

OUTSOURCING ADVISORY

March 2004

OFFSHORE OUTSOURCING DEBATE INTENSIFIES

INTRODUCTION

For a number of years, businesses in the United States and Europe have outsourced the performance of certain non-core functions (including information technology and back-office processes) to third-party service providers. Companies outsource select functions for a variety of reasons, including a desire to reduce operating expenses and to focus instead on core, revenue-generating activities. By doing so, they hope to improve their financial performance and compete more effectively in global markets.

Historically, a significant portion of manufacturing by U.S. companies has been performed outside of the United States in order to take advantage of lower labor costs. In recent years, providers of information technology services (IT) and business process functions (BPO) have followed suit and invested in service delivery centers in “offshore” locations such as India and China. Local service providers have also grown in these and other areas and now compete aggressively with their U.S. and European-based peers. Examples of IT services now provided offshore include infrastructure support, applications development and maintenance, and web hosting. Offshore BPO service offerings include call centers, security, procurement, and certain back-office functions such as payroll and accounting.

Enabled by the presence of low-cost and reliable worldwide telecommunications networks, incentives offered by foreign governments, and readily available, low-cost labor pools, the offshore service delivery model has grown at a rapid pace. Today an increasing number of American and European firms outsource some portion of their business functions to offshore locations, and the trend does not appear to be slowing: India is expected to take in \$57 billion in information technology services and back-office work by 2008.¹ In the United States, offshoring accounted for 10% of total technology services spending (\$16.3 billion) in 2003, and that amount is expected to rise to 23% by 2007 (\$46 billion).²

The rapid growth of offshore outsourcing has not gone unnoticed and, as described in this advisory, concern over its impact on the U.S. job market has spawned a number of governmental initiatives to curb its continued growth. Offshore outsourcing has always presented an array of legal issues for American business that must be addressed care-

¹ Arunava Sinha, Why the US Can't Win The Outsourcing War Against India, Economic Times, Dec. 2, 2003, at <http://economictimes.indiatimes.com/articleshow/334938.cms>.

² Reuters, US To Double Outsourcing By Next Year, Nov. 21, 2003 (citing IDC report, Nov. 2003) available at <http://www.ciol.com/content/news/2003/103112102.asp>.

fully in each transaction.³ In addition to those issues, U.S. businesses are advised to pay close attention to the political developments and legislation described below because of their potential impact on offshore transactions.

POLITICAL ISSUES

In this presidential election year, offshore outsourcing has become one of the hot-button economic issues on the national stage, with the potential loss of jobs at the center of the debate. For example, Sen. John Kerry (D-MA), the de facto Democratic presidential candidate, has sponsored a bill that would impose certain requirements on offshore call center operations.⁴ One side of the debate asserts that offshoring costs Americans their jobs and hurts the local economies that lose those jobs. The other side maintains that offshoring is beneficial for the global economy, and therefore benefits the American economy both in the near and long term.

The most recent uproar over offshoring has coincided with mounting job losses in the white-collar sector as highly skilled tasks, such as programming, are being outsourced to offshore locations. One research group has made a long-term prediction that 3.3 million white-collar jobs will leave the United States by 2015, including 500,000 positions in computer software and services.⁵ Opponents of offshoring point to such forecasts and to current data showing that unemployment among U.S. software programmers was above 7% in January 2004, compared to 1.6% two years ago.⁶ Those who believe that offshoring is not detrimental to the U.S. economy question the reliability of negative long-term forecasts and maintain that some white-collar sectors have shown an improved employment outlook in recent years. They cite statistics such as the following: Comparing the end of 1999 to October 2003, the number of jobs in architecture and engineering is stable; employment in computer and mathematical jobs is 6% higher; and employment in business and financial positions is 9% higher.⁷ Proponents also assert that as labor costs fall, productivity will rise (as companies invest the money they are saving), and new technologies will emerge, which will translate into new job opportunities for Americans.

³ Some of the legal issues involved in offshore transactions include compliance with local laws, labor and employment issues, intellectual property ownership, disaster recovery and force majeure events, tax implications, and import/export restrictions.

