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DETERMINED TO BE HEARD:

Maximus Call Center Workers and the Injustice of Low-Bid Federal Contracting

Anastasia Christman



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National Employment Law Project

For more than 50 years, NELP has sought to ensure that this country upholds, for all workers, the promise of opportunity and economic security through work. NELP fights for policies to create good jobs, expand access to work, and strengthen protections and support for underpaid workers and unemployed workers. We publish research that illuminates workers' issues; promote policies that improve workers' lives; lend deep legal and policy expertise to important cases and campaigns; and partner with allies to advance crucial reforms.

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“They use a lot of fear and intimidation. I’ve been there eight years, I take a lot of pride in my work. But there’s never any reward for that... not verbally. But if you mess up they are so quick to write you up or send you to coaching. It’s a fear factor, if they can hold us by the edge...I just see it as a control mechanism.”

*—John,
Lawrence, Kansas*

FOREWORD

Determined to Be Heard: Maximus Call Center Workers and the Injustice of Low-Bid Federal Contracting

“I am a 54-year-old single parent with a 16-year-old. When I first joined Maximus I started trying to organize here in Hattiesburg, Mississippi. It really hurts to not be able to provide a comfortable living environment and to be able to provide for your child. And I have underlying health conditions. It is ridiculous that I am a customer service representative and I provide healthcare for Americans, and I can’t even afford to go to the doctor. I can’t afford to be sick.”

—Anna Flemmings, Customer Service Representative from Hattiesburg, Mississippi:

We are experiencing a moment when fundamental questions are being raised about the degree to which our economy and society will provide for our general welfare, health, and wellbeing as a nation. Before the pandemic, there were 140 million people who were poor and low-income. This includes 60.4 percent or 26 million Black people, 64.1 percent or 38 million Latinx people, 40.8 percent or 8 million Asian people, 58.9 percent or 2.14 million Native and Indigenous people, and 33.5 percent or 66 million white people. At the same time, three people owned as much wealth as half the country, and corporations were counting on low-wage work to maintain record profits. During the pandemic, this polarization has become even more pronounced: billionaire wealth has increased over \$1.3 trillion while the nation’s low-wage workers struggle to provide the basic necessities for their families.

In this time, we must challenge every form of public policy that destroys life. We must fight against it and fight for life itself. When people who are helping others access health care cannot afford their own health care, our nation is in crisis.

Maximus Inc., is the nation’s largest provider of call services to the federal government and employs about 10,000 customer service professionals at 11 call centers, 6 of which are located in the South. They operate under a 10-year, \$5.5 billion contract with the Center for Medicare and Medicaid Services (CMS). These agents handle Medicare and ACA Federal Marketplace calls and some can earn as little as \$10.80 an hour. They are essential workers who have put themselves at risk by going to work during the pandemic to help Americans access health coverage. Their efforts to unionize with Communications Workers of America (CWA) reveal the extent to which organized labor is under attack. In response to Maximus workers joining together with CWA for better pay and working conditions, they have been met with hostility, low wages, unaffordable health coverage and union-busting tactics in their efforts to improve their workplace.

They are not alone. There are 47.7 million low-wage workers in the country, of which 22.3 million have been asked to perform essential services while not receiving adequate protection.]

This is why Maximus workers are reaching out, across lines of race, geography and more, to join together and form a union. In doing so, they are embracing a long history of fusion organizing that is rooted in the South. During the first Reconstruction in the late 19th century, Black and white people joined forces to transform various labor laws, guarantee public education and demand healthcare as a fundamental right. Before the turn of the 20th century, poor Black and white masonry workers in southern Louisiana demanded a decent living wage. These workers were met with fierce repercussions as their bosses tried to split the white masons from the Blacks.

More recently, fusion coalitions throughout the former Confederate states have been organizing and building power as part of the Poor People's Campaign: A National Call for Moral Revival. Impacted people are coming together to demand a living wage, housing for all, challenging voter suppression, and ensuring that we have clean air and water. These issues affecting the 140 million poor and low-income people across race have always been a matter of life and death. In the 2020 elections, millions of poor and low-income voters took action based on these needs and voted for transformative change. Organized together we cannot be ignored.

It is time to address how our federal procurement system fails to uphold adequate labor standards by not creating good family-sustaining jobs that tackle the racial and gender inequities of our time. The dispossessed and our most marginalized are demanding quality jobs for federally contracted workers, a living wage, and the right to collectively bargain for a safe and better workplace.

For far too long we have been investing in punishing the poor; we must now invest in the welfare of all. For far too long we have been investing in the wealthy and corporations; we must now invest in the people who have built up this country. This is the moment to set the agenda, and we will not be silent anymore.

The Rev. Dr. William J. Barber II
President & Senior Lecturer of Repairers of the Breach
Co-Chair, Poor People's Campaign: A National Call for Moral Revival

REPAIRERS
OF THE  BREACH

INTRODUCTION:

In his first weeks in office President Biden announced policies addressing the way the government contracts for services. By reversing a ban on antidiscrimination trainings by contractors, calling for increased COVID protections for contracted workers on federal properties, and starting the process to raise contracted wages to \$15 an hour, he demonstrated a commitment to his campaign pledge to improve the lives of working people and an acknowledgment of the market role our government plays when purchasing goods and services from private companies.

Federal contracting with private businesses is big business. In 2020, the federal government obligated \$652 billion to contractual services and supplies with 5.5 million contracts.¹ Successful low bids may rest on corporate practices of low compensation, high turnover, or even violations of labor law to keep costs at rock bottom.² Provisions in the law that should protect workers can fail with insufficient accountability measures and underfunded enforcement regimes. As a result, important public work may be performed by workers who struggle to pay bills and rent, who have to work while ill, or who simply leave the job in frustration, taking their experience and knowledge with them.

Yet workers' voices and interests are rarely heard in discussions of federal contracting.³ This report shifts the narrative and puts workers and their stories at the center by focusing on those who do the day-to-day work on one critical contract. In 11 call centers located throughout the South and Midwest, employees of a company called Maximus work on a contract with the Centers for Medicare and Medicaid Services (CMS) to provide timely and accurate support to those calling about their Medicare benefits or to access ACA healthcare through the Federally Facilitated Marketplace. We spoke with workers in different cities; with different gender identities; Black, brown, and white workers; and with varying family situations. A similar story echoed across their differences: Despite unsustainable wages and unaffordable health care benefits and fearing for their own safety without strong COVID protections, they need to perform essential and sensitive work during a national health crisis.

The majority of these workers are people of color and women. While low-cost contracting can depress the wages of all outsourced federal workers, Black contracted workers have long been the vocal “canaries in the coal mine” alerting us to this danger. Policy makers should listen to them and their coworkers now, and take action to support improved wages and conditions across contracted industries.⁴ Since Reconstruction, Black workers have provided critical leadership and solidarity with white workers and other workers of color to win labor standards.⁵ The Black call center workers fighting to improve conditions at Maximus are thus part of a long legacy that has—in fits and spurts—improved policies for Black workers and thus for all workers employed by private companies but ultimately paid with federal public revenues.

By listening to workers’ personal accounts together with an examination of data and details about this contract, we find that:

- Government agencies have failed to set fair wage rates under the Service Contract Act, which requires that federally contracted jobs do not undercut existing wages in a sector.
- Workers allege that Maximus has stolen the wages that workers were due and has failed to ensure these call centers are safe.
- A federal contracting policy that prioritizes the lowest cost over the best quality hurts the communities in which the workers live and jeopardizes the quality of services that callers receive.
- These harms fall disproportionately on women and people of color, who make up a large majority of the workforce on this contract, exacerbating long-term inequities in local labor markets.
- Workers’ efforts to organize across geographies and racial difference to improve conditions through collective action have been met with a campaign of fear and intimidation.

Finally, we suggest critical reforms to the federal contracting model that would improve not just these jobs, but millions of people in the private sector who perform the work necessary to keep the nation running. President Biden has started to make good on his promise to support working people. These call center workers, and millions of others working on contracts across every federal agency, are eager to see that process come to fruition and the value of the work they do for all of us recognized.



