

**Transparency and Accountability
in Military and Security Contracting Act of 2007 (S. 674)
Section-by-Section**

Section 1. Short Title

Title: “The Transparency and Accountability in Military and Security Contracting Act of 2007”

Section 2. Findings

The section has eight findings, related to the increased reliance on private contractors to do traditionally military and governmental functions; the number of contractors, including private security contractors, in Iraq; estimates of the number of contractors killed and wounded while performing their functions in Iraq; the multinational character of the contractors serving on contracts funded by the U.S. government; security risks posed to U.S. troops and to contractors as a result of their operating in the same areas; the nature of the work being undertaken by contractors; and the lack of oversight on contracts to date and the need for increased oversight on contracts in the future.

Section 3. Reports on Iraq and Afghanistan Contracts

This section will require, within three months of enactment, the Secretaries of Defense, State, Interior, the Administrator of USAID and the Director of National Intelligence submit a report to Congress detailing: 1) the number of persons performing work on contracts and subcontracts; 2) the companies awarded those contracts and subcontracts; 3) the total cost of such contracts; 4) the total number of people killed or wounded in the performance of those contracts or subcontracts; 5) a description of the military and safety equipment provided to the contractors and an assessment of the adequacy of that equipment; 6) the policies and procedures used to inform contractors of their legal obligations while performing their functions under the contracts; 7) the policies and procedures to monitor adherence to applicable laws; 8) the laws determined to have been broken during the performance of the contracts; and 9) a description of disciplinary actions taken against persons performing work under contracts.

Section 4. Department of Defense Report on Strategy for and Appropriateness of Activities of Contractors Under Department of Defense Contracts in Iraq, Afghanistan and the Global War on Terror

This section will require the Secretary of Defense, within six months of enactment, to submit to Congress a report setting forth Pentagon strategy for the use of contractors, and a description of the activities currently being carried out by contractors and subcontractors. The strategy shall include assurances contracts do not 1) have contractors performing inherently government functions or emergency essential activities; 2) place contractors in supervisory roles over U.S. government personnel; 3) threaten the safety of U.S. government personnel or contractors.

Section 5. Requirements Related to Personnel Performing Private Security Functions Under Federal Contracts During Contingency Operations

This section will establish a mechanism for contract officers to receive information from contractors on costs, number of personnel, training, activities performed, and compensation information for each covered contract, thereby ensuring that contracting agencies have information necessary to conduct oversight of contracts awarded.

The section will also establish a mechanism for contracting agencies to provide Congress with a regularly-updated broad picture of private security contracting operations for any given contingency. And it will include protections to prevent requirements from revealing trade secrets or otherwise disadvantaging contractors.

Sections 6. Improved Coordination Between the Armed Forces and Contractors Performing Private Security Functions in Contingency Operations

This section will require combatant commanders to issue rules of engagement for contractors operating in their area of responsibility, thereby clarifying appropriate uses of force for contractors, and will require that covered contracts specify that contract personnel adhere to these rules of engagement.

It will also require contracting agencies to develop guidance and minimum standards on hiring of contract personnel and equipment required for contract personnel.

It will also require combatant commanders to designate, for each contingency, a Theater Security Contract Coordinating Officer to serve as a communications liaison between the U.S. Armed Forces and private security contractors in the contingency theater, and to maintain data on contractors operating in the theater.

Section 7. Legal Status of Contract Personnel

This section will clarify the legal status for all contractor personnel in contingency operations by ensuring they are accountable under the Military Extraterritorial Jurisdiction Act. It will also clarify that it is the responsibility of the Department of Justice to prosecute misconduct, and that the Defense Department has the authority to arrest and detain those suspected of misconduct in order to turn them over to civilian authorities. It will also require the Inspector General of the Justice Department, within one month of enactment, to complete and submit a report about identification and prosecution of alleged abuses in Iraq.

Section 8. Federal Bureau of Investigation Investigative Unit for Contingency Operations

This section will require the Federal Bureau of Investigation to establish a Theater Investigative Unit to investigate reports of criminal misconduct in theaters in which contractors are working.

Section 9. Definitions

This section will restrict the bill to covering only private security contractors and contract personnel carrying out contracts in a theater where the U.S. is conducting contingency operations.

Section 10. Effective Date

This section makes clear the provisions here in apply to all current and future contingencies.