

110TH CONGRESS
1ST SESSION

H. R. 1362

[Report No. 110-]

To reform acquisition practices of the Federal Government.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2007

Mr. WAXMAN introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH --, 2007

Reported from the Committee on Oversight and Government Reform with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 6, 2007]

A BILL

To reform acquisition practices of the Federal Government.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Ac-*
5 *countability in Contracting Act”.*

1 (b) *TABLE OF CONTENTS.—The table of contents for*
2 *this Act is as follows:*

Sec. 1. Short title and table of contents.

TITLE I—LIMITING THE USE OF ABUSE-PRONE CONTRACTS

Sec. 101. Limitation on length of noncompetitive contracts.

Sec. 102. Minimizing sole-source contracts.

Sec. 103. Minimizing cost-reimbursement type contracts.

TITLE II—INCREASING CONTRACT OVERSIGHT

Sec. 201. Public disclosure of justification and approval documents for non-competitive contracts.

Sec. 202. Disclosure of Government contractor overcharges.

Sec. 203. Funding contract oversight.

Sec. 204. Study of acquisition workforce.

Sec. 205. Repeal of sunset of training fund.

TITLE III—PROMOTING INTEGRITY IN CONTRACTING

Sec. 301. Additional provisions relating to procurement officials.

3 **TITLE I—LIMITING THE USE OF**
4 **ABUSE-PRONE CONTRACTS**
5 **SEC. 101. LIMITATION ON LENGTH OF NONCOMPETITIVE**
6 **CONTRACTS.**

7 (a) *REVISION OF FAR.—Not later than one year after*
8 *the date of the enactment of this Act, the Federal Acquisi-*
9 *tion Regulation shall be revised to restrict the contract pe-*
10 *riod of any contract described in subsection (c) to the min-*
11 *imum contract period necessary—*

12 (1) *to meet the urgent and compelling require-*
13 *ments of the work to be performed under the contract;*
14 *and*

15 (2) *to enter into another contract for the re-*
16 *quired goods or services through the use of competitive*
17 *procedures.*

1 (b) *CONTRACT PERIOD.*—*The regulations promulgated*
2 *under subsection (a) shall require the contract period to not*
3 *exceed 240 days, unless the head of the executive agency con-*
4 *cerned determines that exceptional circumstances apply.*

5 (c) *COVERED CONTRACTS.*—*This section applies to*
6 *any contract in an amount greater than the simplified ac-*
7 *quisition threshold entered into by an executive agency*
8 *using procedures other than competitive procedures pursu-*
9 *ant to the exception provided in section 303(c)(2) of the*
10 *Federal Property and Administrative Services Act of 1949*
11 *(41 U.S.C. 253(c)(2)) or section 2304(c)(2) of title 10,*
12 *United States Code.*

13 (d) *DEFINITIONS.*—*In this section:*

14 (1) *The term “executive agency” has the mean-*
15 *ing provided in section 4(1) of the Office of Federal*
16 *Procurement Policy Act (41 U.S.C. 403(1)).*

17 (2) *The term “head of the executive agency”*
18 *means the head of an executive agency except that, in*
19 *the case of a military department, the term means the*
20 *Secretary of Defense.*

21 **SEC. 102. MINIMIZING SOLE-SOURCE CONTRACTS.**

22 (a) *PLANS REQUIRED.*—*Subject to subsection (c), the*
23 *head of each executive agency covered by title III of the Fed-*
24 *eral Property and Administrative Services Act of 1949 (41*
25 *U.S.C. 251 et seq.) and the head of each agency covered*

1 *by chapter 137 of title 10, United States Code, shall develop*
2 *and implement a plan to minimize the use of contracts en-*
3 *tered into using procedures other than competitive proce-*
4 *dures by the agency concerned. The plan shall contain*
5 *measurable goals and shall be completed and submitted to*
6 *the Committee on Oversight and Government Reform of the*
7 *House of Representatives, the Committee on Homeland Se-*
8 *curity and Governmental Affairs of the Senate, and the*
9 *Committees on Appropriations of the House of Representa-*
10 *tives and the Senate with a copy provided to the Comp-*
11 *troller General, not later than 1 year after the date of the*
12 *enactment of this Act.*

13 *(b) COMPTROLLER GENERAL REVIEW.—The Comp-*
14 *troller General shall review the plans provided under sub-*
15 *section (a) and submit a report to Congress on the plans*
16 *not later than 18 months after the date of the enactment*
17 *of this Act.*

18 *(c) REQUIREMENT LIMITED TO CERTAIN AGENCIES.—*
19 *The requirement of subsection (a) shall apply only to those*
20 *agencies that awarded contracts in a total amount of at*
21 *least \$1,000,000,000 in the fiscal year preceding the fiscal*
22 *year in which the report is submitted.*