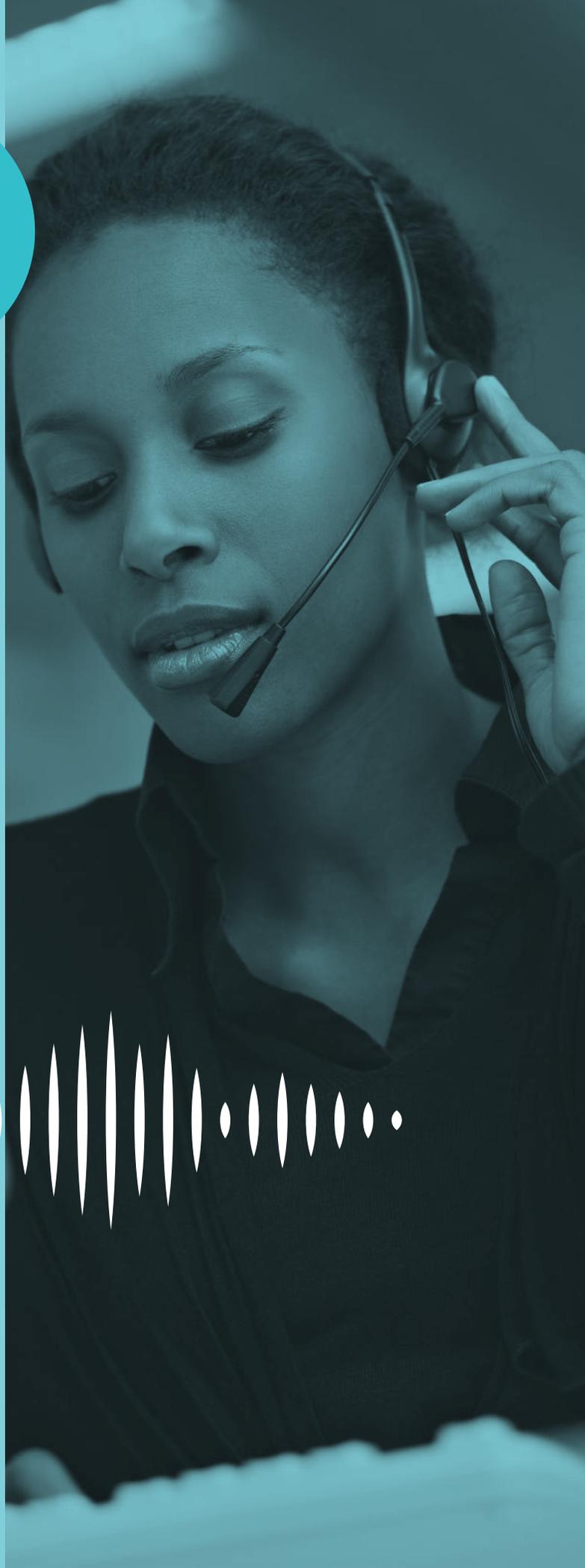


IT'S TIME FOR FEDERAL CONTRACTING JOBS TO PAY A SUSTAINABLE WAGE

Contracted workers and
their communities deserve
improved policies and
labor standards.

FEDERAL OUTSOURCING ON THE RISE

Federal contracting
with Maximus Inc. has
doubled since 2016

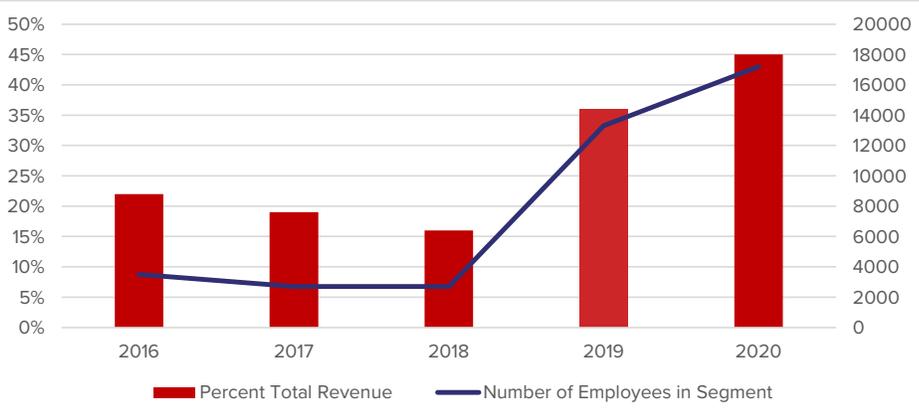


PUBLIC PROGRAMS, PRIVATE PROFIT, AND LOW-PAID JOBS

Federal outsourcing is not new, the practice dates to before the founding of the nation.⁶ For over a century, contracted workers and their advocates have urged politicians to recognize the effects of federal funds going to finance jobs with low pay and high risks.⁷ But this qualitative focus on contracting jobs has been drowned out by corporate lobbying and the adoption of a contracting philosophy that defines value as the smallest cost for increasingly underfunded agencies rather than one that recognizes that quality services come from well-treated, long-tenured, and fairly-compensated workers. The impact on the quality of public services and the harms to contracted workers and their communities are treated as externalities and inevitable results of a market economy.

Over the years, lawmakers made promises in the form of executive orders and statutes to establish basic standards and respect workers’ right to workplace democracy. But in the second half of the century, large companies emerged whose entire business model depended on winning and servicing these federal contracts, often relying on poor working conditions, particularly in sectors lacking significant union representation.⁸ This is certainly the case for Maximus, a pioneer in providing both back-office support and clinical service provision for publicly-funded social insurance programs.

MAXIMUS INC GROWTH IN US FEDERAL SERVICES



Source: Maximus, Inc., Annual Reports, 2016-2020

“Every time the contract gets bought out it gets worse and worse...Maximus is not investing in their employees.”

*—Penny,
Lawrence, Kansas*

“It’s to the point where I’ve had to have go fund me pages set up, where people have to donate because I’m not working right now; I’m on FMLA because of my spine.”

*—Brion,
Lawrence, Kansas*

Founded in 1975, Maximus is today a \$3.5 billion publicly traded company, headquartered just outside Washington, D.C. Maximus relies entirely on public contracts for its business, and contracts with federal agencies have become an ever-greater part of its business, fueled by acquisitions of other contractors. Initially acting as a subcontractor on the \$5.5 billion ten-year call center contract between the Centers for Medicare and Medicaid Services (CMS) and prime contractor General Dynamics Information Technology (GDIT), Maximus became the largest federal call center contractor in 2018 when it paid \$400 million in cash to take over the call centers and the GDIT contract. With the purchase Maximus brought in \$670 million in new revenues annually, increasing the company’s overall federal contracting business segment to over \$1 billion.⁹

After this acquisition, Maximus became the employer of approximately 10,000 workers at the CMS call centers.¹⁰ These workers staff the 1-800 lines for Medicare beneficiary inquiries and calls concerning the Federally Facilitated Marketplace created by the ACA. Under GDIT workers experienced unaffordable health care, anti-union animus, and wage theft—including \$3.2 million in violations of overtime pay by Maximus itself in its role as subcontractor—practices which workers say continue today.¹¹

Maximus holds other federal contacts as well, with the Centers for Disease Control, Department of Education support, and the Veterans Administration, and to continue its growth the company spends \$800,000 a year on lobbying the federal government.¹² As Maximus assures its investors, the barriers to entry for providing government services—including the complexity of the bidding process itself and some pre-approval requirements—can limit the pool of competitors for federal agencies to choose from.¹³ Under the current acquisition framework, Maximus has an incentive to offer to do the work for a bargain price no matter the impact on workers.

Doing federal work on low wages

While servicing federal contracts appears to be good business for Maximus, it can be a struggle for the people who do the work. The call centers servicing the CMS contract are in Southeastern, Southwestern, and Great Plains states, some of which provided public subsidies to attract the company and are among the poorest in the nation (including Mississippi, Louisiana, Kentucky, Florida, and Kansas).¹⁴ All the centers are in so-called “right to work” states where political opposition to worker organizing and legal obstacles to maintaining strong unions results in depressed wages.¹⁵ Despite legal obligations to pay workers a decent wage, the wage calculation strategy of the federal government and the contractor has meant that these jobs do not pay a sustainable wage and are not lifting workers above a subsistence level.

	Current Wage Range at Call Center ¹⁶	Living Wage for 1 adult with 1 child ¹⁷
<i>“This wage is pretty insulting. It’s not sustainable. I can’t live on my own. If I had to live on my own it would be pretty rough—I sure can’t get an apartment or a house on this. No worker deserves to be in poverty, but we’re essentially a government worker here.” William</i>	\$13.69 - \$15.40	\$27.10 (Chesterfield County, Virginia)
<i>“I was at a chicken plant and was making almost \$13 an hour in 2013, had I stayed there I’d be making \$17. At the chicken plant. I think that for what I do every day I should be making at least \$15.” Delilah</i>	\$11.64 - \$13.09	\$21.29 (Hattiesburg, Mississippi)
<i>“Never in the 7 years have I gotten an evaluation for the work I do. There are no cost-of-living increases, and there are no raises. I got promoted in July 2014...and have stayed at \$15.36 ever since.” Kristin</i>	\$12.95 - \$14.22	\$24.16 (Lawrence, Kansas)
<i>“This is not at all enough to live off of. You can go to work at one of these fast-food joints in town and they pay \$15 an hour. We should be paid better, we’re doing important work for the government.” John</i>		
<i>“Treat me fairly, pay me fairly, treat me decently as a person and let me know you appreciate me being there...This is what I was called to do and this is what I was hired to do. They should respect that and they should appreciate that.” Sylvia</i>	\$11.62 - \$13.04	\$22.32 (Washington Parish, Louisiana)

While 10,000 workers try to balance paying their rent, their utilities, and their grocery bills on about \$30,000 a year or less, the head of the federal services division at Maximus, Thomas Romero, received a total compensation package of \$1.9 million in 2020.¹⁸