⁴ Call Center Consumer's Right to Know Act of 2003, S. 1873, 108th Cong. (2003). See description in table of federal legislation included in this advisory.

Sen. John Edwards (D-NC), Kerry's principal challenger for the nomination and possible running mate, supports tax incentives for corporations that create and keep jobs in the United States. Fact Sheet, John Edwards' Proposal to discourage companies from moving jobs overseas, Feb. 26, 2004, at <http://www.johnedwards2004.com/page.asp?id=725>.

⁵ Steve Lohr, Many New Causes for Old Problem of Jobs Lost Abroad, N.Y. Times, Feb. 15, 2004 (citing Forrester Research Report, Nov. 2002).

⁶ Creative Job Destruction, Wall St. J., Jan. 6, 2004, § A, at 18.

⁷ Mann, Catherine, Globalization of IT Services and White Collar Jobs: The Next Wave of Productivity Growth and the New Policy Challenges, in International Economics Policy Briefs (Dec. 2003) at 6, available at <http://www.iie.com/publications/pb/pb03-11.pdf>.

Uncertainty, however, continues to cloud the employment issue. A recent analysis of the impact of outsourcing on the job market notes that the offshoring trend “seems to be moving up the skills ladder.... People are afraid that they will be left with low-paying jobs....”⁸ Additional concern has been raised by the prospect of an ever-widening circle of services becoming susceptible to offshoring. As one executive of an India-based service provider put it, “Everything you can send down a wire is up for grabs.”⁹

LEGISLATION

Both federal and state legislators have responded to the outcry against offshore outsourcing, and the regulation of offshoring has become one of the most hotly debated topics of 2004. As reflected in the tables included in this advisory, at least 24 states and Congress have proposed legislation that addresses offshore outsourcing. In January, President Bush signed H.R. 2673, an appropriations bill that contained a provision preventing work under executive agency contracts from being performed outside the United States except to the extent the work was previously performed outside the United States by government employees. That provision is currently set to expire at the end of September, but Sen. Christopher Dodd (D-CT) recently proposed a measure that would apply the ban to a wider range of federal contracts and would also make the ban permanent. On March 4, the Senate approved Dodd’s amendment 70-26 as part of its consideration of a larger corporate tax bill (S. 1637) that remains pending in the Senate.

The offshoring legislation can be divided into three broad categories: (1) restrictions that aim to create certain hurdles to engaging in offshore transactions or aim to make such transactions more visible to the American public; (2) restrictions that prohibit work under governmental contracts from being performed offshore; and (3) restrictions on the use of L-1 (intracompany transfer) visas.

IMPACT

Each type of proposed legislation may pose potential hurdles for U.S. companies wishing to take advantage of offshore sourcing options as well as for service providers that include offshore components in their service offerings.

One of the prominent pieces of federal legislation concerning offshoring is the Jobs for America Act of 2004¹⁰ introduced by Sen. Tom Daschle (D-S.D.), the minority leader in the U.S. Senate. The bill is designed to “provide protections for employees relating to the offshoring of jobs”¹¹ and would amend the Worker Adjustment and Retraining

⁸ Eduardo Porter, *The Nation* – Case Study: Cellphones; The Bright Side of Sending Jobs Overseas, *N.Y. Times*, Feb. 15, 2004, § 4 at 3.

⁹ Steve Lohr, *Many New Causes for Old Problem of Jobs Lost Abroad*, *N.Y. Times*, Feb. 15, 2004, § 1, at 25. The quote is from Nandan Nilekani, the chief executive of Infosys Technologies, an Indian outsourcing company. Nilekani spoke at the World Economic Forum in January.

¹⁰ S. 2090, 108th Cong. (2004)

¹¹ S. 2090, preamble.

Notification (WARN) Act¹² in several significant ways. First, it would add “offshoring” of 15 or more jobs in any 30-day period to “plant closing” and “mass layoff” as an event triggering obligations under the Act.¹³ Second, it would require companies to provide at least 90 days’ notice, an increase from 60 days, of the impending loss of jobs to affected employees and government officials.¹⁴ Third, in addition to existing notice requirements to local and state government officials, the amendment would require that companies notify the U.S. Secretary of Labor of offshoring that exceeds the 15-employee threshold.¹⁵ If the notice concerns the offshoring of jobs, it would include the number of jobs affected, the location to which the jobs are being transferred, and the reason for the transfer of jobs.¹⁶ Finally, the Secretary of Labor would be required to compile statistics summarizing the information she receives in offshoring-related employer notices and prepare an annual report of her findings regarding offshoring. Note that this final requirement would apply only to offshoring and not to plant closings and mass layoffs.

