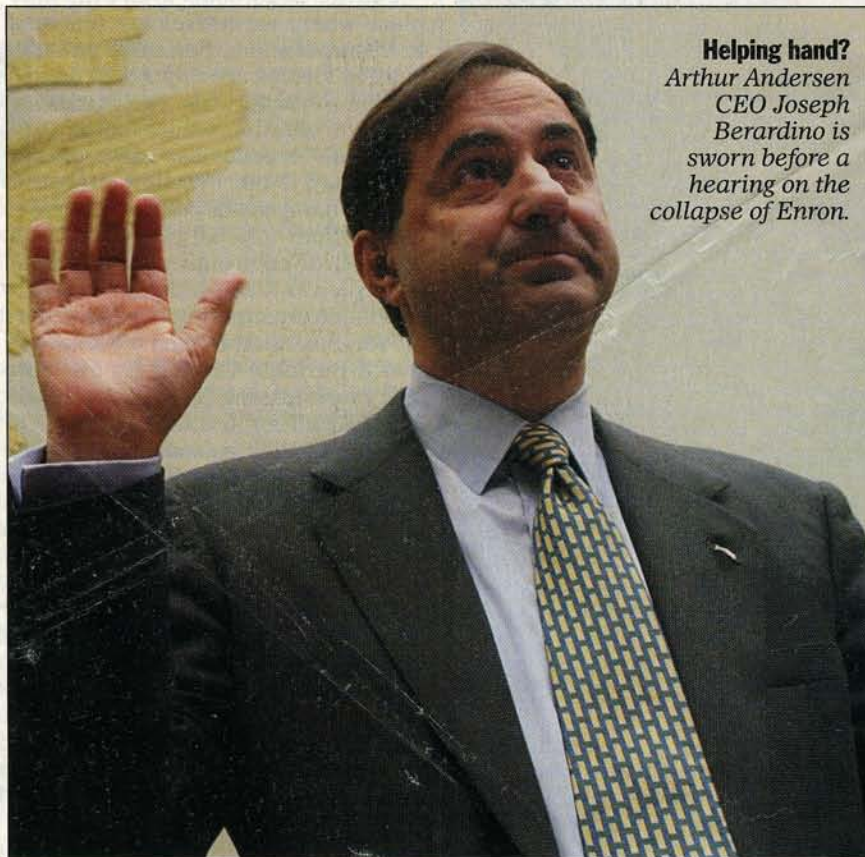


What Does It Take To Lose a Contract?

BY KELLY PATRICIA O'MEARA

Arthur Andersen's complicity in the Enron fiasco has raised debate about what actions should disqualify contractors from performing government service.



Helping hand?
Arthur Andersen
CEO Joseph
Berardino is
sworn before a
hearing on the
collapse of Enron.

Speakers for Arthur Andersen LLP, once one of the most respected accounting firms in the world, testified before Congress in February that employees deliberately shredded records containing details of the Enron debacle that were under subpoena. Coupled with its approval of dubious accounting practices that allowed Enron to hide hundreds of millions of dollars of debt, this testimony has

caused many Washington insiders to question whether Arthur Andersen should continue to be allowed to profit from government contracts.

Last year the federal government could not account for \$1.3 trillion at the Department of Defense (DoD), as well as hundreds of billions of dollars at other government departments and agencies. This raised serious questions that have yet to be answered not only about the private accountancy and

auditing contractors that serve the federal government, but about when and what actions should disqualify contractors from government service and/or require revocation of their federal contracts.

For instance, between 1996 and 2000, Arthur Andersen had federal contracts totaling at least \$300 million for consulting services to nearly every U.S. government agency. Because of its admitted role in the Enron scandal, could Arthur Andersen be barred or suspended from participating in government contracts? While no decision has been made about its status as a federal contractor, the General Services Administration (GSA) is investigating whether such action should be taken against the firm.

Under Federal Acquisition Regulations (FAR), contractors can be barred from conducting business with the U.S. government for fraud, antitrust violations, embezzlement and/or commission of any other offense indicating a lack of business integrity or honesty that seriously and directly affects the contractor's responsibility.

According to a soon-to-be-released report from the Washington-based Project on Government Oversight (POGO), a nonprofit organization dedicated to improving public policy, since 1990 the top 43 federal contractors together have accounted for 28 criminal convictions. The following are examples of just a few of these as listed in the POGO report:

- 2001: Two TRW subsidiaries pleaded guilty to environmental crimes and paid a fine of \$12 million.
- 1999: Two Litton Industries subsidiaries pleaded guilty to procurement fraud and paid a criminal fine of more than \$17 million.
- 1996: The Archer Daniels Midland Co. pleaded guilty to price-fixing and paid a criminal fine of \$100 million.
- 1995: Lockheed Martin, a top U.S. government contractor, pleaded guilty to violating the Foreign Corrupt Practices Act for paying bribes to officials of the Egyptian government. The government contractor paid a criminal fine of \$24.8 million.

Lockheed Martin, although found guilty in several cases of bribery, never has been disqualified or suspended from bidding on U.S. government contracts — it's just too big and important. In fact, according to POGO, since 1995 the military-industrial giant and its subsidiaries have been accused of 40 civil and criminal violations but still reap the financial benefits of federal contracts.

FAR prohibits contractors from billing the government if there has been a conviction in a criminal case or a mon-

etary penalty in civil proceedings. However, when the federal government brings civil actions against a contractor and the contractor is found guilty but no penalties are levied, contractors are allowed to bill the cost of their legal defense to the federal contract. In other words, when a contractor is found guilty of violating FAR but no fine is imposed, taxpayers pick up the legal tab even when the company has been found guilty of breaking the law.