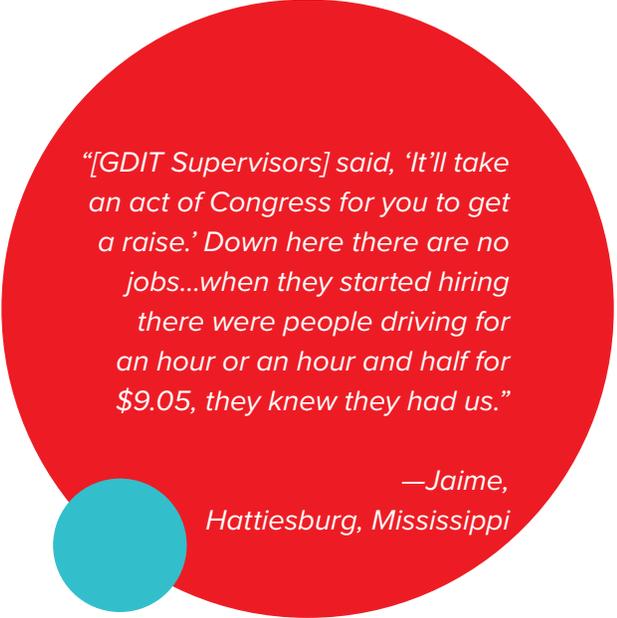
Federal Contracting and Occupational Segregation

Federal agencies don't know precisely how many workers are employed on their contracts, though researchers have estimated that there are roughly 5 million and that the number is growing. Nor is there reliable information regarding the racial or gender composition or comparative pay scales of these contracted employees. While many contractors are required to file annual reports to the federal government concerning the sex, race, and ethnicity of their workers, the data is not easily publicly accessible.¹⁹ This is troubling as DOL data also shows that the majority of labor violations on federal contracts take place in industries characterized by significant Black, brown, and female employment, including administrative support and waste management and remediation, transportation and warehousing, health care and social assistance, and construction.²⁰

The government does collect and make public data on its own workforce. The CMS workforce, which totaled 6,021 employees in 2019, is 54.8 percent white, and 67 percent female.²¹ Comparing this data with what we know about Maximus worksites, we see that the contracted Call Center Representatives on the CMS contract are more female and significantly less white than the direct staff at CMS.

Federal agencies are accountable to equity goals in hiring and generally have union representation, so these jobs contribute to closing racial and gender wage gaps.²² Government evaluations conducted over several years and across eight of the CMS worksites indicate that the GDIT/Maximus workforce was 66.8 percent people of color and 73.1 percent female on average, with some sites as high as 90 percent workers of color and more than two-thirds female.²³ As we explore in a later section of this report, the fact that Maximus workers are also classified into low-paid occupational categories has severe ramifications for this more diverse and mostly female workforce, which is thousands of workers larger than the total direct staff at CMS.

The Biden-Harris Administration has committed to redress systemic bias and to target policy solutions to workers suffering the impacts of longstanding discrimination, but the system of federal contracting and the worker protections that are supposed to be in place on these contracts must be reformed to be up to that task.



"[GDIT Supervisors] said, 'It'll take an act of Congress for you to get a raise.' Down here there are no jobs...when they started hiring there were people driving for an hour or an hour and half for \$9.05, they knew they had us."

—Jaime,
Hattiesburg, Mississippi

PROTECTIONS FOR CONTRACTED SERVICE WORKERS AND THE FIGHT FOR CIVIL RIGHTS

There is a longstanding racial tension in federal contracting. For more than a century, federal agencies have increasingly outsourced work characterized as caregiving, service, and custodial; work that since slavery has been coded Black and/or female. Time and again, Black workers have confronted government leaders with the impacts of systemic bias, and in response policymakers have crafted policies to minimize instability and under-compensation for many contracted workers. But without addressing the impact of low-cost bids on workplace standards in industries with significantly Black, brown, and female workforces these measures have not resulted in closing the racial wage gap or extending worker power to contracted workers doing federal work.²⁴ By failing to remedy baked-in biases, policymakers tacitly endorse inequality among workers and reinforce a narrative of scarcity in federal programs.

Leading up to WWII, federal investments for weaponry and expanded military bases in the Jim Crow South meant federal revenues were going to support discriminatory workplaces. In 1941 civil rights leader and trade unionist A. Philip Randolph organized black workers to oppose segregation in defense work, compelling FDR to establish the Fair Employment Practice Committee and sign Executive Order 8802 “banning discriminatory employment practices by Federal agencies and all unions and companies engaged in war-related work.”²⁵

Two decades later, Congress again responded to organized Black workers’ demands when, only months after Martin Luther King, Jr.’s 1963 March on Washington for Jobs and Freedom, the Service Contract Act (SCA) was introduced. Dr. King connected economic and civil rights, vowing to “place the problems of the poor at the seat of government of the wealthiest nation in the history of mankind” aiming to compel it to live up to the promise of life, liberty, and the pursuit of happiness for all.²⁶ The SCA set labor standards for federally-contracted service workers, “many of them members of minority races,” observed a Washington State lawmaker, “who furnish such important services to the Nation—services whose value to our health, safety, and comfort is often overlooked.”²⁷ With the Bloody Sunday march in Selma, Alabama, still fresh in the public’s mind President Johnson signed the SCA in 1965.



“Racial equality and social equality and labor equality are all intertwined. You cannot have one without the other.”

—Tiandra,
Hattiesburg, Mississippi

The Unkept Promise of the Service Contract Act

The underlying mechanism of the SCA is that the Secretary of Labor sets a specified minimum wage, termed a prevailing wage, for job classifications based on comparable work “in the locality” or by the terms of a collective bargaining agreement (CBA), that workers receive minimum fringe benefits or their cash equivalent, that the workers have a safe and sanitary workplace, and that when a contract covered by a CBA changes hands the new contractor honors its economic terms. The SCA also requires that, when setting compensation, the Labor Secretary must give “due consideration” to the wages and fringe benefits that the federal government would pay if the contracted employees were employed directly by the federal government. The purposes were threefold: 1) avoid undercutting locally prevailing compensation; 2) narrow the gap between compensation for direct federal employees and contracted employees; and 3) to ensure that if workers form a union and bargain a better deal with their employer, that rate would become the new prevailing wage on their federal contract.

For Maximus workers, this promise is not proving itself in practice. As detailed below, documents provided in response to a Freedom of Information Act request indicate that CMS communicated a desire to keep contract prices low even if it meant that contracted call center workers were classified at a low pay scale; the DOL did not appear to take the pay of comparable direct federal employees into consideration; and CMS and its contractors—including Maximus—did not accurately report to DOL the job duties and skill level of its call center workforce since this contract was first signed. As a result, workers receive low pay and feel disrespected for the work they do to help customers with challenging health care insurance questions. Their stories reveal serious shortcomings in the compensation-setting process and ongoing employer opposition to their efforts to organize to address those shortcomings.

