in back wages to over 1,000 employees since fiscal year 2005. The firm agreed to pay these assessments. In one case, WHD investigators found that 43 security guards working on a DHS contract were “grossly being underpaid.” The company settled a civil complaint for \$8,000 in 2009 for allegedly refusing to reemploy a service-disabled veteran, a violation of the Uniformed Services Employment and Reemployment Rights Act of 1994. Company officials refused to respond to our requests for health insurance information.
7	IT services, equipment maintenance and repair, logistics support, and other professional services	DOD, NASA	<ul style="list-style-type: none"> Federal agencies awarded about \$4 billion in federal contracts to the company during fiscal year 2009. WHD has assessed \$1.6 million in back wages for over 250 employees since fiscal year 2005 for not paying proper prevailing wages, holiday, vacation, and sick pay. The firm has agreed to pay these assessments. A 2006 OSHA inspection found that employees were working in a trench over 10 feet deep without proper protection against cave-ins. OSHA documentation states that the company’s leadman was aware but did not follow the excavation requirements. The firm entered into an informal agreement with OSHA and agreed to pay \$40,000 in penalties. As part of the agreement, the firm did not admit to violating OSHA regulations. Company official stated that health insurance is offered to 99 of full-time employees.

Case	Product or service provided	Contracting agencies	Details
8	Industrial and information technology manufacturing, construction and engineering	DHS, DOD	<ul style="list-style-type: none"> Federal agencies awarded about \$200,000 in federal contracts to the company during fiscal year 2009. OSHA has cited the company for 17 serious violations and assessed about \$95,000 in penalties since fiscal year 2005. In 2007, an employee was killed by machinery lacking safety devices. A similar incident occurred at the same facility in 1984, but no one was injured. Company was also cited in two different 1998 inspections for not ensuring that machinery had proper safety devices. One month after the fatality, OSHA inspectors observed machinery without safety devices, risking employee injury or death. According to OSHA records, company management informed OSHA they did not know why the safety device was removed. In settlement, OSHA cited the company for 18 violations, including potential for falling from heights, lack of adequate protective gear, improper storage of combustible equipment, and employee exposure to electric shock and combustible materials from improper maintenance. As part of the agreement, the company made no admission to violating OSHA regulations. Company officials informed us that health insurance is offered to full-time employees that have completed 30 days of employment.
9	Electronic display and imaging technologies	DOD, Transportation	<ul style="list-style-type: none"> Federal agencies awarded about \$1.4 million in federal contracts to the company during fiscal year 2009. OSHA has cited the company for 30 health and safety violations, including 2 willful and 24 serious, and \$100,000 in fines since fiscal year 2005. These included a lack of eye and face protection for employees working with various acids, improper storage of combustible materials, unguarded moving machine parts, several electrical hazards, and lack of adequate first-aid supplies. In the settlement agreement related to these violations, the company did not admit to OSHA's allegations and citations. Company had a series of chemical burn accidents and hydrofluoric acid exposure from 1999 to 2007 that led to employee hospitalization, including several burns to employees' face, chest, arms, and shoulders. According to OSHA records, one of the plant's managers admitted that despite the history of accidental acid burns, corrective actions were not taken, citing the lack of time, personnel, and resources, despite knowledge of OSHA standards. Further, a plant manager informed OSHA that "it was not a priority" to produce a required plan that could prevent employee burns. Company officials stated that health insurance is offered to full-time employees working 40 hours a week with 90 days of continuous employment.

Case	Product or service provided	Contracting agencies	Details
10	Industrial manufacturing, repair and maintenance	DOD	<ul style="list-style-type: none"> • DOD awarded about \$200,000 in federal contracts during fiscal year 2009. • OSHA has cited the company for 30 health and safety violations, including 18 serious violations, and \$80,000 in fines since fiscal year 2005. The company settled to pay the fines, but did not admit to the violations. • Machine operators were exposed to ongoing amputation and crushing hazards due to deficient safety devices. A 2005 accident resulted in a finger amputation caused by a safety device not meeting OSHA requirements. • In 2007, an employee sustained fatal injuries after falling approximately 12 feet from the top of an oven onto concrete floor. Management was aware of the fall risk as early as 2000, and purchased fall protection equipment for maintenance and service personnel per customer requirements, but lacked a mandatory policy for other employees, leaving use of fall protection equipment to their discretion. • OSHA observed multiple employees smoking and participating in other spark-producing activities, near designated nonsmoking areas throughout the facility, risking plant explosions, with no enforcement by management. • Company official reported that health insurance benefits are offered to all full-time, permanent employees with 60 days of continuous employment.