This suggests to critics that the law is out of balance. And they point to Arthur Andersen as an example. According to records obtained from the GSA, between 1996 and 2000, Arthur Andersen enjoyed government contracts totaling nearly \$30 million from the Department of Housing and Urban Development (HUD). In fiscal 1999 the HUD inspector general reported that this agency could not account for \$59 billion. The records provided by GSA describe Arthur Andersen's work as "consulting services," but failed to be more specific. The following is an example of the contract description of services provided to HUD by Arthur Andersen: "D399 Other ADP & Telecommunications SV, 8742 Management Consulting Services, Washington, D.C."

The DoD, which could not account for \$1.3 trillion, paid Arthur Andersen nearly \$42 million for services, which included contract descriptions such as "R707 MGT SVCS/Contract & Procurements, 8742 Management Consulting Services." Arthur Andersen did not respond to *INSIGHT*'s questions about its government contracts at HUD, DoD or any other government agencies.

Another problem is that the government-contracting system is arcane and anything but transparent. For instance, while the contract information above was gathered from the Federal Procurement Data System, it does not include all of the government contracts that Arthur Andersen may hold. Vicki Reath, a spokeswoman for GSA, which has been tasked with looking into Arthur Andersen's federal contracts, tells *INSIGHT* that these contracts only represent those the agencies have reported. Other contracts may not be reported in the system.

The same apparently is true of government contracts that currently are held by the now-bankrupt Enron Corp. According to GSA records, Enron has contracts with the federal government totaling just short of \$32 million. Again, these are just the contracts that have been reported. Unless Freedom of Information Act requests are filed with every federal agency and individual entity within those agencies, it is impos-

Government Contractors in Court

Criminal and civil cases pending or settled against some of the government's top contractors.

Company	No. of Cases	Fines	Restitution
ADM	9	\$208,848,500	1995-2001
AT&T	12	\$16,090,000	1990-2000
Boeing	36	\$266,491,858	1988-2001
	32	\$253,497,858	1990-2001
Carlyle Group	10	\$283,808,773	1996-2001
ConAgra	7	\$13,519,448	1995-2000
Fluor	19	\$18,243,114	1991-2001
General Dynamics	13	\$64,515,894	1998-2001
	10	\$61,895,894	1990-2001
General Electric	49	\$984,894,259	1985-2001
	43	\$975,629,845	1990-2001
Litton	11	\$113,322,350	1989-2001
	10	\$110,822,350	1990-2001
Lockheed Martin	60	\$220,843,968	1988-2001
	57	\$219,143,968	1990-2001
Northrup Grumman	22	\$87,876,681	1987-2001
	20	\$87,876,581	1990-2001
Raytheon	24	\$109,602,919	1990-2001
TRW	17	\$373,039,000	1993-2001
Unisys	10	\$178,245,692	1991-2001
United Technologies	19	\$330,202,660	1988-2000
	17	\$214,702,660	1990-2000

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sible to know even how many contracts have been awarded to Enron or for what services — and at what cost to American taxpayers.

Whether Arthur Andersen controlled audit services for DoD or any of the other federal agencies missing money becomes relevant when considering the company's admitted willingness to push the envelope of creative bookkeeping that likely led to Enron's downfall. And with President George W. Bush's eagerness to transfer federal services to outside contractors, longtime critics of the government's financial management are insisting loudly that the contracting process be fully and quickly reported. They argue that most federal contracts are awarded to the same big companies that repeatedly abuse the privilege.

Dina Rasor, a consultant for the Washington-based National Whistleblower Center, a nonprofit organization that works for government and industry accountability through support and representation of employee whistle-blowers, tells *INSIGHT* it's still too early to tell where Arthur Andersen stands with the federal government.

"What is important," explains Rasor, "is how and whether the money is being handled responsibly. Yes, the president wants to bring in the private sector, but why is it always the same companies? Why not bring in a business model that works? Take Wal-Mart. There's a busi-

ness model that works. The Pentagon deals with things that Wal-Mart deals with every day, tens of thousands of vendors, employee wages and inventories. Wal-Mart does more than \$200 billion a year in revenue, which means that company is keeping track of \$200 billion worth of transactions."

Wal-Mart stockholders, continues Rasor, "wouldn't tolerate losing one out of every four dollars, which is the case with the Pentagon. I'm only asking the Pentagon to do what Wal-Mart does every day. The Pentagon is not too big to manage, and Wal-Mart is proof of it. If the president wants a business model that works he doesn't need to call in the accountants, just call in Wal-Mart."

In the meantime, while government bureaucrats consider the fate of Arthur Andersen as a federal contractor, several private-sector companies have decided that the Chicago-based accounting firm's services no longer are needed. SunTrust Banks Inc. has ended its 60-year relationship with Arthur Andersen, as have Commonwealth Bancorp Inc. of Norristown, Pa., Rural/Metro Corp. of Scottsdale, Ariz., and Davel Communications Inc. of Tampa, Fla.

Added to Arthur Andersen's current troubles are two lawsuits against the company, including one by the Arizona Corporations Commission, which alleges that the accounting firm issued clean audits on financial statements of the Baptist Foundation of Arizona (BFA) after receiving information that senior management at BFA was perpetrating financial fraud upon its investors.

And in June 2001, the Securities and Exchange Commission settled enforcement actions against Arthur Andersen and four of its current or former partners in connection with Andersen audits of the annual financial statements of Waste Management Inc. Arthur Andersen had issued clean audits for Waste Management while overstating the company's pretax income by more than \$1 billion.

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