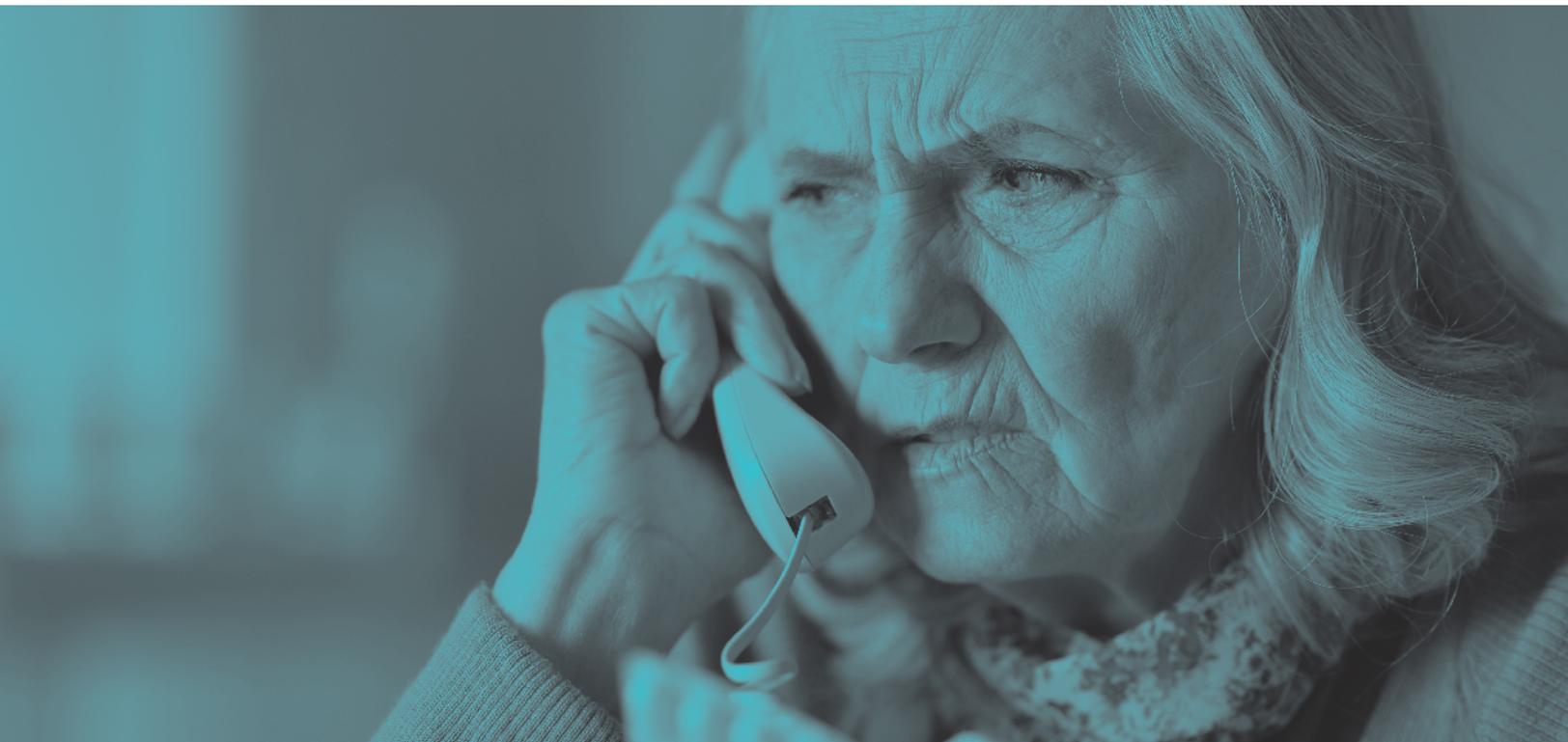


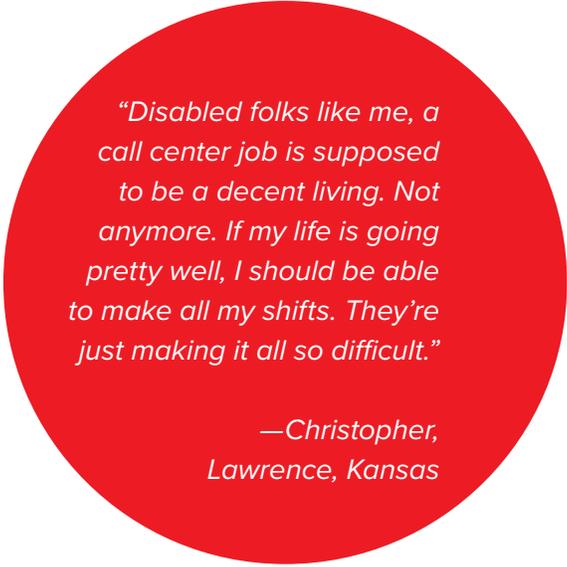
Worker protections that fail call-center workers

Under the SCA, prevailing wages are set by the DOL by occupational classification. But when a contractor or a contracting agency misrepresents the duties and skill required of workers on a federal contract, workers will not receive the pay they should have earned.

In 2015, the DOL established categories for Customer Service Representatives (CSR) levels I, II, and III in its SCA Directory of Occupations for the first time.²⁸ For years, DOL knew that the lack of standardized appropriate classifications had undermined fair pay for call center workers. In 2005, the Government Accountability Office investigated DOL's prevailing wage practices and found that some call center workers were being classified as "General Clerks," which led to low pay and workers "feeling demoralized."²⁹ In 2007, a government-wide report on federal call centers identified a need to promote "professionalization of customer service" to attract and retain staff as a key recommendation.³⁰ Starting in 2010, Communications Workers of America (CWA), the largest union of call center employees, began meeting with DOL to push the agency to issue CSR classifications that would reflect this professionalism and create a pathway to the middle class for call center workers.³¹ But despite these efforts, when the process was complete, DOL released a CSR series at a *lower* grade level and with *lower* pay rates in many locations than the General Clerk series.

There are several reasons why the effort to professionalize and increase pay for federally-contracted call center workers was turned on its head. Part of the problem is that the new CSR classifications are pegged to the lowest-possible government pay grades. To establish a prevailing wage, the DOL assigns all SCA classifications a comparable federal civil service grade level, also known as a federal grade equivalent. These federal grade equivalents play an important role in DOL's methodology for calculating pay rates under the SCA. When DOL solicited information from federal agencies about creating new





“Disabled folks like me, a call center job is supposed to be a decent living. Not anymore. If my life is going pretty well, I should be able to make all my shifts. They’re just making it all so difficult.”

*—Christopher,
Lawrence, Kansas*

SCA classifications, CMS suggested that the new CSR series should start at the lowest-possible white-collar (General Schedule) pay rate: GS-1.³² The DOL implemented the suggestion despite the fact that federal agencies virtually no longer use the lowest GS levels and less than one percent of the entire federal employee workforce is classified in positions below GS-4.³³ In fact, not a single direct CMS employee is classified below GS-4, and less than three-tenths of one percent of its employees are classified below GS-7.³⁴

Another factor may be that CMS repeatedly lobbied DOL to keep CSR pay low and to maintain inaccurate classifications. In 2010, when DOL investigated CMS’s contracted Medicare call center in Tampa, its investigator found that workers were doing higher-level work than their General Clerk classification indicated and requested that DOL’s national office fix the issue.³⁵ During the process, CMS pushed back hard against the investigator’s findings and asserted that the investigator “overstate[d] the roles and responsibilities of the CSRs.”³⁶ Job descriptions provided by both the Contractor and CMS claimed that tier 1 CSRs merely read scripts “verbatim” and that “[n]o subject-matter knowledge is required, as the processes follow the same technical and procedural logic. Therefore, the need for independent decision making, when addressing a caller’s inquiry, is eliminated.” DOL acceded to CMS, adopting job descriptions that claimed CSRs used no subject matter knowledge and kept the General Clerk 1 pay rate.³⁷ Echoing its earlier efforts to keep classifications low, in 2015 after hearing that DOL’s forthcoming CSR series might still lead to higher pay, high-level officials at CMS emailed, called, and met with DOL to lobby to keep pay low on its flagship call center contract. CMS officials indicated that the agency was “concerned about the impact” of the new CSR classifications potentially raising pay rates over the General Clerk rates already in use.³⁸

Maximus and GDIT also played an active role in keeping CMS call center workers in low pay grades. In the early years of the contract, both companies worked with CMS to submit job descriptions that undervalued and deskilled their call center agents.³⁹ Then, after DOL issued its standard CSR series at even lower grade levels than the General Clerk series, GDIT and Maximus assigned the majority of its call center agents to the CSR 1 classification instead of starting them in the CSR 2. Maximus workers continue to allege that the company systematically misclassifies them in lower wage titles under the SCA than their job duties merit. Some note that they are told to call themselves senior specialists in email communications, though the company does not classify their occupations that way.⁴⁰

Maximus workers are employed in low-paid CSR classifications that devalue and deprofessionalize their work, undermining one of the key provisions of the SCA. Congress saw how federal outsourcing resting on low wages undermined the middle-class livelihoods afforded by federal civil service jobs, and sought to narrow the gap between contracted service workers’ pay and what the rate would be if they were

federal employees. To address this concern, the SCA requires the DOL to give “due consideration” to government pay rates for similar kinds of work when setting prevailing wages.⁴¹ The results for Maximus workers suggest that no one gave any real consideration to federal rates in their case. Workers doing substantially similar work directly for other federal agencies earn significantly higher wages than Maximus’ CMS call center agents. For example, direct call center employees at the Internal Revenue Service (IRS) and Social Security Administration (SSA) are paid at the GS-5 to GS-8 level⁴² and earn an annual average of \$53,183 and \$52,868, respectively, while most of the Maximus workers are paid under \$30,000 annually.⁴³

The examples of the IRS and SSA call centers, where demographics are similar to those at the contracted CMS call centers, clearly, demonstrate that federally funded customer service support jobs can—and should—be decent middle-class jobs for the predominantly Black, brown, and female workforce that performs this work, and can contribute to closing the racial and gender wage gaps. Maximus workers have joined forces with the CWA to expose their low pay and to advocate for fair classifications at pay rates that match their direct federal peers. Since 2017, CWA has filed several complaints with the U.S. Department of Labor, which remain under investigation, alleging that CMS call center agents have been misclassified under the SCA.⁴⁴ This month, CWA again asked the DOL to resolve these complaints by reclassifying Maximus workers. The union also called on DOL to protect workers on future call center contracts by revising its flawed customer service classifications as currently published in its SCA Directory of Occupations. These actions, when taken together, would transform the livelihoods of Maximus CMS agents, as well as other SCA call center workers nationwide.

CONTRACTED WORKERS PAID 40 PERCENT LESS THAN DIRECT HIRE COUNTERPARTS



DIRECT CALL CENTER EMPLOYEES
earn an annual average of over
\$50K

MAXIMUS WORKERS
are paid annually under
\$30K

Source: OPM, FedScope, Federal Workforce Data, Diversity Cube; FOIA documents on file with author.

In addition to SCA prevailing wages, federal law does provide a second wage floor for contracted workers. Recognizing the need to limit turnover and increase recruiting power for the best service on public work, President Obama established a contractor minimum wage over a decade ago that is currently set at \$10.95 per hour. On his first full day in office, President Biden announced he was beginning the process toward his own Executive Order to compel federal contractors to pay a \$15 minimum wage and provide emergency paid leave. For most of the Maximus call center workers, a \$15 wage would be an improvement over current pay, though still not adequate to meet their expenses nor to reflect the work that they do for the federal government.

