Offshore Outsourcing of Kentucky State Government Services: Direct Contracting Is Limited but the Amount of Subcontracting Is Unknown

Program Review and Investigations Committee

Greg Hager, Ph.D.
Committee Staff Administrator

Project Staff

Jacob Fowles
Wayne Linscott
Jonathan Roenker

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Foreword

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Summary

Outsourcing is the process through which organizations, including private firms and government agencies, contract with third parties to provide specialized services. Offshore outsourcing is the practice of contracting for services with an individual or firm that is located in a country other than the one in which the contracting organization is located. Some government outsourcing is done directly through contracts with offshore vendors. Offshore outsourcing of state government work can also occur when a domestic contractor subcontracts with a foreign firm.

In 2004, 41 states outsourced some government operations overseas through contracts or subcontracts according to the National Conference of State Legislatures. The available evidence indicates that direct outsourcing by state governments as a share of all contracting is very small.

The outsourcing of certain services from developed to developing countries is not new. One change, however, is the nature of the work involved. Outsourcing to foreign companies is no longer confined to the blue-collar sector of the U.S. economy. An increasing number of service-sector tasks have been outsourced overseas. Particularly prevalent are jobs that involve receiving product or service support over the phone.

Recent work by economists indicates that for the economy as a whole, offshore outsourcing is likely to only change the composition of the jobs in the economy and not necessarily the total level of employment. Some workers do lose their jobs to offshore outsourcing. The costs they bear may include long-term unemployment, retraining, and lower wages when they become employed again.

Existing state contracting laws and regulations typically offer little guidance or limitations on offshore outsourcing. When most state government procurement laws were written, it was either impractical or impossible for offshore firms to provide the services contracted out by state government.

Staff identified 40 offshore contracts with Kentucky state government for the period beginning in 1999. The total cost of the contracts is $5.67 million. Three countries account for the vast majority of offshore contracts, in terms of quantity and cost: Canada, Japan, and Belgium. More than half the contracts are with Canadian firms, usually for computer software, training, and support. Most of the total cost of overseas contracts is for economic development contracts in Japan and Belgium, which account for more than half and approximately a fourth, respectively, of total offshore contract costs.

Because information on the location of subcontractors is not included routinely in the database on Kentucky contracts, foreign subcontracts cannot be identified. Therefore, the number and financial value of offshore subcontracts are unknown. The inability to determine whether contracted work is being outsourced overseas is typical of other states also.

For the calendar year 2004, Program Review and Investigations Committee staff identified 138 pieces of legislation, introduced in 39 states, related to offshore outsourcing and contracting. Eight states enacted laws related to offshore outsourcing and contracting in 2004. Six of the laws provided for preferences of some sort for in-state or U.S. firms in the contracting process.

It is possible that state legislation that bans or limits offshore outsourcing of any state government contracts could be challenged as an illegal barrier to trade under the terms of any international treaties to which the state is a party. Kentucky is participating party to several such agreements.

An Introduction to Offshore Outsourcing and This Report

Through outsourcing, public and private organizations contract with third parties to provide specialized services.

Outsourcing is the process through which an organization contracts with a third party to provide specialized services. For example, an architectural firm may contract with an outside company to manage and maintain the firm's computer network rather than hiring and maintaining in-house staff. Outsourcing is not limited to the private sector; governments at all levels also use outside firms to provide some services. For example, a municipal government may contract with a private firm for garbage collection or a local school district may contract with a company to provide custodial services.

Offshore, or overseas, outsourcing is the practice of contracting for services with an individual or a firm that is located in a country other than the one in which the contracting organization is located.

Offshore outsourcing is the practice of contracting for services with a firm that is located in a country other than the one in which the contracting organization is located. Historically, only the manufacturing sector has been affected by outsourcing (Bardhan and Kroll 1). Technological advances have increased the list of tasks that can be outsourced. Advances in computer and telecommunications technology have made inexpensive, instantaneous communication without regard for geographic location commonplace. For example, computer networking and the Internet allow computer networks to be monitored and protected offsite in near real-time, which, in some firms' estimation, has eliminated the need for on-site technicians.

Better technology makes offshore outsourcing of some services possible. What makes it feasible is that overseas workers are also becoming more capable of doing the work. Education and training in foreign countries often includes extensive training in English that accompanies specialized technological education, both of which are designed to appeal to firms looking to outsource (Anderson).

Examples of offshore outsourcing can be found in both the public and private sectors. Microsoft has outsourced a portion of the software development for its next generation of operating systems to a firm located in India. Coca-Cola, General Electric, and Proctor and Gamble outsource to Mexico in some capacity ("Offshore Outsourcing"). In 2002, a subsidiary of an Asia-based conglomerate won a contract to develop a Web-based electronic system for the Massachusetts Teachers Retirement Board (Chai). Some outsourcing, such as the Massachusetts contract, is done directly utilizing offshore vendors.

Offshore outsourcing of state government work can also occur when a domestic contractor subcontracts with a foreign firm. The use of foreign call centers as part of the new electronic benefit system for food stamps is probably the best-known example of offshore outsourcing through subcontractors. At one point, 42 states and the District of Columbia were using contractors that in turn were subcontracting to foreign firms, typically in India or Mexico (Mattera et al. 22).

The available evidence indicates that direct outsourcing by state governments as a share of all contracting is very small. The amount of outsourcing through subcontracting is unknown. In 2004, 41 states outsourced some government operations overseas through contracts or subcontracts, according to a policy analyst with the National Conference of State Legislatures (Commins).

In recent years, press reports on outsourcing have frequently characterized India as a model of the new wave of outsourcing. Of the 18 firms identified as offshore outsourcers by the report "Your Tax Dollars At Work. . .Offshore," 16 are based in or operate from India (Mattera et al). India is home to a growing middle-class population of workers who compete for outsourced services. Firms can be highly selective in their hiring, often requiring that employees hold a four-year college degree to qualify for basic positions (Beebe). Because wages in India are much lower than in the United States, Indian computer programmers, network administrators, researchers, and call center technicians are willing to work for a much lower rate of pay, and worker turnover is much lower than in the United States. Because of these factors, it is estimated that upwards of 90 percent of all offshore-outsourced information technology and telecommunications contracts are awarded to Indian firms (Broersma).

The key argument made by proponents of offshore outsourcing is the same as for outsourcing in general: the practice increases efficiency and drives down costs, freeing U.S. labor and capital for more profitable uses. The most common argument of opponents of offshore outsourcing is that it is inappropriate for government to be supporting foreign firms and overseas workers with domestic tax dollars. A more recent concern is whether foreign firms can be trusted to handle sensitive information.

Most states' contracting procedures do not address the topic of offshore outsourcing.

Existing state contracting laws and regulations typically offer little guidance or limitations on offshore outsourcing. When most state government procurement laws were written, it was either impractical or impossible for offshore firms to provide the services contracted out by state government. Garbage collection, road construction, and food service required—and still require—a local presence for service delivery. The same was once true of the technological services sector, but this is no longer the case.

Description of This Study

How This Study Was Conducted

In November 2004, the Program Review and Investigations Committee authorized a study of offshore outsourcing. The objectives were to determine the level of offshore outsourcing through state government contracts and to examine relevant legislation in other states.

The Program Review and Investigations Committee voted on November 9, 2004, to have staff study the issue of offshore outsourcing. The objectives for the study are to determine the level of offshore outsourcing through Kentucky state government contracts and to examine the relevant legislation of other states. In conducting the study, staff researched Kentucky's contracting laws and regulations; other states' contracting procedures; other states' legislation related to offshore outsourcing; other studies and reports; Web sites; and other documentation obtained from various publications, special interest groups, and research organizations. Staff also interviewed officials from the Finance and Administration Cabinet regarding Kentucky's contracting procedures.