1 **SEC. 103. MINIMIZING COST-REIMBURSEMENT TYPE CON-**
2 **TRACTS.**

3 (a) *PLANS REQUIRED.*—Subject to subsection (c), the
4 head of each executive agency covered by title III of the Fed-
5 eral Property and Administrative Services Act of 1949 (41
6 U.S.C. 251 et seq.) and the head of each agency covered
7 by chapter 137 of title 10, United States Code, shall develop
8 and implement a plan to minimize the use of cost-reim-
9 bursement type contracts by the agency concerned. The plan
10 shall contain measurable goals and shall be completed and
11 submitted to the Committee on Oversight and Government
12 Reform of the House of Representatives, the Committee on
13 Homeland Security and Governmental Affairs of the Sen-
14 ate, and the Committees on Appropriations of the House
15 of Representatives and the Senate with a copy provided to
16 the Comptroller General, not later than 1 year after the date
17 of the enactment of this Act.

18 (b) *COMPTROLLER GENERAL REVIEW.*—The Comp-
19 troller General shall review the plans provided under sub-
20 section (a) and submit a report to Congress on the plans
21 not later than 18 months after the date of the enactment
22 of this Act.

23 (c) *REQUIREMENT LIMITED TO CERTAIN AGENCIES.*—
24 The requirement of subsection (a) shall apply only to those
25 agencies that awarded contracts in a total amount of at

1 *least \$1,000,000,000 in the fiscal year preceding the fiscal*
2 *year in which the report is submitted.*

3 ***TITLE II—INCREASING***
4 ***CONTRACT OVERSIGHT***

5 ***SEC. 201. PUBLIC DISCLOSURE OF JUSTIFICATION AND AP-***
6 ***PROVAL DOCUMENTS FOR NONCOMPETITIVE***
7 ***CONTRACTS.***

8 *(a) CIVILIAN AGENCY CONTRACTS.—*

9 *(1) IN GENERAL.—Section 303 of the Federal*
10 *Property and Administrative Services Act of 1949 (41*
11 *U.S.C. 253) is amended by adding at the end the fol-*
12 *lowing new subsection:*

13 *“(j)(1) In the case of a procurement permitted by sub-*
14 *section (c), the head of an executive agency shall make pub-*
15 *licly available, within 14 days after the award of the con-*
16 *tract, the documents containing the justification and ap-*
17 *proval required by subsection (f)(1) with respect to the pro-*
18 *curement.*

19 *“(2) The documents shall be made available on the*
20 *website of the agency and through the Federal Procurement*
21 *Data System.*

22 *“(3) This subsection does not require the public avail-*
23 *ability of information that is exempt from public disclosure*
24 *under section 552(b) of title 5, United States Code.”.*

1 (2) *CONFORMING AMENDMENT.*—Section 303(f)
2 *of such Act is amended—*

3 (A) *by striking paragraph (4); and*

4 (B) *by redesignating paragraph (5) as*
5 *paragraph (4).*

6 (b) *DEFENSE AGENCY CONTRACTS.*—

7 (1) *IN GENERAL.*—Section 2304 of title 10,
8 *United States Code, is amended by adding at the end*
9 *the following new subsection:*

10 “(1) *In the case of a procurement permitted by sub-*
11 *section (c), the head of an agency shall make publicly avail-*
12 *able, within 14 days after the award of the contract, the*
13 *documents containing the justification and approval re-*
14 *quired by subsection (f)(1) with respect to the procurement.*

15 “(2) *The documents shall be made available on the*
16 *website of the agency and through the Federal Procurement*
17 *Data System.*

18 “(3) *This subsection does not require the public avail-*
19 *ability of information that is exempt from public disclosure*
20 *under section 552(b) of title 5.”.*

21 (2) *CONFORMING AMENDMENT.*—Section 2304(f)
22 *of such title is amended—*

23 (A) *by striking paragraph (4); and*

24 (B) *by redesignating paragraphs (5) and*
25 *(6) as paragraphs (4) and (5), respectively.*

1 **SEC. 202. DISCLOSURE OF GOVERNMENT CONTRACTOR**
2 **OVERCHARGES.**

3 *(a) QUARTERLY REPORT TO CONGRESS.—*

4 *(1) The head of each Federal agency or depart-*
5 *ment shall submit to the chairman and ranking mem-*
6 *ber of each committee specified in paragraph (2) on*
7 *a quarterly basis a report that includes the following:*

8 *(A) A list of audits or other reports issued*
9 *during the applicable quarter that describe con-*
10 *tractor costs in excess of \$1,000,000 that have*
11 *been identified as unjustified, unsupported, ques-*
12 *tioned, or unreasonable under any contract, task*
13 *or delivery order, or subcontract.*

14 *(B) The specific amounts of costs identified*
15 *as unjustified, unsupported, questioned, or un-*
16 *reasonable and the percentage of their total value*
17 *of the contract, task or delivery order, or sub-*
18 *contract.*