I know what good insurance is, but I can't get it myself

The SCA also provides for a health and welfare fringe benefit payment, which in 2020 stood at \$4.54 per hour. The great irony for the Maximus call center workers who service the contract with CMS is that after spending all day helping beneficiaries make the best health care choices possible under their Medicare plan or on the ACA health insurance market, many cannot themselves afford the medical care they need. As Anna from Hattiesburg wryly observed, “I have cataracts on both eyes that I have to have surgery on, but I can't afford it because I can't afford the deductible...So my eyes are doing a job for them, but I'm not important enough to them to make sure my health is up to par.”

Outsized deductibles and high out-of-pocket costs compel these experts on quality health care to forgo doctor's appointments, skimp on prescriptions, and delay needed treatments. As Sylvia from Bogalusa noted, “It's like a teaser. I know all about what good insurance is, but I can't get it myself. I do a lot of praying.”

According to workers, they are offered one of two plans: they can have a “free” plan with a \$4500 deductible, or they can pay a premium of \$150 a month to have a \$1500 deductible. In both cases, the out-of-pocket costs become daunting. As Penny, a worker in Lawrence mused, “Somebody making \$12.95 an hour is supposed to come up \$4500? I've had to cancel procedures because I don't have the money. I'm going to have to start going to a clinic, I'll have to have a sliding scale. It's going to put me in a dangerous situation.” Lanycha from Hattiesburg echoed, “Do I skip paying my rent to go to the doctor? I had to choose my rent.”

Call Center Representatives in the time of COVID

Hours after his inauguration, President Biden signed an executive order mandating that federal workers—including contracted workers on federal property—had to be protected with mask mandates and social distancing policies, but the Maximus workers who service federal contracts in privately owned and leased properties are left unprotected by this measure. Sherry from Hattiesburg was told she had to return to the call center when she encountered technological challenges working from home, “Now I’m sitting next to a supervisor, and the only thing that separates us is a partition...I told the manager, ‘You know, you know I’m at risk...that’s not six feet,’ and she tells me ‘If I can wave a hand I can’t touch you, you know we’re six feet.’” Christopher in Lawrence observes, “Our workplace is a retrofitted warehouse; it’s all just modules, there are no air scrubbers. You can see mold and stains on the ceiling. People don’t feel safe there.”

Maximus workers do get some paid time off, though the accrual system is perceived as cumbersome and confusing. Many workers point out that to get approved medical time off, they must bring signed documents from their doctors. But to get those notes they need the time to go to the doctor, creating multiple absences for the same illness. And because the time off is calculated in increments of one tenth of an hour, time is of the essence.

Workers have also encountered push-back from supervisors and management when they need time to care for loved ones during the pandemic. Hattiesburg worker Danita McRae told reporters that having used most of her allotted days for cancer treatment, she had little flexibility when it came time to care for her husband when he tested positive for COVID. She recounted that the human resources office asked her, “But why do you need this many days off? Well, why can’t he take care of himself? He’s a grown man.”⁴⁵ In Lawrence, when Erin’s fiancée—a driver of a Maximus shuttle—caught COVID she recalls, “It wasn’t until he was on a ventilator that they approved me for time off. ‘Oh, you work from home, you can work with COVID.’ But I have two kids, and the work-from-home contract says I can’t be the caregiver if I’m working from home.”

*“I got COVID at work,
somebody came in sick
and had to lie because
she knew she wouldn’t get
paid for 14 whole days.”*

*—Penny,
Lawrence, Kansas*

*“My medication costs make a \$400
difference in my income each month.
[There are] the adjustments that you
have to make: the light bill is the light
bill; your gas bill is, your rent is, you
car is, your insurance is what it is.
You can’t negotiate that. Where do
you take the fall? It’s in your food.”*

*—Trinity,
Hattiesburg, Mississippi*

Surveillance and stress in the call center workplace

“It’s like working in the ER the stress is just unbelievable.”

*—Syliva,
Bogalusa, Louisiana*

Workers report an often-frantic pace at the call center; the CMS contract lists a target response time of 7-8.5 minutes, but some workers report that Maximus often expects a much shorter response time to understand and answer beneficiary questions. This allowance, called the “average handle time,” includes the beneficiary asking the question, the time needed to clarify the question and locate the correct procedure to answer the call, the time required to research or confirm information, and to complete any post-call work needed.⁴⁶ In addition to phone calls, Maximus workers are responsible for email correspondence, web chats, and written correspondence and faxes.

In 2019, CMS call centers handled more than 42 million phone calls, nearly 870,000 webchats, and almost 165,000 pieces of written correspondence⁴⁷. The questions the CSRs field are diverse, running the gamut from inquiries about coverage, deductibles, and eligibility to questions about hospice care, mental health services, medical equipment provision, and nursing home comparisons. They also receive calls about filing claims or claims that have already been denied.⁴⁸ Some webchat CSRs even field these inquiries simultaneously. “They don’t make this easy. We’re helping four people at once; they have us on up to three chats at a time and a call,” explains John in Lawrence. “It might be a very technical call, it’s important to listen to those. It’s hard to focus or give them my attention, this makes solving a problem even harder to do.”

Not reflected in call volumes is the emotional and mental toll the work can take on the CSRs. Christopher in Lawrence observed, “Crisis calls come; I’ve had to talk people off the ledge. Even if you’re the most sane person in the world, it can be a lot. I still remember the details of my first crisis call. It sticks with you.” After one hard call, Penny remembers her supervisor saying, “I don’t know how you kept it together,” to which she replied, “I had to.” “I needed time off the phone to recover,” she recalls, “but Maximus frowns on that.”

“You want people who are trained and who deal with this [government program] on a day to day basis... We know the contract. We know the suppliers. That’s the point: we are a person, we’re not a number. If you want to keep the funds and the programs going, you need people who can help deal with the source of the issue and the source of the calls.”

*—Erin,
Lawrence, Kansas*

Some callers can get abusive, taking out frustrations or fears on the person at the other end of the phone. “We all have stresses with our insurance and finances,” Lanycha from Hattiesburg explains, “so if I can help someone figure out a better way to do things it makes me feel good. Somebody can call you and they can be mad with the world, and I can hear them, and I can talk them through it and calm them down. ‘I hear you and I’m on your side.’ At the end of the call, they’re ready to pray for me. To take a person from one extreme to another makes me feel good.”

The contract with CMS stipulates that call center representatives have “excellent verbal and vocal skills, exceptional listening, questioning, and call control techniques, the ability to accurately and efficiently process information and tasks, the ability to handle challenging telephone call situations and computer and telephone system application skills...communications skills...and cultural and age sensitivity to effectively handle the needs of customers.”⁴⁹ Furthermore, the initial Scope of Work given to potential bidders made clear, “Contact centers shall maintain a highly qualified workforce by ensuring low agent turnover rates, and high training and quality assurance scores.”⁵⁰ However, when talking to investors, Maximus states that they practice “a significant amount of seasonal, project and short-term hiring” and that they “do not view turnover as a key metric in managing our business.”⁵¹

Maximus also uses its attendance policy as a cudgel to ensure workers compliance with unpredictable emergency staffing situations. Workers in all the centers represented here shared frustrations with last minute all staff emails demanding attendance on weekend days during high volume enrollment periods. They report that Maximus will penalize a scheduled worker for being absent on these days at a rate of 1.5 days, but they do not reward normally unscheduled ones for coming in on a scheduled day off with extra time-off accrual. By giving short notice—sometimes just a day or two—Maximus compels workers to cancel plans with family, scramble to find childcare or transportation, or forgo much needed rest for increased workloads that should be predictable eight years into the contract. Numerous studies have shown that schedule predictability is essential to worker wellbeing and the ability of underpaid workers in particular to balance complicated family care arrangements and work demands.⁵²

PROTECTING

WORKPLACE DEMOCRACY

Maximus' federal call centers are all located in so-called "right to work" states where workers' ability to join together in a union is weakened.⁵³ Strong protections for labor organizing among contracted workers thus become critical for Black, brown, and female federal workers as studies show that de-unionization in the private sector is at the center of racial race inequality for Black and women workers.⁵⁴

At multiple Maximus call center sites workers who support organizing report intimidation and anti-union pressure from their employer. In Hattiesburg, Mississippi, Maximus has fired union activists. At the call center site in Bogalusa, Louisiana, management has called the police on workers handing out union literature in the parking lot on their off-duty hours. In Lawrence, Kansas, and Chester, Virginia, the company itself has handed out anti-union door hangers and told workers to place them on their personal front doors to deter union conversations.⁵⁵ The company has reportedly hired a notoriously anti-union law firm, and according to press reports a company job posting for a senior director of labor relations included job duties like "minimize the areas of the business represented by collective bargaining" and provide advice about union avoidance.⁵⁶ In 2019, GDIT, which held the prime CMS contract before Maximus, were required as part of a National Labor Relations Board (NLRB) settlement to inform workers of their right to join a union and to pledge not to interfere with those rights after engaging in intimidation and interrogation.⁵⁷

From the earliest days of the SCA, lawmakers recognized the potential for decent wages and benefits to be undercut unless collective worker gains were protected. A 1972 amendment protected hard-fought wage increases by workers when a contract changed hands, ensuring that a compensation scale established in collective bargaining would carry over even if the contract changed hands. This was seen as a mechanism to protect both employees and employers who bargained and honored collective bargaining agreements.⁵⁸

Local elected and community leaders in Mississippi have called on Maximus to respect workers' rights to organize, recognizing that good corporate citizens respect the people they employ:

“Workers should be able to exercise their right to organize collectively to improve their life and conditions of employment without being subject to employer intimidation or interference. Maximus should ensure that its managers and supervisors do not target or retaliate against workers who are or are believed to be part of the effort to organize their call center with the hope of bargaining for family-supporting wages and benefits...We will continue to closely monitor Maximus’ operation to make sure that federal labor laws are not being violated.”⁵⁹

But if that monitoring reveals violations it is the responsibility of up an overstretched and understaffed federal DOL and NLRB to enforce labor and wage standards. With an estimated 5 million federally-contracted workers on the job, and the entire private-sector to monitor, Maximus workers in Mississippi and the other call centers may be in for a long wait for redress.