Much of the other federal legislation concerns the awarding of government contracts. This type of legislation, which has been mimicked on the state level, requires that contractors perform all or substantially all of the work (1) in the United States, or (2) with U.S. citizens or legal aliens, or (3) both. These regulations attempt to take offshore outsourcing off the table altogether for certain governmental contracts.

Restrictions aimed at L-1 visas reflect the concern that American companies will bring foreign employees to the United States for purposes of training them to take over the functions performed by higher-paid American employees and then eventually perform the functions from offshore locations. Under the current structure, American companies are not required to pay L-1 workers prevailing U.S. wages, and unlike other non-immigrant worker visas, there is no annual cap on the number of L-1 visas granted. Perhaps not surprisingly, the number of L-1 visas granted rose from 38,307 in 1998 to 57,721 in 2002.¹⁷ Some of the proposed restrictions on L-1 visas include increasing the amount of time an employee must be with a company before the employee can obtain an L-1 visa, decreasing the amount of time an L-1 worker can remain in the United States, requiring that companies pay L-1 workers prevailing U.S. wages, and putting an annual cap on the number of L-1 visas granted.¹⁸ If any of these bills becomes a broadly applied law, the use of L-1 visas would come under increased scrutiny.

¹² 29 U.S.C. § 2101 et seq.

¹³ S. 2090, § 2(c). “Offshoring of jobs” is defined as “any action taken by an employer the effect of which is to create, shift, or transfer employment positions or facilities outside the United States and which results in an employment loss during any 30 day period for 15 or more employees.” Id. § 2(a)(4).

The Act would also amend the definition of “mass layoff” by reducing one of the job loss thresholds from 500 employees to 50 employees. Id. § 2(a)(1).

¹⁴ Id. § 2(b)(1).

¹⁵ Id.

¹⁶ Id. § 2(b)(3).

¹⁷ General Accounting Office, H-1B Foreign Workers: Better Tracking Needed to Help Determine H-1B Program’s Effects on U.S. Workforce, Sept. 2003, available at <http://www.gao.gov/new.items/d03883.pdf>.

¹⁸ One federal bill proposes an annual cap of 35,000 L-1 visas.

The various laws intending to place restrictions on the offshoring of call center jobs may burden call center operators, who will be forced to comply with multiple sets of regulations that are dependent on the state in which the caller resides. In addition, most of the call center regulations mandate that foreign call center employees disclose their location, which may dissuade companies from offshoring out of concern that they would appear anti-patriotic. Further, some of the legislation would require a foreign call center to transfer a call to a U.S. call center upon the request of the caller. This would require businesses to have U.S. employees ready to take the transferred calls, resulting in increased costs associated with offshoring call center functions. The proposed call center regulations demonstrate how the proliferation of state regulations may burden businesses that operate in multiple states that choose to offshore services and find themselves forced to comply with laws in multiple states that could contain a wide range of prohibitions and penalties.

The flurry of anti-offshoring legislation has not been without potential backlash. In February, India's commerce minister warned that any restrictions on offshoring would hamper the resumption of World Trade Organization discussions centered on free trade, maintaining that it was "strange" for the United States to be talking about free trade and open markets while placing restrictions on offshoring.¹⁹ The U.S. response has been to press India to lower its barriers on agricultural imports and to emphasize that trade must be a "two-way street,"²⁰ but the United Nations Conference on Trade and Development has described the fear of job losses due to offshoring as "misplaced."²¹ What is not in dispute is that anti-offshoring sentiment is running high among some Americans – in an extreme example, a magazine columnist who defended offshore outsourcing received emails from readers claiming they would condone violence to protect American jobs from the perceived overseas threat.²²

RECOMMENDATIONS

Businesses contemplating offshore outsourcing arrangements, as well as those currently engaged in such transactions, would be well served by developing strategies to address the legal compliance, political, and public relations aspects of offshoring.