Organization of the Report

The next section summarizes the economics of offshore outsourcing and discusses the issues involved in calculating the costs and benefits of outsourcing state government contracts.

The report then summarizes Kentucky's current contracting procedures, analyzes current offshore contracts, and discusses the barriers to implementing a system to track offshore outsourcing.

Finally, the report discusses other states' legislation on offshore outsourcing and contracting. It details five general types of legislation, providing examples of each, and discusses barriers to legislation that would regulate outsourcing of contracts effectively.

This report has five major conclusions:

1. Offshore contracts are a very small share of government contracts, but the number appears to be increasing. Advances in technology and a more capable foreign workforce have made offshore outsourcing more feasible.

2. Economic research suggests that offshore outsourcing may not negatively affect the total number of jobs in the economy in the long term. Some workers are displaced because of offshore outsourcing, however.

3. Since 1999, 40 Kentucky state government contracts have been awarded to foreign firms or individuals. Economic development contracts in Japan and Europe account for more than 80 percent of the total contract costs of $5.67 million.

4. The amount of Kentucky state government work that is outsourced overseas through subcontracts is unknown. If the total extent of offshore outsourcing through state government contracts is to be measured, contracting procedures and data collection must be modified.

5. In 2003, fewer than 10 bills related to offshore outsourcing were introduced in state legislatures. In each of the past two years, there have been more than 100 bills introduced, which range in content from gathering more information about outsourcing to prohibiting it. Few of the bills have been enacted into law.

Major Conclusions

This report has five major conclusions.

1. Offshore contracts are a very small share of government contracts, but the number appears to be increasing. Advances in telecommunications and computer technology and a more capable foreign workforce have made offshore outsourcing more feasible.

2. Economic research suggests that offshore outsourcing may not negatively affect the total number of jobs in the economy in the long term. Some workers are displaced because of offshore outsourcing, however.

3. Since 1999, 40 Kentucky state government contracts have been awarded to foreign firms or individuals. Contracts to maintain economic development offices in Japan and Europe account for more than 80 percent of the total contract costs of $5.67 million.

4. Because the state computer database used for contracting does not include information on the location of subcontractors, the total amount of Kentucky state government work that is outsourced overseas is unknown. If the extent of offshore outsourcing through state government contracts, including subcontracts, is to be measured effectively, contracting procedures and data collection must be modified.

5. In 2003, fewer than 10 bills related to offshore outsourcing were introduced in state legislatures. In each of the past two years, more than 100 bills were introduced, which ranged in content from gathering more information about outsourcing to prohibiting it. Few of the bills were enacted into law.

The Economics of Offshore Outsourcing

The outsourcing of certain services from developed to developing countries is not a new phenomenon. One change, however, is the nature of the work involved. With an evolving economy in the United States, outsourcing to foreign companies is no longer confined to the blue-collar sector of the U.S. economy. An increasing number of service-sector jobs have been outsourced overseas. Particularly prevalent are jobs that involve receiving product or service support over the phone. Phone calls supplying this type of support can be answered in a foreign country, where labor costs are lower. While call center jobs were some of the earliest service-sector jobs to move abroad, the trend has broadened and many types of work, including financial analysis, microchip design, engineering, and accounting, are now being done overseas.

Arguments for and against the outsourcing of white-collar work partially center on whether or not this outsourcing results in the creation of higher-level jobs to replace any lost jobs. The use of outsourcing can help firms to lower costs and thus increase their businesses' productivity—producing more goods or services for any given level of resources, including labor. This increase in productivity can then translate into increased business and consumer spending, which, in turn, can lead to the creation of new jobs to replace any that have been lost. In the absence of these improvements, U.S. companies might lose market share to foreign companies that have access to lower-cost labor. Additionally, as U.S. workers become more educated and more productive, they have better employment opportunities. Their increased productivity and higher levels of education allow them to command higher wages in other jobs, making them less likely to be interested in the types of jobs that would be outsourced.

Service Outsourcing and Productivity

One set of arguments for and against the outsourcing of white-collar work overseas centers on whether or not this outsourcing results in the creation of higher level jobs to replace any lost jobs.

The magnitude and effects of offshore outsourcing on the service sector have not been as widely studied by economists as the effects on the manufacturing sector, but some recent research is available. Mann argues that globalization (and consequently, outsourcing) in the information technology (IT) sector in the United States led to a fall in the prices of IT hardware in the range of 10 to 30 percent. She further argues that this translated into higher productivity in all sectors that use the IT hardware. Further, Mann recognized that the IT sector had shown high job growth and that offshore outsourcing did not appear to have hurt this sector of the economy. She substantiates this claim by examining employment in this and related sectors across a four-year period that encompassed both the boom and bust of the technology sector (1999 through 2003), thus ruling out effects the business cycle may have had on employment in these sectors. She finds that employment in the engineering sector was stable across this period, employment in computer and mathematical occupations increased by 6 percent, and employment in business and financial occupations increased by 9 percent.

There is further evidence that service outsourcing is positively correlated with labor productivity in the U.S. but that material outsourcing is insignificant (Amiti and Wei, "Fear"). Similarly, Gorg and Hanley showed that offshore outsourcing of services between 1990 and 1995 had a positive impact on productivity in the electronics industry in Ireland but that the offshore outsourcing of material inputs' effect on productivity was insignificant during the same time period.

Service Outsourcing and Employment

Recent work by economists indicates that for the economy as a whole, offshore outsourcing is likely to change only the composition of the jobs in the economy and not necessarily the total level of employment.

Most reviews of the quantitative effects of offshore outsourcing on jobs come from studies conducted by management consulting firms. Brainard and Litan provide a summary of these types of studies, concluding that it is primarily the low-paying jobs that are outsourced and are being replaced with higher-paying ones. Amiti and Wei show that for the economy as a whole, outsourcing is likely to only change the composition of the jobs in the economy and not necessarily the total level of employment. The results indicate that there is sufficient job growth in the economy to offset any jobs that are lost due to offshore outsourcing (Amiti and Wei, “Fear”).

Effects on Workers Who Become Unemployed

Some workers do lose their jobs to offshore outsourcing. The costs they bear may include long-term unemployment, retraining, and lower wages when they become employed again.

Recent work by economists shows that offshore outsourcing's net effect on the economy is neutral, or perhaps positive, in terms of employment and economic growth. However, the workers who lose their jobs to offshore outsourcing are adversely affected, and there are costs associated with their unemployment. Those unemployed due to offshore outsourcing may lack the income to support themselves and their families and often must accept lower wages to regain employment. Frequently, workers who lose their jobs find that their training and skills are no longer a match for available jobs. This mismatch in training and skills makes finding new employment even more difficult and can result in workers taking jobs that do not necessarily fit their skills or talents.

Often, in order to find new employment, unemployed workers must consider retraining or learning new skills to remain competitive in the job market. Retraining and acquiring new skills can be costly in terms of time and money to the unemployed worker. There are also additional short- and long-term human costs associated with unemployment such as higher personal stress levels and decreased general health.

Outsourcing and Insourcing of Business Services in the U.S

Based on data from the International Monetary Fund, the U.S. ranked 117th in overseas outsourcing as a percentage (0.39 percent) of gross domestic product (GDP). A higher percentage of GDP (0.56 percent) is accounted for by insourcing, U.S. businesses providing services for foreign entities. The U.S. ranks second in the surplus of insourcing over outsourcing.

Amiti and Wei have estimated the magnitude of outsourcing and insourcing of business services based on the International Monetary Fund's *Balance of Payments Statistics Yearbooks.* The authors provide rankings by country for both the absolute value in dollars of outsourced business services, as well as the relative value using a country's gross domestic product (GDP).The U.S. in 2002 ranked first in the absolute dollar value of business services outsourced with approximately $41 billion in outsourced business services. More telling, however, as a percentage of GDP, the U.S. ranked 117th, with outsourced business services representing only 0.39 percent of GDP (Amiti and Wei, "Service").