“I know that I’m a target because every Monday I had my red “organize” shirt on. If you upset me, I might wear it Tuesday and Wednesday too. I’d come home and wash that and put it right back on. I make sure I do what I’m supposed to do, this is my livelihood.”

*-Delilah,
Hattiesburg, Mississippi*

“A great number of us are in favor of joining a union, but I understand that a lot of them are scared. Unions are not looked at favorably in these parts.”

*—Don Freeman,
(quoted in the Hattiesburg
American, October 30, 2018).*

Fixing Federal Contracting

The current structure for contracted federal services fails the American people in too many ways. The focus is too often on soliciting low bids that can rest on poor working conditions, low compensation, and high turnover that harm workers and communities and diminish the quality of public services, while also communicating to more responsible employers that they cannot compete for federal work without compromising their employment standards.

As the Maximus call center workers have demonstrated, President Biden's Week One commitment to a path to a \$15 an hour federal contractor minimum wage and paid emergency leave was a good start to shifting this focus, but it is not enough. The Biden administration must go further to fulfil promises made to workers a generation ago.

- Increase the federal contracted employee wage to \$15 an hour right away for all workers, including those performing current contracts, and include a mechanism to ensure that it always floats at least 10 percent above the federal minimum wage set by Congress so that contractors can recruit and retain skilled and committed workers.
- Ensure that the historical wrong inflicted on Maximus CMS workers is righted by 1) compensating them for their past misclassification and 2) classifying them correctly going forward in a way that values their work and give due consideration to the compensation earned by direct federal call center employees.
- Direct the Department of Labor to update the flawed CSR classifications so other customer service workers are not consigned to the ranks of the working poor.



- Direct the Department of Labor to immediately revise the fringe benefit rate set by the SCA, and to ensure that it keeps pace with health care costs so that contracted workers can access quality and affordable plans.
- Attach requirements to federal contracts to include a just cause provision prohibiting discipline or termination of hourly employees without documented sufficient cause to protect workers from retaliation for organizing, from discriminatory practices, or for requesting accommodations for disabilities.
- Address workforce retention when a contract changes hands by reinstating and strengthening Obama-era protections giving incumbent workers the first right of refusal when a contract changes hands and encourage successor contractors to keep the work in the same locality.
- Strengthen DOL enforcement of labor standards by providing nonprofit worker organizations access to federally contracted workers to conduct know-your-rights trainings and encourage the DOL to proactively address labor violations in contracted industries known to have high incidence of labor violations.
- Use the existing authority in statutes governing federal procurement to require bidders to submit and contracting officers to analyze labor cost information for complex, essential, or sensitive services so that agencies can realistically evaluate the quality of the bid and contractors who prioritize high retention, low turnover, and quality staffing can compete for federal work.

CONCLUSION

Federal contracting is a longstanding practice used by all agencies to accomplish their respective missions and responsibilities to the nation. Too often, this practice prioritizes low costs for the contracting agency over qualitative measures, despite the need for workers with high morale, long tenure, and high productivity to keep important programs and services functioning. Because many of the service industries most frequently contracted out are those focused on caregiving, maintenance, cleaning, and administrative services, the harms of this low-cost emphasis often translate to low wages and poor-quality benefits for the often Black, brown, and female contracted workers. In response to Black worker organizing two generations ago, the federal government made promises to establish and uphold basic standards and protections for workers on its contracts, but as the stories of the Maximus call center workers reveal these promises are too often unkept. Further, attempts by these workers to organize and win working conditions more in line with those of their direct federal employee counterparts are thwarted by employers determined to keep their prices low to win billions of dollars' worth of federal work.

President Biden has made his position as a champion of working people clear, and he started to make good on this commitment in his very first days in office. By implementing reforms in contracting that not only set a higher wage floor, but also address the disparate impacts of emphasizing low cost over equity, job quality, and worker safety, President Biden can oversee a fundamental shift in how the federal government partners with private companies to meet the needs of public consumers and sustain a strong economy. Companies like Maximus have built business empires premised on winning contracts for public work, but they should not rest their bids on the desperation of workers who struggle to survive on poor compensation and stressful working conditions.

As the workers here have expressed, they share a deep commitment to the work they do and a desire to help the American public to access critical services, but they need to see change. They deserve the respect of being appropriately classified for the work they actually do. They need pay that allows them to pay for housing and utilities as well as food and care for their children. They must have access to insurance that allows them to stay well and thrive. And they must be able to exercise their right to organize and to work together to make their workplaces safe, just, and equitable.

ENDNOTES

- 1 USA Spending database.
- 2 [“Breach of Contract: How Federal Contractors Fail American Workers on the Taxpayer’s Dime,”](#) report prepared by the staff of Sen. Elizabeth Warren, March 6, 2017. See also: [“Delivering for Taxpayers: Taking on Contractor Fraud and Abuse and Improving Jobs for Millions of America’s Workers,”](#) National Employment Law Project, September 6, 2018; [“Workers Cheated as Federal Contractors Prosper,”](#) Center for Public Integrity, April 6, 2017; Amy Traub, [“Don’t Let Government Contractors Cheat Working Americans,”](#) Demos, 2016; [“Assessments and Citations of Federal Labor Law Violations by Selected Federal Contractors,”](#) Robert Hiltonsmith and Lew Daly, “Underwriting Good Jobs,” Demos, June 2014; [“Acting Responsibly? Federal Contractors Frequently Put Workers’ Lives and Livelihoods at Risk,”](#) United States Senate Health, Education, Labor, and Pensions Committee, 2013; Karla Walter and David Madland, [“At Our Expense: Federal Contractors that Harm Workers Also Shortchange Taxpayers,”](#) Center for American Progress Action Fund, December 2013; [“Federal Contracting: Assessment and Citations of Federal Labor Law Violations by Selected Federal Contractors,”](#) United States Government Accountability Office (US GAO), September 2010; Karla Walter and David Madland, [“High-Road Government,”](#) Center for American Progress Action Fund, August 20, 2010; [“Worker Protection: Federal Contractors and Violations of Labor Law,”](#) US GAO, October 1995.
- 3 All too often, lawmakers literally forget them when they shut down the federal government and neglect to make contracted workers whole in the same way that they, eventually, do direct federal employees. For instance see [“That Income is Gone”: shutdown pain lingers for unpaid contract workers,”](#) The Guardian, January 31, 2019 <https://www.theguardian.com/us-news/2019/jan/30/government-contractors-shutdown-effects-back-pay>; [“Nearly 10,000 companies contract with shutdown-affected agencies, putting \\$200 million a week at risk,”](#) Washington Post, January 16, 2019 <https://www.washingtonpost.com/graphics/2019/business/contractors-shutdown/>; [“Low-wage Federal Contract Employees Get Stiffed, Again,”](#) The American Prospect, December 18, 2019, <https://prospect.org/labor/low-wage-federal-contract-employees-get-stiffed-again/>
- 4 See Connie Razza, [“Social Exclusion: The Decisions and Dynamics that Drive Racism,”](#) Dēmos undated (available at: <https://www.demos.org/sites/default/files/publications/Social%20Exclusion%20The%20Decisions%20and%20Dynamics%20that%20Drive%20Racism.pdf>), in which she highlights this metaphor from Lani Guinier and Gerald Torres, [The Miner’s Canary: Enlisting Race, Resisting Power, Transforming Democracy](#) (Cambridge, MA: Harvard University Press, 2003).
- 5 See for instance Robin D.G. Kelley’s forward to the reissue of Philip S. Foner, [Organized Labor and the Black Worker, 1619-1981](#) (New York, New York: Haymarket Books, 2020) and Michael Honey, [“Anti-Racism, Black Workers, and Southern Labor Organizing: Historical Notes on a Continuing Struggle,”](#) Labor Studies Journal, 25:1 (March, 2000): 10-26.
- 6 Christopher R. Yukins, [“The U.S. Federal Procurement System: An Introduction,”](#) GWU Law School Public Law Research Paper No. 2017-75, November 1, 2017. Available at SSRN: <https://ssrn.com/abstract=3063559>
- 7 National Employment Law Project, [“Taking the Low Road: How the Federal Government Promotes Poverty-Wage Jobs Through its Contracting Practices. A survey of workers and their stories,”](#) July 2013 <https://s27147.pcdn.co/wp-content/uploads/2015/03/NELP-Taking-Low-Road-Federal-Contracting.pdf>; Anastasia Christman, [“5 biggest myths about federal contractors,”](#) Salon, July 11, 2013 https://www.salon.com/2013/07/11/5_biggest_myths_about_federal_contractors/; Paul Sonn and Tsedeye Gebreselassie, [“The Road to Responsible Contracting: Lessons from States and Cities for Ensuring That Federal Contracting Delivers Good Jobs and Quality Services,”](#) National Employment Law Project, June 2009 <https://s27147.pcdn.co/wp-content/uploads/2015/03/responsiblecontracting2009.pdf>; National Employment Law Project, [“Authority of Federal Contracting Officers to Consider Labor and Employment Law Violations When Making Legally Required Responsibility Determinations,”](#) Comment Memo, September 4, 2018 <https://www.nelp.org/publication/authority-federal-contracting-officers-consider-labor-employment-law-violations-making-legally-required-responsibility-determinations/>; National Employment Law Project, [“Delivering for Taxpayers: Taking on Contractor Fraud and Abuse and Improving Jobs for Millions of America’s Workers,”](#) Policy Brief September 2018 <https://s27147.pcdn.co/wp-content/uploads/Delivering-for-Taxpayers-Taking-On-Contractor-Fraud-Abuse-Improving-Jobs.pdf>; Office of Senator Elizabeth Warren, [“Breach of Contract: How Federal Contractors Fail American Workers on the Taxpayer’s Dime,”](#) 2017 https://www.warren.senate.gov/files/documents/2017-3-6_Warren_Contractor_Report.pdf; Robert Hiltonsmith and Lew Daily, [“Underwriting Good Jobs: How to Place Over 20 Million Americans on a Pathway to the Middle Class Using Federal Purchasing Power,”](#) Demos, 2014 https://www.demos.org/sites/default/files/publications/UnderwritingGoodJobs_2.pdf; Health, Education, Labor & Pensions Committee Majority Staff, [“Acting Responsibly? Federal Contractors Frequently Put Workers’ Lives and](#)