¹⁹ India Raps US on BPO Ban, Times of India, Feb. 16, 2004, at <http://timesofindia.indiatimes.com/articleshow/499395.cms>.

²⁰ Id.

²¹ Outsourcing Not Amenable To Govt. Control: UNCTAD, Times of India, Feb. 20, 2004, at <http://timesofindia.indiatimes.com/articleshow/508635.cms>.

²² Chidanand Rajghatta, Indian Techie Caught In Hate Spiral, Times of India, Feb. 20, 2004, at <http://timesofindia.indiatimes.com/articleshow/507199.cms>.

Legislators who oppose offshoring have been active in the past year, and the pace of legislative activity shows no signs of abating in this election year.²³ Accordingly, an effective legal compliance strategy would start with regular monitoring of legal and political developments like those discussed above. Some of the relevant issues to monitor will include the patchwork of state regulation that may emerge, potential legal challenges to the ability of states to apply their laws and regulations extra-territorially, and the possibility that Congress may consider preemptive federal regulation. As a starting point, businesses should familiarize themselves with the existing legal structures that apply to offshoring and with current offshoring related scholarship. Businesses should keep a close eye on the presidential race in addition to monitoring legislative developments. One source of legislative information is the National Foundation for American Policy, which tracks bills related to outsourcing regulation.²⁴ In addition, media coverage of offshoring should remain intense during the months leading up to the November elections. For the most up-to-date information on pending bills, companies should conduct their own diligence by using the online bill-tracking functions available on websites for Congress and for state legislatures that may be updated more often than third-party websites. Because the issues posed by much of the proposed legislation are similar, companies should be able to formulate a compliance plan in advance in order to be prepared for any restrictions that become law. At least one of the pending state bills imposes penalties of up to \$20,000, and therefore any compliance failures could be costly. As noted above, the potential requirement of complying with a range of state laws could pose significant compliance challenges.

In addition to a compliance strategy, businesses should consider developing a communications and public relations strategy. Some of the proposed legislation, such as the Jobs for America Act, appears to focus, in part, on subjecting American companies to public scrutiny for engaging in offshore outsourcing transactions. If this bill or similar legislation takes effect, any company wishing to outsource offshore must think strategically about how to address any resulting negative publicity, as must service providers that employ offshore delivery models. Just as clothes and cars have been the subject of “Made in the USA” campaigns in the past, services may become subject to “pro-USA” or “anti-USA” branding.

²³ In addition to the legislation described in this advisory, others in Congress are taking action with respect to offshoring. For example, Sen. Diane Feinstein (D-CA), the ranking member of the Senate Judiciary Subcommittee on Terrorism, Technology and Homeland Security, has asked the General Accounting Office to investigate the extent to which personal data about American citizens is being outsourced offshore. The GAO report is expected to include recommendations on possible legislative and regulatory approaches to address privacy concerns. Press Release, Feinstein Calls for Investigation of Outsourcing of Personal Data Abroad by Private and Federal Agencies, Feb. 27, 2004, at <http://feinstein.senate.gov/04Releases/r-outsourcgao.html>. Feinstein is not alone in her view. Rep. Edward Markey (D-MA) has sent letters to 16 agencies, including the SEC, FCC, FTC, IRS, CIA and Homeland Security Department, expressing his concern over the offshoring of personal data processing. Press Release, Markey Investigates Corporate Off-shoring of Personal Privacy Rights, Feb. 23, 2004, at http://www.house.gov/markey/Issues/iss_privacy_pr040223.pdf.

²⁴ See: National Foundation for American Policy, at <http://www.nfap.net/researchactivities/globalsourcing/appendix.aspx>.

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The following tables summarize some of the proposed and enacted state and federal legislation related to offshoring; note that the brief overviews do not capture all of the details of each bill. In addition, because new legislation is introduced frequently, this list should not be considered exhaustive.