This discussion cannot be complete without discussing U.S. insourcing: goods and services provided to foreign entities by domestic companies. In 2002, the U.S. ranked first in absolute insourcing of business services with nearly $59 billion. This placed the U.S. 90th in terms of a percentage (0.56 percent) of GDP. Comparing the figures indicates that the dollar value of services provided by U.S. firms for foreign entities is greater than the value of outsourced services. This surplus of approximately $19 billion ranks the U.S. second in surplus behind the United Kingdom.[1]

A Brief Cost-Benefit Analysis Model

This section of the report lists potential costs and benefits to be considered in a cost-benefit analysis of an outsourcing decision.

The function of cost-benefit analysis is to equip decision makers with the necessary information to fully evaluate the costs and benefits of outsourcing options. The analysis allows decision makers to ensure that resources are used in the most efficient manner. While simple cost measure comparisons are important for any type of decision, they do not reveal all of the true costs and benefits associated with an outsourcing decision. Inclusion of qualitative costs and benefits, or those costs and benefits to which a dollar value cannot be assigned, ensures a thorough analysis. Some of the costs and benefits considered could be the same for both the outsourced project and the project conducted within the organization. For example, if the outsourced project were to involve outsourced jobs working on-site, then rent and utilities costs may very well be the same for both the outsourced project or the project conducted with in-house resources.

[1] Examination of insourcing and outsourcing of total services in the U.S. reveals that the U.S. has over time been a net exporter of services in dollar terms.

This section of the report lists potential costs and benefits to be considered in a cost-benefit analysis of an outsourcing decision. The lists are not meant to be exhaustive, but, instead, to serve as a beginning point for determining all of the criteria that would be included in a complete cost-benefit analysis.

Quantitative Costs and Benefits

Quantitative costs and benefits are typically broken down into two categories: direct and indirect. Table 1 displays examples of typical direct and indirect costs and benefits that would be considered in any cost-benefit analysis. A complete listing would be conditional on the actual decision under consideration.

Should a government choose to outsource a service it now provides or outsource a service it is intending to provide, it may displace some employed workers. These unemployed workers may generate new costs for the government that might not have been realized otherwise.

Governments considering an outsourcing decision must also take into account that the decision it makes may incur some costs not necessarily faced by a private company. If the government chooses to outsource a service it currently provides or outsource a new service it is intending to provide, it may displace some currently employed workers. These unemployed workers may generate new costs that the government might not have realized otherwise, such as unemployment benefits and retraining.

Workers who might potentially be displaced by an outsourced government service also incur costs due to the decision. Other than their obvious loss of jobs and incomes, these workers might be forced to take lower-paying jobs and might have to incur retraining costs to find new employment. While the quantitative costs and benefits considered in a cost-benefit analysis are largely the same for both private companies and the government, special attention must be given to those costs that a government might incur that a private company might not consider.

Table 1
Direct and Indirect Quantitative Costs and Benefits of Outsourcing

Direct Costs	Indirect Costs	Direct Benefits	Indirect Benefits
▪ Personnel costs ▪ Fringe benefits ▪ Materials ▪ Additional contracts ▪ Supplies ▪ Travel ▪ Rent ▪ Utilities	▪ Overhead ▪ Contract administration costs	▪ Dollar value of time saved ▪ Dollar value of any efficiency gains	▪ Dollar value of any service improvement to citizens/customers

Source: LRC staff analysis.

Qualitative Costs and Benefits

To evaluate the costs and benefits of outsourcing thoroughly, qualitative costs and benefits, or those costs and benefits to which a dollar value cannot be readily assigned, should be considered.

It is important to consider all the qualitative costs and benefits associated with the project being evaluated. These costs and benefits cannot be assigned a dollar value but are often equally important in the decision-making process. Many cost-benefit analyses attempt to assign these costs and benefits a value based on a scale to enable comparisons between alternatives. For example, they may be ranked on a scale of 1 to 5. The following is a list—not meant to be comprehensive—of potential qualitative costs and benefits to be considered in a cost-benefit analysis:

- reliability of service to be provided;
- quality of service to be provided;
- timelines of service to be provided; and
- security and sensitivity of service to be provided.

Fiscal Effects

The effect on tax revenues of awarding a contract in-state versus out of state would be difficult to estimate with much reliability. The fiscal impact of any given contract would usually be very small.

It is reasonable to assume that the state might generate greater tax revenue by awarding contracts to in-state firms rather than out-of-state firms, but this fiscal effect was not included in the cost-benefit model above. First, the fiscal effect for any given contract would usually be very small. Second, there are practical limitations to estimating the difference in tax revenues.

One practical issue is how to determine what portion of the contract would be spent within Kentucky. Contractors would have to indicate in advance what portion would be spent in state. They may not know this at the time of the bid. For example, one firm bidding on a contract could end up devoting a greater portion of the contract on advertising in Kentucky; another firm might focus on out-of-state advertising.

A second issue is the reliability of the estimate of the fiscal impact. State contracts can generate additional economic activity that is often subject to state taxes. The new spending in the state would encourage further spending in the economy. For example, as individuals employed directly by the contract spend their income, additional economic activity is generated, commonly called the multiplier effect. Together, the direct and multiplier effects represent the total economic positive impact on the economy. If it costs more to award the contract to an in-state provider, this additional cost, which could necessitate increasing taxes or decreasing other state government spending, would also have to be considered.

If it is possible to predict the amount of in-state versus out-of-state spending for each of the firms bidding on a contract, it may be possible to estimate differences in economic activity generated from each of the firms and from those estimates develop estimates of the fiscal impacts. The accuracy of these estimates, however, may be too limited to reliably determine which contract provides greater revenues to Kentucky.

Kentucky State Government and Offshore Outsourcing

This section begins with an overview of the contracting process for personal service contracts. The second part of the section will discuss current offshore contracts, those where an overseas company directly contracts with Kentucky state government. Finally, the difficulty in identifying subcontracting overseas is noted.

Contracting for Personal Services

Most services with the potential to be outsourced overseas are professional in nature and would be contracted for through personal service contracts or master agreements.

Most services with the potential to be outsourced overseas are professional in nature and would be contracted for through personal service contracts or master agreements. Personal service contracts are used to obtain professional services requiring skill or judgment for a specified period of time and at an agreed-upon price. Master agreements are price contracts authorized by statute for architectural, engineering, and engineer-related services (Commonwealth. Legislative 3, 148).

These contracts are written, advertised, and obtained through a standardized process. The process generally consists of

- development of a needs analysis,
- development of a statement of work,
- selection of a contract type,
- request for proposals or a solicitation of bids,
- awarding the contract,
- monitoring of the contract, and
- assessment of performance against the contract's requirements (Commonwealth. Legislative 11).

The needs analysis is undertaken to justify the need for an intended service and may include a feasibility study and/or a cost-benefit analysis. At the end of the analysis, a statement of work is created. Agencies must show that state personnel are not available or that it is not feasible for state personnel to carry out the task. Once a needs assessment has been developed and it is determined that state employees are not available, a request for proposal (RFP) is drafted.

RFPs describe the service required, list the type of information that must be provided by potential contractors, and state the relative importance of particular qualifications the agency will consider in choosing the contractor.

When vendors respond to an RFP, the Finance and Administration Cabinet prefers competitive sealed bidding, which is commonly used (Commonwealth. Finance 2). The goal of the process is to achieve the best value for the state.