19 *(C) A list of audits or other reports issued*
20 *during the applicable quarter that identify sig-*
21 *nificant or substantial deficiencies in the per-*
22 *formance of any contractor or in any business*
23 *system of any contractor under any contract,*
24 *task or delivery order, or subcontract.*

25 *(2) The report described in paragraph (1) shall*
26 *be submitted to the Committee on Oversight and Gov-*

1 *ernment Reform of the House of Representatives, the*
2 *Committee on Homeland Security and Governmental*
3 *Affairs of the Senate, the Committees on Appropria-*
4 *tions of the House of Representatives and the Senate,*
5 *and other committees of jurisdiction.*

6 *(3) Paragraph (1) shall not apply to an agency*
7 *or department with respect to a calendar quarter if*
8 *no audits or other reports described in paragraph (1)*
9 *were issued during that quarter.*

10 *(b) SUBMISSION OF INDIVIDUAL AUDITS.—The head of*
11 *each Federal agency or department shall provide, within*
12 *14 days after a request in writing by the chairman or rank-*
13 *ing member of any of the committees described in subsection*
14 *(a)(2), a full and unredacted copy of any audit or other*
15 *report described in subsection (a)(1).*

16 **SEC. 203. FUNDING CONTRACT OVERSIGHT.**

17 *(a) CIVILIAN AGENCY CONTRACTS.—Title III of the*
18 *Federal Property and Administrative Services Act of 1949*
19 *(41 U.S.C. 251 et seq.) is amended by adding at the end*
20 *the following new section:*

1 **“SEC. 318. REQUIREMENT FOR 1 PERCENT OF CONTRACT**
2 **AMOUNTS TO BE USED FOR CONTRACT PER-**
3 **SONNEL, ADMINISTRATION, OVERSIGHT, AND**
4 **PLANNING.**

5 “(a) *REQUIREMENT.*—*In addition to the sums used for*
6 *the purposes listed in this section during fiscal year 2006,*
7 *each fiscal year, the head of an executive agency shall ensure*
8 *that the agency uses an additional amount equal to 1 per-*
9 *cent of the aggregate amount of contracts entered into by*
10 *the agency during that fiscal year for the following pur-*
11 *poses:*

12 “(1) *Hiring and training of acquisition work-*
13 *force personnel.*

14 “(2) *Contract planning.*

15 “(3) *Contract administration.*

16 “(4) *Contract oversight, including audits and en-*
17 *forcement.*

18 “(b) *GUIDELINES.*—*The Administrator for Federal*
19 *Procurement Policy shall issue guidelines for executive*
20 *agencies on the implementation of this section. Such guide-*
21 *lines shall ensure that the amount described in subsection*
22 *(a) is additional funding above the fiscal year 2006 level.*
23 *Such guidelines also shall provide direction to agencies on*
24 *identifying priorities for the use of the additional funds.”.*

25 “(b) *DEFENSE CONTRACTS.*—

1 (1) *IN GENERAL.*—Chapter 141 of title 10,
2 *United States Code*, is amended by adding at the end
3 *the following new section:*

4 **“§2410q. Requirement for 1 percent of contract**
5 **amounts to be used for contract per-**
6 **sonnel, administration, oversight, and**
7 **planning**

8 “(a) *REQUIREMENT.*—In addition to the sums used for
9 the purposes listed in this section during fiscal year 2006,
10 each fiscal year, the head of an agency (as defined in section
11 2302(1) of this title) shall ensure that the agency uses an
12 additional amount equal to 1 percent of the aggregate
13 amount of contracts entered into by the agency during that
14 fiscal year for the following purposes:

15 “(1) *Hiring and training of acquisition work-*
16 *force personnel.*

17 “(2) *Contract planning.*

18 “(3) *Contract administration.*

19 “(4) *Contract oversight, including audits and en-*
20 *forcement.*

21 “(b) *GUIDELINES.*—The Administrator for Federal
22 Procurement Policy shall issue guidelines for agencies on
23 the implementation of this section. Such guidelines shall en-
24 sure that the amount described in subsection (a) is addi-
25 tional funding above the fiscal year 2006 level. Such guide-

1 *lines also shall provide direction to agencies on identifying*
2 *priorities for the use of the additional funds.”.*

3 (2) *CLERICAL AMENDMENT.—The table of sec-*
4 *tions at the beginning of such chapter is amended by*
5 *adding at the end the following new item:*

“2410q. Requirement for 1 percent of contract amounts to be used for contract personnel, administration, oversight, and planning.”.