APPENDIX

FEDERAL LEGISLATION

<i>Bill reference (date filed)</i>	<i>Sponsor</i>	<i>Overview</i>	<i>Status</i>
Defending American Jobs Act of 2004; H.R. 3888 (3/3/04)	Rep. Bernard Sanders	Bars a company that lays off a higher percentage of employees in the U.S. than it lays off outside the U.S. from receiving federal grants, loans, and loan guarantees.	Referred to committee.
Trade Adjustment Assistance Equity for Service Workers Act of 2004; S. 2157 (3/2/04)	Sen. Max Baucus	Extends existing trade-adjustment assistance program, which provides training, health care, and other benefits to Americans who lose their jobs because of foreign competition, to employees in the services sector.	Referred to committee.
S. Amdt. 2660 to S. 1637; (3/2/04) (Based on S. 2094, United States Workers Protection Act, introduced by Sen. Dodd in February.)	Sen. Christopher Dodd	Amendment to a bill concerning tax issues related to WTO rulings Bars contractors from using federal money to perform services overseas Bars state governments from using federal money to purchase goods or services from overseas Makes ban in H.R. 2989 permanent.	Amendment approved in Senate 70-26; larger bill still being considered by Senate.
Jobs for America Act of 2004; S. 2090 (2/12/04)	Sen. Tom Daschle	Any company who lays off 15 or more workers to send jobs overseas must inform the affected workers, the Secretary of Labor, state agencies, and local government officials. The company must inform the Secretary of Labor how many jobs are affected, where the jobs are going, and why they are being outsourced. Affected employees must receive 90 days' notice. Secretary of Labor must compile statistics about offshoring and report them on an annual basis.	Referred to committee.

Call Center Consumer's Right to Know Act of 2003; S. 1873 (11/17/03)	Sen. John Kerry	Employees at a call center must disclose their physical location.	Referred to committee.
Transportation, Treasury, and Independent Agencies Appropriations Act; H.R. 2989 (amendment)	Sen. Craig Thomas Sen. George Voinovich	Appropriations bill includes this amendment, which prevents executive agency contracts from being performed outside U.S, except to the extent the work was previously performed by government employees outside U.S.	Amendment passed Senate 95-1. Became law as part of H.R. 2673 on 1/23/04.
National Defense Authorization Act; H.R. 1588 (4/3/03)	Rep. Duncan Hunter	House version of bill required IT and other Defense Department procurement to be subject to the Buy American Act and raised the domestic content minimum from 50% to 65%.	The bill signed into law on 11/24/03 did not have these provisions.
L-1 Visa Reform Act of 2003; S. 1635 (9/17/03)	Sen. Saxby Chambliss	Aliens will not be eligible for L-1 visas if the aliens will be principally supervised by an unaffiliated employer.	Referred to committee.
American Manufacturing Jobs Retention Act of 2003; H.R. 3134 (9/17/03)	Rep. James Walsh	Certain prospective government contractors must employ at least half of their employees in the U.S.	Referred to committee.
USA Jobs Protection Act of 2003; S. 1452 and H.R. 2849 (7/21/03)	Sen. Christopher Dodd Rep. Nancy Johnson	Restrictions on L-1 visas, including the prohibition of working for another employer, a prevailing wage requirement, increasing the time the worker must be employed in another country, and shortening the time allowed to stay in the U.S.	Referred to committee.
L-1 Nonimmigrant Reform Act; H.R. 2702 (7/10/03)	Rep. Rosa DeLauro	Restrictions on L-1 visas, including a prevailing wage requirement, the prohibition of working for another employer, and an annual cap of 35,000.	Referred to committee.
Immigration and Nationality Act (amendment); H.R. 2154 (5/19/03)	Rep. John Mica	Any employer who applies for L-1 visas must certify they will not place the employee under the supervision of another employer.	Referred to committee.