After the agency completes the negotiation, the contract is then sent to the General Assembly for review. The Government Contract Review Committee is charged with reviewing personal service contracts of $10,000 or more. The objective of the review is to assess the need for the service and whether state personnel should perform the service. Agencies must submit a proof of necessity form to aid in this process. The committee may accept or reject the contract, but the secretary of the Finance and Administration Cabinet has the power to overturn a decision to reject.

Forty Offshore Contracts Have Been Awarded Since 1999

Since 1999, Kentucky sate government has entered into 40 contracts with overseas providers at a total cost of $5.67 million.

Staff identified 40 offshore contracts with state government for the period beginning in 1999. The total cost of all 40 contracts is $5.67 million. Three countries account for the vast majority of offshore contracts, in terms of quantity and cost: Canada, Japan, and Belgium. More than half the contracts are with Canadian firms, usually for computer software, training, and support. Most of the total cost of overseas contracts is for economic development contracts in Japan and Belgium. Japan and Belgium account for more than half and approximately a fourth, respectively, of total offshore contract costs.

Overseas contracts were identified through the state's Management Administrative Reporting System (MARS). Using the procurement component of MARS, contracts with billing addresses in U.S. states were extracted and remaining contracts were searched for overseas billing addresses. Summary information on the contracts is shown in Table 2. Appendix A contains information on each of the 40 contracts.

Table 2
Kentucky State Government's Offshore Contracts by Type, 1999 to 2006

Category	Number of Contracts	Cost of Contracts	% of Total Cost*	Countries of Contractors
Computer Technology and Software Contracts for software, training, and support	14	$216,063	3.8%	Canada, Singapore
Economic Development Contracts for economic development offices in Belgium and Japan	11	$4,651,945	82.0%	Belgium, Japan
Supplies, Equipment, and Advertising Includes contracts for advertising, ice rink paint, and helicopter parts	11	$755,068	13.3%	Australia, Canada, Germany, Netherlands
Speakers and Training	4	$47,315	0.8%	Great Britain, Canada, Spain
Totals	40	$5,670,391	100.0%	

*Percentages as shown do not add to 100% due to rounding.
Source: Compiled by staff using the procurement component of MARS.

The most common type by number of contracts is computer technology and software, comprised of 14 contracts for software, training, and support. Economic development is by far the largest category in terms of cost. A series of 11 contracts for economic development offices in Belgium and Japan have cost $4.65 million, 82 percent of Kentucky's total costs for direct foreign contracts.

Staff divided the contracts into four types. The most common type by number of contracts is computer technology and software, which is comprised of 14 contracts for software, training, and support. All such contracts except for one went to Canadian firms. The total cost of these contracts was relatively low: 3.8 percent of the total cost of overseas contracts over the 1999 to 2006 time period.

Economic development is by far the largest category in terms of cost. According to the proof of necessity forms accompanying these contracts, maintaining a direct overseas presence is not practical for the state. A series of 11 contracts for economic development offices in Belgium and Japan have cost $4.65 million, 82 percent of the total cost for overseas contracts. The contracts include a yearly salary for the individuals under contract and funds to staff and operate the offices.

Contracts for supplies, equipment, and advertising include advertising for an international livestock show, a van to screen the braking capabilities of trucks, ice rink paint for the Kentucky state fairgrounds, and a helicopter bucket. The 11 contracts in this category cost a total of $755,068, just more than 13 percent of total costs.

Finally, there were four contracts for speakers and training: two each for the Kentucky Department for the Blind and the Kentucky Horse Park. Total cost was $47,315, less than 1 percent of total costs.

Canadian firms received 23 contracts. The total value of the Canadian contracts was less than one-fifth of the total cost of overseas contracts, however. Japan ranks number two in the number of contracts but accounts for more than half the total costs.

Table 3 indicates the countries of the contracting firms for the 40 contracts that were outsourced offshore. Canadian firms received 23 contracts, 55 percent of the total number. The total value of the Canadian contracts was less than one-fifth of the total cost of overseas contracts, however. Japan ranks number two in the number of contracts but accounts for more than half the total costs. One Japanese contractor has received seven contracts for more than $3 million. Four contracts to two Belgian firms comprise just less than a quarter of total costs. Combined, firms from the Netherlands, Great Britain, Australia, Spain, Singapore, and Germany received seven contracts, which accounted for approximately 1 percent of the contracts' total value.

Table 3
Kentucky State Government's Offshore Contracts by Country of Firm, 1999 to 2006

Country	Number of Contracts	% of Total	Value of Contracts	% of Total*
Canada	22	55.0	$954,999	16.8
Japan	7	17.5	$3,261,823	57.5
Belgium	4	10.0	$1,390,122	24.5
Netherlands	2	5.0	$2,463	0.0
Great Britain	1	2.5	$30,000	0.5
Australia	1	2.5	$26,000	0.5
Spain	1	2.5	$4,000	0.1
Singapore	1	2.5	$984	0.0
Germany**	1	2.5	$0	0.0
Totals	40	100%	$5,670,391	100%

*Percentages as shown do not add to 100% due to rounding.
**The original contract was for $1,142, but the supplier did not agree to terms.
Source: Compiled by staff using the procurement component of MARS.

The Amount of Offshore Subcontracting Is Unknown

As in most other states, the number and financial value of offshore subcontracts in Kentucky are unknown.

As indicated above, foreign contracts can be identified using information on state contracts available in electronic form. Because information on the location of subcontractors is not included routinely in the database, foreign subcontracts cannot be identified. Therefore, the number and financial value of offshore subcontracts are unknown.

The inability to determine whether contracted work is being outsourced overseas is not unique to Kentucky. The majority of states do not have sufficient reporting requirements to determine the extent to which state government contracts are being outsourced (Mattera et al. 20). For example, the California State Auditor recently surveyed contractors to determine the extent to which California state government contracts are outsourced offshore. The authors of the report found that the total dollar value of contracts believed or known to be outsourced overseas was very small. For more than 40 percent of contracts identified as possibly having at least some work outsourced offshore; however, state officials could not estimate the dollar value of any outsourced work (California 29).

Massachusetts entered into a contract worth $2 million with Deloitte and Touche for the development of the state's Educator Licensure and Recruitment system. The project won an outstanding achievement award in 2002 from the National Association of Chief Information Officers. The director of the system stated that she was unaware of any offshore outsourcing associated with the project (Materra et al. 15). However, Auriga, an information technology consulting company with headquarters in New Hampshire, was an important subcontractor. The company has more than three times as many Russian as U.S. employees, which was explained in its press release that noted the award and discussed the use of Russian consultants in conjunction with the project (Riabov).

Vendors with Kentucky government contracts are not required to divulge information regarding overseas subcontractors, but provisions could be included in individual contracts regarding subcontractors. For example, a 2004 contract for medical transcription included a prohibition of offshore subcontracting. The ban was included because the company had overseas subsidiaries, and officials from the Finance and Administration Cabinet were concerned about transmitting sensitive information to a foreign country. The limitation was instituted based on a question posed by another contractor. Unless the present system changes, information on subcontractors would still not be included in the electronic database of contracts, however.

If it were decided that information on offshore contractors should be included in the electronic database of contracts, it would be necessary to revise the software program to do so. To assure the accuracy of the information, it is likely that it would also be necessary to devote resources to enforcing accurate provision of information. If a violation occurred, the contractor would be given 30 days to remedy the situation, as required by statute.

The Finance and Administration Cabinet's director of Material and Procurement Services stated that any attempt to implement a system for tracking overseas subcontracts would take several years to produce measurable results because existing contracts would have to expire and new contracts would have to be monitored (Burnside and Desai).

Offshore Outsourcing Legislation in Other States

More than 100 bills on offshore outsourcing and contracting were introduced in 39 states in 2004.