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8 Aaron Dusso, Thomas T. Holyoke, and Henrick Schatzinger. “The Influence of Corporate Lobbying on Federal Contracting,” *Social Science Quarterly*, Vol. 100, No. 5 (August 2019).

9 GD Divests Call Center Biz to Maximus,” *Washington Technology*, October 9, 2018 <https://washingtontechnology.com/blogs/editors-notebook/2018/10/gdit-divest-maximus-deal.aspx>; [MAXIMUS Signs Definitive Agreement to Acquire US Federal Citizen Engagement Centers for \\$400 Million in Cash](https://www.prnewswire.com/news-releases/maximus-signs-definitive-agreement-to-acquire-us-federal-citizen-engagement-centers-for-400-million-in-cash-301448200.html). Maximus Signs Definitive Agreement to Acquire US Federal Citizen Engagement Centers for \$400 Million in Cash,” *PR Newswire*, October 9, 2018

10 Total staffing at these call centers fluctuates over the course of the year based on the call volume, peaking at roughly 13,000 agents and falling to about 7,000 at the annual nadir.

11 See *Norton v. Maximus, Inc.*, Docket No. 14-cv-00030 (D. Idaho Jan. 24, 2014) (relevant court orders entered on the docket at 139, 187-88, and 215). Also, “Huge federal contractor ‘failed’ to pay workers \$100

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12 Center for Responsive Politics database. Maximus has spent roughly \$800,000 on federal lobbying each year from 2018 to 2020.

13 Maximus, Inc. 10-K Annual Report, 2020, p. 14.

14 According to Good Jobs First’s Subsidy Tracker, the initial contractor for CMS--Vangent--received tax credits and grants of \$12.6 million from Mississippi and Kentucky the years that the call centers opened.

15 Elise Gould and Will Kimball, “‘Right-to-Work’ States Still Have Lower Wages,” *Economic Policy Institute*, April 22, 2015. Available at: <https://www.epi.org/publication/right-to-work-states-have-lower-wages/>

16 The pay rates for the majority of agents at the respective call centers fall in this range, which are the effective rates Maximus paid as of early 2021 to employees it classifies as CSR 1 and CSR 2.

17 MIT Calculator cite for Living Wage numbers.

18 Maximus, Inc. Schedule 14A Proxy Statement, March 16, 2021. Pps. 66 and 69.

19 These reports, known as the Employer Information EEO-1 report, are sent to the Office of Federal Contract Compliance Programs (OFCCP) through an electronic online portal. To access these reports, one must file a Freedom of Information Act request, at which point the OFCCP notifies the company in question of the request to establish if the company will authorize release of the data. (US Equal Employment Opportunity Commission webpage, “EEO-1 Instruction Booklet” available at <https://www.eeoc.gov/employers/eEO-1-survey/eEO-1-instruction-booklet>) Notably, access to these reports and even the collection of the data has been an issue of contention for years with journalists and worker advocates filing suit to win release of contractor diversity data. See, for instance <https://revealnews.org/article/>

[judge-backs-reveals-suit-to-end-secrecy-around-silicon-valleys-diversity/#:~:text=Magistrate%20Judge%20Kandis%20A.,Freedom%20of%20Information%20Act%20request">judge-backs-reveals-suit-to-end-secrecy-around-silicon-valleys-diversity/#:~:text=Magistrate%20Judge%20Kandis%20A.,Freedom%20of%20Information%20Act%20request](#) and <https://www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/pages/court-orders-eeoc-to-continue-collecting-2017-and-2018-pay-data.aspx>

20 “Federal Contracting: Actions needed to improve Department of Labor’s Enforcement of Service Worker Wage Protections,” Washington DC: United States Government Accountability Office, 2020. P. 20.

21 CMS, Management Directive (MD) 715 Report for Fiscal Year 2019, p. 4. <https://www.cms.gov/files/document/md-715-report.pdf>

22 Hadas Mandel and Moshe Semyonov, “The gender-race intersection and the ‘sheltering-effect’ of public-sector employment,” Research in Social Stratification and Mobility 71 (February 2021). Available at: <https://www.sciencedirect.com/science/article/pii/S0276562421000019>. Michael Madowitz, Anne Price, and Christian E. Weller, “Public Work Provides Economic Security for Black Families and Communities,” Center for American Progress, October 23, 2020. Available at: <https://www.americanprogress.org/issues/economy/reports/2020/10/23/492209/public-work-provides-economic-security-black-families-communities/>

23 Contractors are instructed to submit data on male and female incumbent workers in each of the following groups: Black, Hispanic, Asian/Pacific Islander, and American Indian/Alaska Native. However, their affirmative action plan may set a single, aggregate minority placement goal to comply with OFCCP regulations. (See Title 41, Part 60.2-Affirmative Action Programs of the Code of Federal Regulations.) OFCCP evaluations for these worksites were closed between 2015 and 2018 when the contract and the worksites were run by General Dynamics Information Technology, which was subsequently taken over by Maximus in November of 2018.

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Dream Deferred: Black Federal Workers in Washington, D.C., 1941-1981 (Pittsburgh, PA: University of Pittsburgh Press, 2018). See also Steven Pitts, “[Black Workers and the Public Sector](#),” UC Berkeley Labor Center, April 4, 2011; Patricia Cohen, “[Public-Sector Jobs Vanish, Hitting Blacks Hard](#),” New York Times, May 24, 2015; Bryce Covert, “Downsizing the American Black Middle Class,” Longreads, September 2019. <https://longreads.com/2019/09/23/downsizing-the-american-black-middle-class/>

25 Executive Orders 9001 and 9346 under FDR establishing nondiscrimination on the basis of race, creed, color, or national origin by contractors; EO 10557 under Dwight D. Eisenhower expanding nondiscrimination in “employment, upgrading, demotion, or transfer” by contractors. EO 11246 under Lyndon Baines Johnson expanding nondiscrimination protections to include gender and to call for affirmative measures to undo historic exclusion. EO 12073 under Jimmy Carter emphasizing contractors in hard-hit economic areas. EOs 13495, 13658, 13672, and 13673 under Barack Obama extending nondiscrimination protections to protect incumbent workers when a contract changes hands, to raise the contractor minimum wage to \$10.10, to extend nondiscrimination protections to include sexual orientation and gender identity, and to establish fair pay and safe workplaces for federally contracted workers.

26 Clayborne Carson, editor, The Autobiography of Martin Luther King, Jr., “Chapter 31: The Poor People’s Campaign” available online from the Martin Luther King, Jr., Research and Education Institute at: <https://kinginstitute.stanford.edu/king-papers/publications/autobiography-martin-luther-king-jr-contents/chapter-31-poor-peoples>

27 “Hearings before the Special Subcommittee on Labor of the Committee on Education and Labor, House of Representatives, Eighty-Eighth Congress, Second Session, on HR 1678 and HR 6088, Washington, D.C. January 27, 29, 30 and March 16, 1964”, P. 74.