STATE LEGISLATION

<i>State</i>	<i>Bill Reference (date filed)</i>	<i>Overview</i>	<i>Status</i>
California	AB 1829 (1/20/04)	State contractor must certify that work will be performed solely in U.S.	Referred to committee.
Colorado	SB 169 (1/27/04)	<p>Company with 100 or more employees in Colorado that has a net job loss of 100 jobs in the state during a calendar year because of shifting jobs outside of the U.S. is ineligible for any state or local government procurement contracts, any government grants or loans, and industrial development revenue bonds, and such ineligibility lasts 7 years.</p> <p>Any company that has a net loss of 100 jobs in the state must notify a state agency and answer a survey (addressing, among other things, how outsourcing may have caused the job loss) from that agency.</p>	Postponed indefinitely by committee.
Colorado	SB 170 (1/27/04)	<p>For any state procurement contract or professional services contract, services cannot be rendered or supplies cannot be delivered from outside the United States.</p> <p>Contractors must certify that services and supplies will come from the U.S.</p>	Postponed indefinitely by committee.
Colorado	HB 1289 (1/29/04)	<p>Upon customer request, a call center employee must provide his location, his name, and the true name of his employer.</p> <p>Customer must provide written consent before a phone call containing personal information can be routed outside the U.S.</p> <p>Failure to do the above qualifies as a “deceptive trade practice.”</p> <p>Any contract formed as a result of a violation of the above is void.</p>	Referred to committee.
Connecticut	SB 644 (1/1/03)	Workers on state contracts must be U.S. citizens or legal aliens.	Failed in committee.
Georgia	HB 1218 (1/27/04)	Upon receiving a call, a call center employee must disclose his name, employer, and physical location.	Referred to committee.

Georgia	HB 1281 (1/30/04)	Prohibits state contracts from being performed outside the U.S. Damages will equal the contract value.	Approved by committee.
Illinois	SB 2375 (2/3/04)	Prohibits work under state contracts from being performed overseas.	Passed committee, pending in Senate.
Indiana	HB 1275 (1/15/04)	Only U.S. citizens or individuals authorized to work in U.S. can work on state contracts. 10% price preference for supplies/services purchased from Indiana businesses.	Referred to committee.
Indiana	HB 1080 (1/13/04)	1%-5% price preference for Indiana companies in contract bidding.	Passed House 96-0. Recommended by Senate committee.
Indiana	HB 1101 (1/13/04)	Prohibits state contracts from being performed outside the U.S. Companion to SB 4.	Referred to committee.
Indiana	SB 4 (11/18/03)	State service contracts can be performed only by U.S. citizens or by those authorized to work in the U.S.	Passed Senate 39-10. Pending in House.
Kansas	HB 2524 (1/15/04)	State cannot award contract to contractor who will perform work outside of U.S. Contractor liable for damages if work is shifted outside of U.S.	Referred to committee.
Maryland	HB 183 (1/21/04)	State services contract cannot be awarded to contractor who will perform the work outside the U.S.	Referred to committee.
Maryland	SB 362 (2/4/04)	Prohibits work under state contracts from being performed overseas.	Referred to committee.
Michigan	HB 4940 (7/2/03)	Procurement preference to Michigan entities. All state agency contracts must provide that only U.S. citizens, legal resident aliens, and holders of valid visas will perform the work.	Referred to committee.
Minnesota	HF 1816 (2/4/04)	State service contracts must be performed by U.S. citizens or persons authorized to work in U.S.	Referred to committee.

Mississippi	HB 464 (1/15/04)	Any state contract must go to a contractor who uses only U.S. citizens or legal aliens.	Referred to committee.
Missouri	SB 1029 (1/12/04)	State cannot award a contract to a contractor who will perform the work outside the U.S.	Referred to committee.
Missouri	SB 853 (12/1/03)	Any state contract that involves handling the personal information of MO residents cannot be awarded to a contractor who performs or intends to perform the services outside of the U.S.	Referred to committee.
Nebraska	LB 1223 (1/21/04)	State agencies may not award a contract if work will be done outside the U.S. Contractors must certify work will done in U.S. and pay damages if work is shifted outside of U.S.	Referred to committee.
New Jersey	A 840 (1/13/04)	Call center employee must provide name, employer, and location within first 30 seconds of call.	Referred to committee.
New Jersey	S 370 (1/13/04)	Call center employee must provide name, employer, and location in first 30 seconds of call from NJ resident. Foreign call center employee cannot solicit personal information without informing the caller that disclosing the information is optional. Recording of phone call must be made and retained.	Referred to committee.
New Jersey	A 3529 (5/3/03)	Places restrictions on overseas call centers that receive calls from NJ residents, including transferring customers to the U.S. if requested and prohibiting the solicitation of personal information without affirmative consent.	Passed committee vote. No other action prior to adjournment of session.
New Mexico	SB 416 (1/30/04)	State service contracts must be performed by U.S. citizens or persons authorized to work in U.S.	Failed in Senate, 19-14.

