Attorneys: Play hardball on AIG bonuses

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WASHINGTON (CNN) -- President Obama and his economic team say they were powerless to avoid paying AIG's bonus contracts, but some top legal experts disagree with that argument.

"I don't understand the notion that everyone sat back and said, 'Well, if there is a contract one must pay,'" said Elizabeth Warren, who leads Congress' Troubled Asset Relief Program oversight panel and is a law professor at Harvard.

"There is plenty of room for the American government on behalf of the American taxpayer to say: Time out -- We want to take a much closer look at that. Let's call in the lawyers. Let's read these contracts. Let's go over it." said Douglas Baird, an expert in contract law and professor at University of Chicago Law School.

CNN interviewed a series of experts in contract law and business management who said not only did AIG have options, but Treasury also should have insisted they exercise them.

First, they said, AIG could have asked its employees to renegotiate the terms of the deal like they asked automakers to do.

"When General Motors got its bailout, it required General Motors to renegotiate its labor contracts with the unions. Likewise, the federal government could have required AIG to renegotiate its contracts," said Peter Morici, business professor at the University of Maryland.

If employees refused, AIG could have refused to pay the bonuses, experts said.

"The advice I would have given AIG is, 'Don't pay it and if they jump up in arms saying you broke their sacred contract, sue me.' My experience is very few contracts are bulletproof," said Baird.

After reading one of the AIG contracts posted on a Congressional Web site, Baird concluded that refusing to pay the contract "would no doubt settle rather than face hostile questions about the crisis they helped create."

Warren agreed: "I teach contract law. I want to see the contract that someone thinks doesn't have a place in it with ambiguity, room for negotiation, room for change when the circumstances change."

Attorneys say President Obama should have played hardball on bonus negotiations.

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"You know a lot of those people in the ordinary world would be facing pink slips anyway," she said. "There are people lining up for these jobs. The threat that 'if you don't pay me my millions of dollars I will leave' rings a little hollow in this economy."

Many in the legal community, outraged over the AIG payments, see them as part of a larger problem: Washington has not laid out a coherent long-term plan for rescuing the nation's financial institutions.

"If Treasury had had a clear strategy from the beginning for dealing with AIG and if it had put clear terms in place and clear restrictions over how taxpayer money would have been spent, we would not be here today," Warren said.

But she sees a silver lining.

"Outrage can be a very positive thing. It has a way of concentrating the minds of those who are in charge of this."

Warren said the administration can turn this crisis into a positive, if the Treasury Department reveals its plan for a long-term solution to the economic crisis.