Other state legislatures have also addressed the issue of offshore outsourcing of state government contracts. For the calendar year 2004, Program Review and Investigations Committee staff identified 138 pieces of legislation, introduced in 39 states, on the subject.[2] Staff divided the bills into five categories. Table 4 indicates the states in which legislation was introduced or enacted in each category. Appendix B summarizes each bill that was introduced in 2004.

The most common type of proposed legislation would prohibit all or types of offshore outsourcing. No such bills were enacted in 2004.

The first category of legislation would prohibit state government agencies from awarding any contracts to offshore contractors or would prohibit certain types of contracts. The type of prohibited work in 2004 included contracts for medical transcription, call centers, homeland security, processing health care claims, technical services, professional services, and contracts involving transfer of private information. Such bills were introduced in 36 states, making this the most common type of legislation. No bills of this type were enacted into law in 2004.

[2] Staff compiled bills identified by the National Conference of State Legislatures; the National Foundation for American Policy, which favors outsourcing ("2004-Table Tracking"); and the Rescue American Jobs organization, which opposes outsourcing. Staff verified each bill using state legislatures' Web sites or by telephoning state legislative staff. Program Review staff also identified additional bills not included in the three sources.

Table 4
Legislation Introduced or Enacted in 2004 Related to Offshore Outsourcing of State Contracts (by State and Type)

State	Number of Bills	Prohibits All or Types of Offshore Outsourcing	Regulates Handling of Information	Gives Preference to In-state or U.S. Contractors	Requires Reporting of Offshore Outsourcing	Requires Identification of Location of Call Center
		Introduced (I) or Enacted (E)				
AL	5	I	I	**E**	I	I
AZ	2	I	I			I
CA	13	I	I	I	I	I
CO	4	I	**E**			I
CT	10	I	I	I		I
DE	1			I	I	
FL	2	I			I	
GA	4	I				I
HI	1	I	I			I
IA	3	I				
ID	2			I		
IL	6	I	I	**E**	**E**	I
IN	4	I	I	**E**		I
KS	3	I	I			I
KY	2	I			I	
LA	4	I	I	I		
MA	1	I				
MD	3	I		I		
MI	3	I		**E**		
MN	4	I	I		I	
MO	6	I	I	**E**		I
MS	4	I				I

(continued on next page)

Table 4 (continued)

State	Number of Bills	Prohibits All or Types of Offshore Outsourcing	Regulates Handling of Information	Gives Preference to In-state or U.S. Contractors	Requires Reporting of Offshore Outsourcing	Requires Identification of Location of Call Center
		Introduced (I) or Enacted (E)				
NC	2	I		**E**		I
NE	1	I				
NJ	4	I			I	I
NM	1	I				
NY	3	I			I	
OH	2	I	I		I	
OK	1			I		
PA	7	I		I	I	
RI	2	I		I		
SC	1	I	I			I
SD	1	I				
TN	4	I	I	**E**		I
VA	4	I		I		
VT	2	I				
WA	8	I	I	I	I	I
WI	2	I				I
WV	6	I			I	I
States With:						
Bills Introduced		36	16	18	13	19
Laws Enacted		0	1	6	1	0
Total Number of Bills: 138						

Note: Within each state, if there was more than one bill with the same language, this was counted as one bill in the table. In some instances, the provision related to offshore outsourcing was one section of a bill covering other subjects. If the bill became law without the offshore provision, this was not counted as "Enacted" in the table.
Source: Compiled by Program Review staff from National Conference of State Legislatures, National Foundation for American Policy ("2004-Table"), Rescue American Jobs, and searches of Web sites of state legislatures.

Kentucky House Bill 640 (2004 Regular Session) is an example of this type of legislation. It would have added a clause to the Kentucky Model Procurement Code mandating that no state agencies may enter into a service contract unless all work done under the contract is performed within the United States.

The second type of bill regulates how information is handled by offshore contractors. In 2004, Colorado was the only state to enact a bill of this type into law, allowing overseas outsourcing so long as privacy and confidentiality of clients are protected.

The second type of bill regulates how information is to be handled by offshore contractors. For almost all such bills, this took the form of getting permission from consumers, sometimes in writing, before personal or financial information could be transferred outside the United States. Bills that regulated information handling were introduced in 16 states.

An example of this type of legislation is California Senate Bill 1451, which was passed by the California legislature in 2004 but was vetoed by the governor. The bill required that firms notify consumers before any personal information may be sent overseas. Colorado was the only state in which regulatory legislation was enacted into law in 2004. The legislation allows agencies to contract for personal services outside the United States, so long as service quality is not reduced and contracts protect the privacy and confidentiality of clients.

Six states, one third of the states considering such bills, enacted laws in 2004 establishing a preference for in-state or domestic firms in the contracting process.

In 18 states, bills were introduced in 2004 that gave a preference to contractors that were located within the state or within the United States, in practice discouraging offshore outsourcing. Such legislation was enacted in six states: Alabama, Illinois, Indiana, Missouri, North Carolina, and Tennessee. The degree of stringency of the enacted bills varies. Alabama has the least stringent requirement: a legislative resolution encourages state and local entities to use Alabama-based professional services. The most stringent requirement for preferential legislation is to give in-state or domestic firms a specific advantage. For example, Indiana House Bill 1080, as enacted into law, provides for a 1 to 5 percent price preference for in-state firms and requires that firms provide the state with documentation substantiating their in-state status before the preference is granted.

A fourth type of legislation provides for increased reporting of information related to offshore outsourcing of contracts. Bills requiring reporting have been introduced in 13 states. Illinois was the only state in which such legislation was enacted in 2004.

A fourth type of legislation provides for increased reporting of information related to offshore outsourcing of contracts. Typically, this either takes the form of requiring each contractor to provide information on foreign outsourcing or requiring that a government entity report on offshore outsourcing. For example, Illinois Senate Bill 2375, enacted into law, requires potential state contractors to disclose within bids if work will be performed outside the United States. An Alabama bill required the director of Finance to provide information on outsourcing of state contracts. Bills requiring reporting have been introduced in 13 states. Illinois was the only state in which such legislation was enacted in 2004.

The final type of legislation requires representatives of foreign call centers to identify to consumers the location of the center. Bills requiring identification were introduced in 19 states in 2004, but none became law.

The final type of legislation requires representatives of foreign call centers to identify the location of the center, either automatically or at the request of the client. On the face of it, this type of legislation does not necessarily involve state contracting. A state resident could make use of a foreign call center for services unrelated to state government. However, in practice this requirement could make state agencies and their contractors view foreign call centers less favorably. Two-thirds of the bills in 2004 requiring identification of location also imposed at least one more restriction on foreign call centers, including outright bans on state contracts with them. Bills requiring identification were introduced in 19 states in 2004, but none became law.

2005 Update

More than 100 bills restricting outsourcing were introduced in at least 40 states during the first three months of the year. Legislation enacted in New Jersey in May prohibits state contract work form being done overseas. This is the most stringent state policy against offshore outsourcing.

Program Review staff did not compile results for 2005, but according to the National Foundation for American Policy, there were more than 100 bills restricting offshore outsourcing introduced in at least 40 states during the first three months of the year (National Foundation. *Proposed Restrictions* 1, 2, 5). New Jersey law became the most stringent against offshore outsourcing in the country when S494 became law in May. The new policy prohibits state contract work from being done overseas. In Maryland, the General Assembly overrode the governor's veto of House Bill 514, which prohibits the governor from binding the state to the procurement rules of an international trade agreement unless the General Assembly enacts legislation authorizing it.

Impediments to Legislation That Would Limit Offshore Outsourcing

Legal Issues

It is unclear whether legislation banning or limiting offshore outsourcing constitutes a violation of U.S. international trade agreements.