Service contracting accounts for a significant portion of federal contract obligations. According to federal contracting databases, over the past five years, the government has entered into contracts covered by the SCA valued at an estimated three-quarters of a trillion dollars. In 2019 alone, approximately 17 percent of contracts initiated that year were coded in USA Spending as having SCA labor standards attached; this is likely an underestimation as we know that some narrow exemptions to SCA coverage are frequently interpreted too widely. A 2019 Bloomberg analysis of federal contracting found that services comprised 80

percent of all federal contracting dollars for services ranging from “space research” to “security guards.” Similarly, a 2016 CBO analysis found that in the Department of Defense 42 percent of all its contract spending went to services, while in civilian agencies nearly 70 percent of contracting funds went to services. See Government Accountability Office, “Federal Contracting: Actions Needed to Improve Department of Labor’s Enforcement of Service Worker Wage Protections,” November 23, 2020. Available at: <https://www.gao.gov/products/GAO-21-11>; “Nearly 10,000 companies contract with shutdown-affected agencies, putting \$200 million a week at risk,” Washington Post, January 16, 2019. Available at: <https://www.washingtonpost.com/graphics/2019/business/contractors-shutdown/>; Congressional Budget Office, Report to the Committee on the Budget, US House of Representatives, dated March 11, 2015. Available at: <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/49931-FederalContracts.pdf>

28 2015 SCA Directory Crosswalk of Changes, at 1. 2015 SCA Directory (5th Ed) at 3-4. All SCA Directory components are at <https://www.dol.gov/agencies/whd/government-contracts/service-contracts/guidance>

29 U.S. Government Accountability Office, Service Contract Act: Wage Determination Process Could Benefit from Greater Transparency, and Better Use of Violation Data Could Improve Enforcement, GAO-06-27 (Washington, DC, 2005), <https://www.gao.gov/products/GAO-06-27>

30 FOIA 853661 - DOL Release 6 at 084 (full report from pages 6-044 to 6-131). DPRAs, Government-Wide Assessment of Citizen Service Activities, Final Report prepared for GSA, page 29 (June 15, 2007). CWA emailed the report to WHD when it met with DOL to advocate for creating professionalized CSR classifications. See FOIA 853661 - DOL Release 6-001 to 6-002.

31 See FOIA 853661 - DOL Release 6-001 to 6-131 (2010 advocacy, including CWA report & DPRAs GSA report). FOIA 853661 - DOL Release 2, File 1-042 to 1-046 (2010 meeting with Biden MCTF & DOL f/u mtg) See various pages in FOIA 853661 - DOL Release 3: 133-137; 143-150; 234; 243; 290 (fall-winter 2012 interactions).

32 OPM website: <https://www.opm.gov/policy-data-oversight/pay-leave/pay-systems/general-schedule/> (“The General Schedule has 15 grades--GS-1 (lowest) to GS-15 (highest). Agencies establish (classify) the grade of each job based on the level of difficulty, responsibility, and qualifications required. Individuals with a high school diploma and no additional experience typically qualify for GS-2”) FOIA doc saved as “FOIA 881195 Initial Response,” at 003 (assigning federal grade equivalent of GS-1 to

proposed CSR 1 classification). This page is an attachment to an email from HHS to WHD, which states that it is CMS’ submission.

33 See “FOIA 881195 Initial Response,” p. 1 (showing DOL new classification chart with GS-1 assigned to CSR 1); FOIA 853661 - DOL Release 3-015 - SCA Directory May 2012 New Classification Methodology (same). OPM, FedScope, Federal Workforce Data, Employment Cube.

34 OPM, FedScope, Federal Workforce Data, Employment Cube, December 2020.

35 See FOIA 853661 - DOL Release 2, File 1-072 & 1-080 to 1-088 - 2011 Tampa WHD Medicare CMS CSR Investigation, at 1-080 (WHD email) & 082 A similar example is the SF-1444 for Department of Education, which included the old rates, but the process resulted in higher rates. See “FOIA 853661 - DOL Release 2, File 1-165 to 1-168 - Sample conformance lacking agreement that resulted in higher rates.”

36 Id. at 086-087 (investigator) See FOIA 853661 - DOL Release 2, File 1-072 & 1-080 to 1-088 - 2011 Tampa WHD Medicare CMS CSR Investigation, at 1-082.

37 “WHD Conformance Letters to Vangent-GDIT-Maximusin 2011, 2012, 2014, 2015” at 1 (approving conformed CSR I classification which maintained the general clerk I pay rate.)

See also, “FOIA 853661 - DOL Release 2, File 2-015 to 1-019 - 2012 Vangent-CMS Medicare Conformance Request - Chester, VA,” a later conformance approved on the same contract with job descriptions and rate rationales that track what CMS and Vangent submitted.

38 “FOIA 853661 Responsive Release5_Redacted” in Release 5 folder, p. 133. “FOIA 881195 Initial Response w CSR Documents from CMS,” at 003 (assigning federal grade equivalent of GS-1 to proposed CSR 1 classification).

39 FOIA 855737 - 2014-09-23 Email GDIT to CMS - Conformances for New Sites” for 2014 initiation of conformance process on new process by GDIT, including Maximus subcontracted sites.

See also “FOIA 837263 - 2014 GDIT & Maximus SF1444s & attachments for CCO Contract Conformances”

40 “Maximus employees say company lowballs wages with errant classifications,” The Topeka Capital Journal, February 6, 2020, available at: <https://www.cjonline.com/news/20200206/maximus-employees-say-company-lowballs-wages-with-errant-classifications>

41 29 CFR § 4.51(d).

- 42 OPM, FedScope, Federal Workforce Data, Diversity Cube.
- 43 OPM, FedScope, Federal Workforce Data, Diversity Cube.
- 44 “US union seeks \$100m in largest wage theft case involving federal contractor, The Guardian, April 4, 2019, available at: <https://www.theguardian.com/us-news/2019/apr/04/us-union-seeks-100m-back-wages-federal-contractor> ; Sarah Jones, “A Distinctly American Irony,” The Intelligencer , February 2, 2020, available at: <https://nymag.com/intelligencer/2020/02/for-maximus-inequality-is-big-business.html>
- 45 Quoted in Sarah Jones, “A Call Center Giant is Responding to COVID-19, But Not Its Own Employees,” New York Magazine, May 8, 2020. Available at: <https://nymag.com/intelligencer/2020/05/call-center-workers-say-their-giant-employer-endangers-them.html>
- 46 RFP-CMS-2012-0004, Attachment J-4, Section C: Descriptions/Specifications/Work Statement, p. c-51
- 47 Request for Information 22037, Statement of Work, Attachment 1: Communication Channel Volumes New.
- 48 RFP-CMS-2012-0004, Attachment J-4, Section C: Descriptions/Specifications/Work Statement, pp. c-4-5.
- 49 RFP-CMS-2012-0004, Attachment J-4, Section C: Descriptions/Specifications/Work Statement, P. c-16
- 50 RFP-CMS-2012-0004, Attachment J-4, Section C: Descriptions/Specifications/Work Statement, P. c-3
- 51 Maximus 10K filing 2020, p. 17. <http://d18rn0p25nwr6d.cloudfront.net/CIK-0001032220/15568d1f-2a01-4810-ad3f-1fbd06d48d3c.pdf>
- 52 See for instance, Susan J. Lambert, et. al. “Increasing Schedule Predictability in Hourly Jobs: Results from a Randomized Experiment in a U.S. Retail Firm,” Work and Occupations (2019).
- 53 According to Good Jobs First, GDIT also received significant subsidies for some of these location choices. In Louisiana it received an \$18 million tax credit/rebate, in Kentucky it received another \$6.8 million tax credit/rebate, and in Mississippi with partner Vangent it received \$1.1 million in grants.
- 54 Jake Rosenfeld and Meredith Kleykamp, “Organized Labor and Racial Wage Inequality in the United States,” AJS (2012); 117(5): 1460-1502. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4300995/>
- 55 Becky Z. Dernbach, “‘You Can’t Afford to Get Sick’: Why Workers at the Country’s Largest Health Contractor Want a Union,” Mother Jones, February 18, 2020. Available at: <https://www.motherjones.com/politics/2020/02/maximus-health-insurance-union-pay-wage-theft/>
- 56 Sarah Jones, “A Distinctly American Irony,” New York Magazine, February 3, 2020. Available at: <https://nymag.com/intelligencer/2020/02/for-maximus-inequality-is-big-business.html>
- 57 CWA, Medicare Call Center Settle Union-Busting Claims,” Law360, April 4, 2019, available at: <https://www.law360.com/articles/1146680/cwa-medicare-call-center-settle-union-busting-claims>
- 58 “The Plight of Service Workers Under Government Contracts: Report,” US Congress, House Committee on Education and Labor, Special Subcommittee on Labor, 1971. P. 7.
- 59 Open letter to Ms. Krislyn King, Senior Site Manager, Maximus Federal, published in the Hattiesburg American March 8, 2020. Available at: <https://cwa-union.org/sites/default/files/20200316-maximus-community-letter-hattiesburg-american.pdf>



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