6 **SEC. 204. STUDY OF ACQUISITION WORKFORCE.**

7 (a) *REQUIREMENT FOR STUDY.—The Administrator*
8 *for Federal Procurement Policy shall conduct a study of*
9 *the composition, scope, and functions of the Government-*
10 *wide acquisition workforce and develop a comprehensive*
11 *definition of, and method of measuring, such workforce.*

12 (b) *REPORT.—Not later than 1 year after the date of*
13 *the enactment of this Act, the Administrator shall submit*
14 *to the relevant congressional committees a report on the re-*
15 *sults of the study required by subsection (a), with such find-*
16 *ings and recommendations as the Administrator determines*
17 *appropriate.*

18 **SEC. 205. REPEAL OF SUNSET OF TRAINING FUND.**

19 *Subparagraph (H) of section 37(h)(3) of the Office of*
20 *Federal Procurement Policy Act (41 U.S.C. 433(h)(3)) is*
21 *repealed.*

1 ***TITLE III—PROMOTING***
2 ***INTEGRITY IN CONTRACTING***

3 ***SEC. 301. ADDITIONAL PROVISIONS RELATING TO PRO-***
4 ***CUREMENT OFFICIALS.***

5 (a) *ELIMINATION OF LOOPHOLES THAT ALLOW*
6 *FORMER FEDERAL OFFICIALS TO ACCEPT COMPENSATION*
7 *FROM CONTRACTORS OR RELATED ENTITIES.*—Section
8 *27(d) of the Office of Federal Procurement Policy Act (41*
9 *U.S.C. 423(d)) is amended—*

10 (1) *in paragraph (1)—*

11 (A) *by striking “or consultant” and insert-*
12 *ing “consultant, lawyer, or lobbyist”;*

13 (B) *in subparagraph (C), by striking “per-*
14 *sonally made for the Federal agency—” and in-*
15 *serting “participated personally and substan-*
16 *tially in—”; and*

17 (2) *by amending paragraph (2) to read as fol-*
18 *lows:*

19 “(2) *Paragraph (1) shall not prohibit a former official*
20 *of a Federal agency from accepting compensation from any*
21 *division or affiliate of a contractor that does not produce*
22 *the same or similar products or services as the entity of*
23 *the contractor that is responsible for the contract referred*
24 *to in subparagraph (A), (B), or (C) of such paragraph if*
25 *the agency’s designated ethics officer determines that—*

1 “(A) *the offer of compensation is not a reward*
2 *for any action described in paragraph (1); and*

3 “(B) *acceptance of the compensation is appro-*
4 *priate and will not affect the integrity of the procure-*
5 *ment process.”.*

6 ***(b) REQUIREMENT FOR FEDERAL PROCUREMENT OF-***
7 ***FICERS TO DISCLOSE JOB OFFERS MADE ON BEHALF OF***
8 ***RELATIVES.—Section 27(c)(1) of such Act (41 U.S.C.***
9 ***423(c)(1)) is amended by inserting after “that official” the***
10 ***following: “or for a relative of that official (as defined in***
11 ***section 3110 of title 5, United States Code)”.***

12 ***(c) REQUIREMENT ON AWARD OF GOVERNMENT CON-***
13 ***TRACTS TO FORMER EMPLOYERS.—Section 27 of such Act***
14 ***(41 U.S.C. 423) is amended by adding at the end the fol-***
15 ***lowing new subsection:***

16 ***“(i) PROHIBITION ON INVOLVEMENT BY CERTAIN***
17 ***FORMER CONTRACTOR EMPLOYEES IN PROCUREMENTS.—***
18 ***An employee of the Federal Government who is a former***
19 ***employee of a contractor with the Federal Government shall***
20 ***not be personally and substantially involved with any***
21 ***award of a contract to the employee’s former employer, or***
22 ***the administration of such a contract, for the one-year pe-***
23 ***riod beginning on the date on which the employee leaves***
24 ***the employment of the contractor, unless the employee has***
25 ***received a waiver from the agency’s designated ethics officer.***

1 *In determining whether to issue a waiver, the designated*
2 *ethics officer shall take into account the agency’s need for*
3 *the involvement of the employee and the impact a waiver*
4 *would have on public confidence in the integrity of the pro-*
5 *curement process.”.*

6 *(d) REGULATIONS.—Section 27 of such Act (41 U.S.C.*
7 *423) is further amended by adding at the end the following*
8 *new subsection:*

9 *“(j) REGULATIONS.—The Administrator, in consulta-*
10 *tion with the Director of the Office of Government Ethics,*
11 *shall—*

12 *“(1) promulgate regulations to carry out and en-*
13 *sure the enforcement of this section; and*

14 *“(2) monitor and investigate individual and*
15 *agency compliance with this section.”.*

16 *(e) EFFECTIVE DATE.—The amendments made by this*
17 *section shall take effect on the date of the enactment of this*
18 *Act, except that the amendment made by subsection*
19 *(a)(1)(B) shall apply to individuals who terminate Govern-*
20 *ment service after March 31, 2007.*

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