Staff interviews with Finance and Administration Cabinet officials raised the issue of whether legislation banning or limiting offshore outsourcing would violate preexisting international trade agreements, which supercede state law. For example, the U.S.-Australia Free Trade Agreement, to which Kentucky is a participating regional governmental entity, specifically protects the offshore outsourcing of contracts to Australia when the value of the procurement meets or exceeds $58,550 (United States).[3] It is possible that state legislation that bans or limits offshore outsourcing of any state government contracts could be challenged as an illegal barrier to trade under the terms of this treaty. Kentucky is also a participating party to several other international trade agreements, including the U.S.-Chile Free Trade Agreement and the signed, but still unratified, Central America-Dominican Republic-United States Free Trade Agreement.

It is also unclear whether state-level legislation banning or limiting offshore outsourcing violates the Commerce Clause of the U.S. Constitution.

Other sources echoed this concern. A study commissioned by the National Foundation for American Policy goes further in arguing that legislation restricting outsourcing would not only violate international trade agreements but would also violate Article I, Section 8 of the U.S. Constitution (Klinger and Sykes). The "Commerce Clause" gives the U.S. Congress the power "To regulate Commerce with foreign Nations, and among the several States…."

According to Klinger and Sykes, some courts have ruled that state legislation affecting commerce may be in compliance with the Commerce Clause if the state is held to be acting as a "market participant" similar to a private party. Circuit courts are in disagreement as to whether the market participant exception applies to foreign commerce. The U.S. Supreme Court has not resolved this issue (Klinger and Sykes 8).

Economic Issues

It is possible that foreign governments could enact bans or restrict contracting with companies from specific states in retaliation for state laws limiting offshore outsourcing.

Sources also raised the issue of the potential unintended economic ramifications of the enactment of legislation that seeks to limit or prevent offshore outsourcing. Of particular concern is the possibility that legislation, if enacted at the state level, could prompt retaliatory action from foreign governments, which could pass similar bans on contracting with companies based either in specific states or from the nation.

[3] Annex 15-A of the U.S.-Australia Free Trade Agreement notes that Kentucky's participation in the agreement is limited to procurement by the Division of Purchases and the Finance and Administration Cabinet and excludes procurement for construction contracts (United States 15-A-20).

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Appendix A

Kentucky State Governments' Contracts With Foreign Vendors, 1999 to 2006

Vendor	Year	Amount	Agency	Country	Purpose
ACL Software	2001	$2,305	Kentucky Revenue Cabinet: Budget	Canada	ACL for Windows (1), support, shipping
ACL Software	2001	$8,495	Department of Insurance	Canada	ACL for Windows (5), support, shipping
ACL Software	2001	$2,400	Auditor of Public Accounts	Canada	ACL for Windows, user upgrade, support, shipping
ACL Software	2002	$900	Kentucky Revenue Cabinet: Budget	Canada	ACL for Windows, 3 licensed users, renewal
ACL Software	2003	$972	Kentucky Revenue Cabinet: Budget	Canada	ACL for Windows, 3 licensed users, renewal
ACL Software	2004	$972	Kentucky Revenue Cabinet: Budget	Canada	ACL for Windows, 3 licensed users
Adline Consultant	2004	$984	Commission for Children With Special Health Care Needs	Singapore	ieSPELL, Version 2.0 Commercial License
BSD Technologies	2004	$26,000	Kentucky State Police: Central Forensic Lab	Australia	Automated sample punch for DNA analysis
Fortrun Helmut Schafer	2003	$0	Department of Military Affairs	Germany	Embroidery replacement parts (Original total was $1,142. Supplier did not agree to terms.)
Gilmore	2001	$2,600	Department for the Blind	Canada	Building trust relationships
Gilmore	2000-2001	$10,715	Department for the Blind	Canada	Phase II

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Vendor	Year	Amount	Agency	Country	Purpose
Hashimoto, Jiro	1999-2000	$443,023	Economic Development Cabinet: Development and Support	Japan	Chief Representative of Kentucky (Asia)
Hashimoto, Jiro	2000-2001	$495,400	Economic Development Cabinet: Development and Support	Japan	Chief Representative of Kentucky (Asia)
Hashimoto, Jiro	2001-2002	$495,400	Economic Development Cabinet: Development and Support	Japan	Chief Representative of Kentucky (Asia)
Hashimoto, Jiro	2002-2003	$457,000	Economic Development Cabinet: Development and Support	Japan	Chief Representative of Kentucky (Asia)
Hashimoto, Jiro	2003-2004	$457,000	Economic Development Cabinet: Department for Business Development	Japan	Chief Representative of Kentucky (Asia)
Hashimoto, Jiro	2004-2006	$0	Economic Development Cabinet: Office of the Secretary	Japan	Chief Representative of Kentucky (Asia) (replaced with master agreement)
Hashimoto, Jiro	2004-2006	$914,000	Economic Development Cabinet: Office of the Secretary	Japan	Chief Representative of Kentucky (Asia)
Holstein International	2001	$505	Kentucky Fair and Exposition Center	Netherlands	Ad for 2001 North American International Livestock Exposition
Infrared Inspection	2001	$299,000	Kentucky Transportation Cabinet: Division of Motor Vehicle Enforcement	Canada	Infra-Red Inspection System van used to screen the braking capabilities of large trucks
Infrared Inspection	2002	$400,000	Kentucky Transportation Cabinet: Division of Motor Vehicle Enforcement	Canada	Infra-Red Inspection System van used to screen the braking capabilities of large trucks

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Vendor	Year	Amount	Agency	Country	Purpose
Jet Ice Limited	1999	$2,144	Kentucky Fair and Exposition Center	Canada	Ice rink paint
Jet Ice Limited	2000	$2,328	Kentucky Fair and Exposition Center	Canada	Ice rink paint
Krug	2001	$7,178	Finance and Administration Cabinet: Office of the Secretary	Canada	Office furniture
Kyra Kyrklund Limited	2003	$30,000	Kentucky Horse Park	Great Britain	Dressage symposium
Lagarde, Chris	2003-2004	$1,958	Department for the Blind	Netherlands	Screen Braille Communicator, 8 cell version
Matute, Juan	2004-2005	$4,000	Kentucky Horse Park	Spain	Dressage speaker
Messagewise Inc.	2000	$3,600	Governor's Office for Technology	Canada	Maintenance and support for 2-10 server
Pilkauskas, Paul	2004-2006	$646,800	Economic Development Cabinet: Office of the Secretary	Belgium	Chief Representative of Kentucky (Europe)
Schulte, Stephen	1999-2000	$233,923	Economic Development Cabinet: Development and Support	Belgium	Administer economic development office in Brussels
Schulte, Stephen	2000-2001	$254,700	Economic Development Cabinet: Development and Support	Belgium	Administer economic development office in Brussels
Schulte, Stephen	2001-2002	$254,700	Economic Development Cabinet: Development and Support	Belgium	Administer economic development office in Brussels

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Vendor	Year	Amount	Agency	Country	Purpose
Silanis Technology	2001	$32,160	Natural Resources and Environmental Protection Cabinet: Office of Information Services	Canada	Approveit Desktop 5.0 software, support, and service
Silanis Technology	2002	$85,500	Natural Resources and Environmental Protection Cabinet: Office of Information Services	Canada	Approveit Desktop 5.0 software (700), support, and service
Tash Inc.	2002	$955	Department for Mental Health and Mental Retardation	Canada	Ultra one package (remote transmitter and receiver), Talking Buddy

Source: Compiled by staff using the procurement component of MARS.