Case	Product or service provided	Contracting agencies	Details
11	Medical equipment, information technology services, maintenance	Agriculture, DOD, GSA, VA	<ul style="list-style-type: none"> • Federal agencies awarded about \$4 million in federal contracts to the company during fiscal year 2009. • OSHA has cited the company for 77 health and safety violations, including 1 repeat and 65 serious violations, and fines of \$140,000 since fiscal year 2005. • In one OSHA case, citations were given for failing to provide protective gear from hazardous chemicals and failure to keep work sites free from hazards that were causing or likely to cause death or serious physical harm to employees. As part of a settlement agreement, the firm agreed to take corrective actions and pay \$76,000 in penalties. • WHD has assessed over \$100,000 in back wages to more than 150 employees since fiscal year 2005. The firm agreed to pay these assessments. • In 2008, in a press release, an OSHA official accused the company of tolerating serious injuries, including amputations, as a cost of doing business. • In 2009, an administrative law judge ruled that the company violated the NLRA and engaged in unfair labor practices by removing a union steward from a work facility for advocating for employees. • U.S. Immigration and Customs Enforcement raid found nearly 600 undocumented immigrants working for the company in 2008. A manager at the company pleaded guilty to conspiracy and employee verification fraud for knowingly encouraging and inducing undocumented immigrants to reside in the country and knowingly concealing, harboring, and shielding these individuals from detection, and routinely accepting false identification documents. • Company agreed to pay over \$475,000 in fines for several violations of environmental regulations that took place between 2004 and 2009, including failing to properly label and store hazardous waste, failing to comply with permitted waste discharge limits and violating state air regulations. • EPA has assessed penalties to company for violations of the Clean Air Act, Clean Water Act, and the Resource Conservation and Recovery Act. • Company officials did not to respond to repeated requests for health insurance benefits information.

Case	Product or service provided	Contracting agencies	Details
12	Automotive and industrial batteries	DHS, DOD, Energy, Department of the Interior, Social Security Administration, Transportation, Treasury, VA	<ul style="list-style-type: none"> • Federal agencies awarded about \$15 million in federal contracts to the company during fiscal year 2009. • OSHA has cited the company for 85 health and safety violations, including over 50 serious and 13 repeat violations since fiscal year 2005 and assessed about \$428,000 in fines. • According to OSHA records, the company had a number of inspections and fatalities and had been placed in the OSHA Enhanced Enforcement Program • In one OSHA enforcement case, an employee, in 2005, was fatally injured attempting to manually clear a jammed conveyor belt when his arm was caught. OSHA records cite the company's lack of machinery safety devices as a factor. Company had previously been cited for this hazard at two of the company's locations, including the one involving a fatality. According to OSHA records, employees stated safety devices were not used because of the rush to meet the production quota. In a settlement agreement relating to this case, company agreed to pay \$300,000 in penalties. As part of the agreement, the company did not admit to any of OSHA's allegations. • Company officials informed us that employees not covered under a collective bargaining agreement are eligible to participate in health benefit programs offered if they are regularly scheduled to work at least 30 hours per week following 2 full calendar months of employment. Eligibility for health insurance under collective bargaining agreements is separately negotiated.
13	Furniture and fixtures	Agriculture, DHS, DOD, Interior, Transportation, VA	<ul style="list-style-type: none"> • Federal agencies awarded about \$23 million in federal contracts to the company during fiscal year 2009. • OSHA has cited the company for over 25 health and safety violations, including 13 serious violations, and assessed about \$100,000 in fines since fiscal year 2005. In a settlement agreement, the company stated that it did not admit to OSHA's citations. • OSHA inspectors found that management was aware of hazards that could lead to amputations, electrocution, lacerations, fractures, and burns. • Following a 2005 employee amputation, according to the OSHA inspection report, company management acknowledged to OSHA inspectors that machinery was not guarded to prevent employee amputations and stated that no guarding methods had been attempted. The company has been cited for this violation multiple times by OSHA inspectors. In fact, multiple company employees had sustained amputation injuries between 2003 and 2005 due to the lack of safety devices on machinery. • Company officials report that health insurance is offered to all full-time employees.

Case	Product or service provided	Contracting agencies	Details
14	Guard services, social rehabilitation services	DHS, DOJ, Interior, GSA	<ul style="list-style-type: none"> Federal agencies awarded about \$800 million in federal contracts to the company during fiscal year 2009. OSHA has cited the company for five serious safety violations since fiscal year 2005. WHD assessed about \$3 million in back wages due to employees since fiscal year 2005. The firm agreed to pay these assessments. The company violated the NLRA by unlawfully firing an employee for union participation, transferring another employee to a less desirable position because of his union activities, and unlawfully encouraging and coercing employees to decertify their union. A complaint was filed in district court in 2008 on behalf of all corrections officers employed by the company alleging that employees were not paid for all hours worked. Company agreed to a maximum gross settlement amount of \$7 million. According to the Florida Attorney General's Office, the company improperly billed Medicaid for outside medical services provided to inmates from 2000 through 2004. In fiscal year 2006, the company settled with the state and agreed to pay about \$300,000 in improper claims and penalty amounts. Company officials reported that health insurance is offered to all full-time employees.
15	Medical and surgical supplies	Bureau of Prisoners / Federal Prison System, DOD, Indian Health Service, VA	<ul style="list-style-type: none"> Federal agencies awarded about \$4 million in federal contracts to the company during fiscal year 2009. WHD assessed approximately \$600,000 in back wages due to 3,000 employees since fiscal year 2005. The firm agreed to pay these assessments. Company was ordered to pay \$19 million in damages for violating the False Claims Act and for unjust enrichment after fraudulently billing Medicare for medical equipment between 1999 and 2005 through a sham company. Company officials did not respond to our requests for health insurance benefit information.

Source: OSHA, WHD, NRLB, FPDS-NG, and other sources.

Agency Comments

We provided a draft of this report to NLRB and Labor. NLRB did not have any comments on the draft report. We received technical comments from Labor, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 14 days from the report date. At that time, we will send copies to interested congressional committees, the Secretary of Labor, and the Chairman of the NLRB. The report also will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-6722 or kutzg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.

A handwritten signature in black ink that reads "Gregory D. Kutz". The signature is written in a cursive style with a large, stylized initial "G".

Gregory D. Kutz
Managing Director
Forensic Audits and Special Investigation

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