New York	S 6040 (1/20/04)	Employers receiving “development assistance” (tax credits, loans, grants, power sales, infrastructure upgrades, etc.) must repay all such aid received to date if the employer outsources any jobs to sites outside of New York. Violators would be banned from receiving such aid for 5 years.	Referred to committee.
New York	S 6338 (3/2/04)	Directs the N.Y. Commissioner of Labor to issue a report on offshore outsourcing of IT jobs by 2/1/05.	Referred to committee.
North Carolina	S 991 (4/3/03)	State contracts for telemarketing or call service centers cannot be awarded to any company who performs the work outside U.S. or uses individuals not authorized to be employed in U.S. A call center employee must disclose location upon request and obtain written permission to send the customer’s personal financial information to a foreign country.	Passed Senate 49-0. Pending in House.
South Carolina	HB 4434 (12/3/03)	State contracts for telemarketing or call service centers cannot be awarded to any company who performs the work outside U.S. or uses individuals not authorized to be employed in U.S. A call center employee must disclose location upon request and obtain written permission to send the customer’s personal financial information to a foreign country.	Referred to committee.
South Dakota	HB 1116 (1/21/04)	State service contracts must be performed by U.S. citizens or persons authorized to work in U.S. State contract cannot be awarded to contractor outside U.S.	Referred to committee.
Tennessee	HB 2334/SB 2344 (1/22/04)	Identical bills prohibit work under state contracts from being performed overseas.	Referred to committees.
Tennessee	HB 2340 (1/21/04)	Customer on phone call has right to know location of employee.	Referred to committee.

Vermont	H 647 (1/28/04)	<p>No state contractor providing telemarketing or telephone center services can use foreign-based call centers.</p> <p>Any customer on a phone call has the right to know the location of the call center employee, the name and phone number of the company/agency that contracted with the call center, the employer of the call center employee, and the right to speak to a "qualified employee" of the company/agency.</p>	Referred to committee.
Virginia	HB 1010 (1/14/04)	Any public contract can go only to a contractor who employs U.S. citizens, legal aliens, and those with valid visas.	Committee voted to postpone consideration until 2005 session.
Virginia	SB 151 (1/12/04)	<p>Procurement preference for U.S. firms as long as the bid is no more than 20% more than the lowest bid from a foreign-based company.</p> <p>Companion to HB 243.</p>	Committee voted to postpone consideration until 2005 session.
Virginia	HB 315 (1/9/04)	3% preference to any firm with facilities in VA when awarding contracts worth more than \$500,000.	Committee voted to postpone consideration until 2005 session.
Virginia	HB 243 (1/8/04)	<p>Procurement preference for U.S. firms as long as the bid is no more than 20% more than the lowest bid from a foreign-based company.</p> <p>Companion to SB 151.</p>	Committee voted to postpone consideration until 2005 session.
Washington	HB 2762 (1/20/04)	For a business to get a state tax preference, they must create full-time jobs in Washington at prevailing wages.	Referred to committee.
Washington	HB 2405 (1/14/04)	State contracts must be performed by U.S. citizens or those authorized to work in U.S.	Referred to committee.

Washington	HB 2351 (1/9/04)	<p>Upon request, a contact center employee must identify name, employer, location and phone number.</p> <p>If the employee is in a foreign country, the customer can request to be transferred to a contact in the U.S., and the employee must comply.</p> <p>Employee cannot solicit personal information before first informing the caller that disclosing information is optional, that the employee is in a foreign country, and that the customer can request a transfer to a U.S. contact.</p>	Referred to committee.
Wisconsin	SB 389 (1/14/04)	Executive agencies can contract only for services performed in U.S.	Referred to committee.

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