Appendix B

Legislation Introduced or Enacted in 2004 Related to Offshore Outsourcing of State Contracts

State	Chamber	Bill Number	Enacted into Law?	Description
AL	House	769	No	Prohibits work on state contracts being performed outside U.S.
AL	Senate	SJR63	Yes[1]	Resolution encourages state and local entities to use Alabama-based professional services.
AL	House	670	No	Requires call centers to disclose their location.
AL	House	HR337	No	Requires director of Finance to provide information on outsourcing of state contracts.
AL	Senate	300	No	Prohibits state contract work from being performed outside U.S.
AZ	Senate	1080	No	Prohibits health care institutions from contracting for transcription of patient records using firms that send records outside U.S.
AZ	House	2581	No	Requires call center operators to disclose location. Prohibits sending personal or financial information outside U.S. without consent. Prohibits state contracts for foreign-based call centers.
CA	Assembly	3069	No	Expresses legislative intent that preference be given to California companies for state contracts.
CA	Assembly	3021	Vetoed	Requires companies to report the number of employees in California, in U.S., and worldwide.
CA	Assembly	2715	Vetoed	Requires foreign call center operators to disclose location at the beginning of each call.
CA	Assembly	2919	No	Prohibits state contract call center work from being performed outside U.S. Requires express written consent for a company to send personal information outside U.S.
CA	Assembly	990	No	Requires service contract preference be given to firms that employ California workers.

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State	Chamber	Bill Number	Enacted into Law?	Description
CA	Senate	888	Vetoed	Homeland security work cannot be done outside U.S. unless expertise or materials are not available.
CA	Senate	1492	Vetoed	Prohibits work involved with private information or that relates to Homeland Security from being performed outside U.S.
CA	Senate	1452	No	Prohibits state contract work from being performed outside U.S.
CA	Senate	1451	Vetoed	Requires all companies to comply with state privacy law. Requires companies to notify consumer prior to consumer's personal information being processed outside U.S.
CA	Assembly	2449	No	Requires preference for state contractors who perform information technology services within U.S.
CA	Assembly	2163	No	Prohibits health care institutions from entering into a contract with any company that permits sending medical transcription outside U.S.
CA	Assembly	1845	No	Prohibits state contract work from being performed outside U.S.
CA	Assembly	1829	Vetoed	Requires state contractors to certify under penalty of perjury that the work will be performed solely within U.S.
CO	House	1373	Yes	Allows state contract work to be performed outside U.S. if there is no reduction in quality and safeguards are in place for confidentiality and privacy.
CO	Assembly	1289	No	Requires call center operators to disclose location if they initiated the call. Requires companies to obtain written consent prior to sending personal information outside U.S.
CO	Senate	170	No	Prohibits state contract work from being performed outside U.S.
CO	Senate	169	No	Prohibits companies who offshore more than 100 jobs from receiving state contracts, grants, loans, or industrial bonds for seven years.

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State	Chamber	Bill Number	Enacted into Law?	Description
CT	Senate	5660	No	Prohibits state contract work from being performed outside U.S. Requires call centers to disclose location on request.
CT	House	579	No	Gives preference to Connecticut companies for state contracts.
CT	Senate	577	No	Requires state contract work to be performed by U.S. citizens or those authorized to work within U.S.
CT	Senate	501	No	Gives preference for state contracts to goods and services produced within the state.
CT	Senate	430	No	Prohibits state contract work from being performed outside U.S.
CT	Senate	400	No	Requires call center operators to disclose location on request. Prohibits companies from sending personal or financial information outside U.S.
CT	Senate	395	No	Requires call center operators to disclose location on request. Prohibits companies from sending personal or financial information outside U.S. without express consent.
CT	Senate	333	No	Sets procedures, performance standards, and workplace quality standards for any agency contracting out-of-state programs and services.
CT	House	5174	No	Establish procedures and standards for contracting to protect state's investment in job creation and retention.
CT	House	5171	No	Prohibits state agencies from entering or renewing a contract with corporations that reincorporate outside U.S.
DE	Senate	291	No	Requires bidders for state contracts to disclose whether the work is to be undertaken outside U.S. and applies a 15 percent price preference in favor of services that are to be performed within U.S. when the state evaluates bids.

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State	Chamber	Bill Number	Enacted into Law?	Description
FL	Senate	2932	No	Amendment to appropriations bill requires state agencies to provide information on their outsourcing contracts each month.
FL	House	1533	No	Requires state contract work to be performed by residents of Florida for contracts that total more than $50,000.
GA	House	1357	No	Prohibits state contracts with foreign-based call centers.
GA	Senate	473	No	Prohibits state contract work from being performed outside U.S.
GA	House	1281	No	Prohibits state contract work from being performed outside U.S.
GA	House	1218	No	Requires call center operators to disclose location within the first 30 seconds of call.
HI	House	1922	No	Requires call center operators to disclose location on request. Prohibits sending personal or financial information outside U.S. Prohibits state contracts with foreign-based call centers.
IA	House	2400	No	Prohibits state contract work from being performed outside U.S.
IA	House	640	No	Prohibits state contract work from being performed outside U.S.
IA	Senate	2063	No	Prohibits state contract work from being performed outside U.S.
ID	House	598	No	Gives preference for state contracts for work that will be performed by residents.
ID	House	597	No	Allows state to consider the amount of tax revenue that will be generated by awarding contracts to certain companies.
IL	House	6613	No	Requires state procurement of goods that are composed of a certain level of U.S.-produced content. Requires state procurement of Illinois-produced goods unless Illinois-produced goods exceed cost by 10 percent of other goods. Requires state procurement of U.S.-produced goods unless U.S.-produced goods exceed cost by 10 percent of other goods.

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State	Chamber	Bill Number	Enacted into Law?	Description
IL	House	6983	Yes	Requires that state procurement give preference to goods produced in U.S.
IL	House	6571	No	Requires call center operators to disclose location. Prohibits collecting or receiving personal information without consent.
IL	House	4550	No	Requires that state contractors certify that the work will be performed by individuals authorized to work within U.S.
IL	Senate	2375	Yes	Requires potential state contractors to disclose within bids if work will be performed outside U.S. Procurement office may take the information into account, consistent with the state's international agreements. Requires report on outsourcing's effect on state's cost of procurement by September 2007.
IL	House	4362	No	Requires state contractors to certify that work performed on information technology contracts will be performed only by persons eligible to work within U.S.
IN	House	1381	No	Prohibits state contract work from being performed outside U.S.
IN	House	1275	No	Prohibits work on state contracts from being performed by persons not eligible to work in U.S. Provides preference of 10 percent for purchases or services from an Indiana business.
IN	House	1080	Yes	Provides price preferences of 1 to 5 percent for Indiana companies for state contracts.
IN	Senate	370	No	Requires that call center operators disclose location within first 30 seconds of each call. Requires that foreign call centers get consent before asking for personal information, and that a recording of consent must be made and retained.
IN	Senate	4	No	Prohibits state contract work from being performed by persons ineligible to work within U.S.

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State	Chamber	Bill Number	Enacted into Law?	Description
KS	Senate	538	No	Amendment to appropriations bill prohibits state contract work from being performed outside U.S.
KS	House	2810	No	Requires call center operators to disclose location on request. Prohibits state contracts to be performed outside U.S. for telemarketing or telephone services. Prohibits sending personal information overseas without express written consent.
KS	House	2524	No	Prohibits state contract work performed outside U.S.
KY	Senate	278	No	Prohibits state contract work from being performed outside U.S.
KY	House	640	No	Prohibits awarding procurement contracts for services rendered or supplies delivered from a site outside U.S. Committee Substitute creates commission to collect data on offshore outsourcing by state contractors.
LA	House	380	No	Prohibits anyone other than U.S. citizens and those authorized to work in U.S. from working on state contracts.
LA	House	1344	No	Prohibits some state contracts from being performed outside U.S.
LA	Senate	681	No	Prohibits health claims from being processed outside U.S.
LA	Senate	676	No	Allows state agencies to reject the lowest bidder for state contracts if it is a company located outside U.S.
MA	House	4850	Vetoed[2]	Prohibits privatization contracts for services provided by labor based or employed outside U.S.
MD	House	1458	No	Requires businesses to report outsourced jobs to the state and makes them ineligible for state contracts for seven years thereafter.
MD	House	183	Vetoed	Allows (but does not require) state agencies to give preference to companies that will perform state contract work within U.S.
MD	Senate	362	No	Prohibits state contract work from being performed outside U.S.

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State	Chamber	Bill Number	Enacted into Law?	Description
MS	House	1293	No	Prohibits state contract work from being performed outside U.S. unless an alien has a specialty for which no American or legal alien can be found.
MS	House	1535	No	Prohibits state contract work from being performed outside U.S.
MS	House	885	No	Requires call center operators to identify themselves at beginning of call.
MS	House	464	No	Requires state contract work to be performed by persons eligible to work within U.S. unless for a specialty for which U.S. workers cannot be found.
NC	Senate	1414	Yes	Provides a preference for NC and U.S. products and services within the bounds of law provided that no sacrifice or loss in price or quality occurs.
NC	Senate	991	Yes	Prohibits state government contracts for telemarketing or call centers to be performed outside U.S. Requires call center operators to disclose location on request.
NE		1223	No	Prohibits state contract work from being performed outside U.S. except when prohibition would violate WTO agreements. Requires that contractors certify that work will be performed within U.S. and that they pay damages if work is shifted outside U.S. during the term of the contract.
NJ	Assembly	AR184	No	Designs a commission to examine the loss of state jobs through outsourcing.
NJ	Assembly	840	No	Requires call center operators to disclose location within the first 30 seconds of each call.
NJ	Senate	494	No	Prohibits work on state contracts from being performed outside U.S.
NJ	Senate	370	No	Requires call center operators to identify themselves, the employer, the location, and, if applicable, the name and telephone number of a customer service representative of the entity utilizing the services of their employer.
NM	Senate	416	No	Requires state contract work to be performed by U.S. citizens or persons eligible to work within U.S.

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State	Chamber	Bill Number	Enacted into Law?	Description
NY	Assembly	10347	No	Prohibits state contract work from being performed outside U.S.
NY	Senate	6079	No	Requires state public utilities to use call centers located within the state.
NY	Senate	6338	Vetoed	Directs the Commissioner of Labor to report on offshore outsourcing.
OH	Senate	228	No	Requires that state contract work be performed within U.S. and that companies must certify compliance. Prohibits awarding contracts or providing financial assistance or tax incentives for five years to any company that had a net loss of jobs due to offshore outsourcing.
OH	House	459	No	Bans state contract from being performed outside U.S. Prohibits personal data from being sent offshore without written consent. Requires companies to provide 60 days' notification if a job will be moving outside U.S.
OK	House	HRC1087	No	Encourages state agencies to pursue contracts with U.S. companies.
PA	House	2639	No	Requires that state agencies use as a criterion for selection whether all the contracted work will be performed in U.S.
PA	House	2661	No	Provides that any company with a net loss of 100 or more employees in the state due to relocating jobs to a foreign country is ineligible for state or local government contracts.
PA	House	2659	No	Requires state contract work be performed within U.S.
PA	House	2786	No	Provides that no bidder with a net job loss within the previous three years due to relocating jobs outside the U.S. may receive a state contract.
PA	House	2785	No	Provides that no bidder that has transferred any jobs or functions outside U.S. within the previous three years may receive a state contract.
PA	House	HR586	No	Directs the Legislative Budget and Finance Committee to study the effects of outsourcing within the state of Pennsylvania.
PA	Senate	SR211	No	Directs a commission to study the effect of offshore outsourcing on Pennsylvania's service sector, particularly information technology.

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State	Chamber	Bill Number	Enacted into Law?	Description
RI	Senate	2943	No	Prohibits the state from purchasing goods or services from foreign sources.
RI	House	5678	No	Establishes a comprehensive procedure for all state agencies to follow before they can contract out-of-state programs and services.
SC	House	4434	No	Prohibits telemarketing or call center state contract work from being performed outside U.S. Requires call center operators to disclose location and obtain permission before sending personal or financial information outside U.S.
SD	House	1116	No	Prohibits state contracts with companies not located in U.S. Prohibits state contract work from being performed by persons not eligible to work within U.S.
TN	Senate	3492	No	Restricts the type of data that may be sent outside U.S.
TN	Senate	2822	No	Permits only companies whose corporate headquarters are located in the U.S. and who employ only U.S. citizens or citizens authorized by federal law to work in the U.S. to bid on state contracts.
TN	House	2334	Yes	Requires commissioner of Finance and Administration to create rules for giving a preference when awarding state data entry or call center services contracts for companies that use U.S. citizens or residents or persons authorized to work in U.S.
TN	House	2340	No	Requires call center operators to disclose location on request. Requires call center operators to get consent before sending consumer information outside U.S.
VA	House	1010	No	Prohibits state contract work from being performed by persons not eligible to work within U.S.
VA	Senate	151	No	Gives 20 percent price preference for state procurement to U.S. companies.
VA	House	315	No	Provides 3 percent price preference to companies with facilities in Virginia when awarding contracts over $500,000.
VA	House	243	No	Gives 20 percent price preference to U.S. companies for state contracts.
VT	House	702	No	Prohibits state contract work from being performed outside U.S.
VT	House	647	No	Prohibits state contracts with foreign-based call centers.

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State	Chamber	Bill Number	Enacted into Law?	Description
WA	House	3187	No	Prohibits state contract work from being performed outside U.S.
WA	House	2212	No	Giving preference in purchasing to Washington state businesses and companies.
WA	House	3186	No	Prohibits state contracts from using foreign-based call centers. Requires call center operators to disclose location on request. Prohibits sending personal information outside U.S. without consent.
WA	House	2459	No	Requires the Office of Financial Management to report on contracts performed at locations outside the U.S. by Dec. 1, 2004.
WA	House	2768	No	Requires certain state contracts to be performed by persons eligible to work within U.S.
WA	House	2405	No	Requires state contract work to be performed by persons eligible to work in U.S.
WA	House	2351	No	Requires call center operators to disclose location on request. Requires call centers to reroute calls to a U.S. location on request. Requires foreign call center operators to get consent prior to soliciting personal information and to inform consumers that they may request that the call be rerouted to a U.S. location.
WA	House	HCR4419	No	Resolution creates an Outsourcing Taskforce to study the problem of jobs moving offshore and propose solutions.
WI	Senate	538	No	Requires call centers to disclose location at beginning of call.
WI	Senate	389	No	Prohibits executive branch of state from state contracts performed outside U.S.

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State	Chamber	Bill Number	Enacted into Law?	Description
WV	House	4644	No	Prohibits foreign professional service contracts with the state.
WV	House	4645	No	Provides that companies that lose 100 or more jobs due to offshore outsourcing are ineligible for contracts and grants from the state.
WV	Senate	SCR76	No	Requests that the Joint Committee on Government and Finance study the awarding of contracts to companies that outsource.
WV	Senate	703	No	Prohibits for seven years a company from receiving state contracts, grants, or industrial development bonds if the company has a net loss of 100 or more jobs due to offshore outsourcing.
WV	House	4584	No	Prohibits state telemarketing and telephone services from being performed outside U.S. Requires call center operators to disclose their location to consumers on request.
WV	Senate	702	No	Prohibits awarding state contracts to companies that move 100 or more jobs overseas.

[1] Legislative resolution.
[2] This item, included in an appropriations bill, was vetoed.
Source: Compiled by Program Review staff from National Conference of State Legislatures, National Foundation for American Policy (“2004-Table”), Rescue American Jobs, and searches of Web sites of state legislatures.