

110TH CONGRESS  
1ST SESSION

# H. R. 1362

To reform acquisition practices of the Federal Government.

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## 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

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## 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  
5       “Accountability in Contracting Act”.

6       (b) TABLE OF CONTENTS.—The table of contents for  
7       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.

## TITLE III—DETERRING CORRUPTION IN CONTRACTING

Sec. 301. Additional provisions relating to procurement officials.

# 1   **TITLE I—LIMITING THE USE OF** 2       **ABUSE-PRONE CONTRACTS**

## 3   **SEC. 101. LIMITATION ON LENGTH OF NONCOMPETITIVE** 4       **CONTRACTS.**

5       (a) REVISION OF FAR.—Not later than one year  
 6 after the date of the enactment of this Act, the Federal  
 7 Acquisition Regulation shall be revised to restrict the con-  
 8 tract period of any contract described in subsection (c)  
 9 to the minimum contract period necessary—

10           (1) to meet the urgent and compelling require-  
 11 ments of the work to be performed under the con-  
 12 tract; and

13           (2) to enter into another contract for the re-  
 14 quired goods or services through the use of competi-  
 15 tive procedures.

16       (b) CONTRACT PERIOD.—The regulations promul-  
 17 gated under subsection (a) shall require the contract pe-  
 18 riod to not exceed 240 days, unless the head of the execu-  
 19 tive agency concerned determines that exceptional cir-  
 20 cumstances apply.

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

9       (d) DEFINITIONS.—In this section:

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

13           (2) The term “head of the executive agency”  
14 means the head of an executive agency except that,  
15 in the case of a military department, the term means  
16 the Secretary of Defense.

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

18       (a) PLANS REQUIRED.—Subject to subsection (c),  
19 the head of each executive agency covered by title III of  
20 the Federal Property and Administrative Services Act of  
21 1949 (41 U.S.C. 251 et seq.) and the head of each agency  
22 covered by chapter 137 of title 10, United States Code,  
23 shall develop and implement a plan to minimize the use  
24 of contracts entered into using procedures other than com-  
25 petitive procedures by the agency concerned. The plan

1 shall contain measurable goals and shall be completed and  
2 submitted to the Committee on Oversight and Government  
3 Reform of the House of Representatives, the Committee  
4 on Homeland Security and Governmental Affairs of the  
5 Senate, and the Committees on Appropriations of the  
6 House of Representatives and the Senate with a copy pro-  
7 vided to the Comptroller General, not later than 1 year  
8 after the date of the enactment of this Act.

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

14 (c) REQUIREMENT LIMITED TO CERTAIN AGEN-  
15 CIES.—The requirement of subsection (a) shall apply only  
16 to those agencies that awarded contracts in a total amount  
17 of at least \$1,000,000,000 in the fiscal year preceding the  
18 fiscal year in which the report is submitted.

19 **SEC. 103. MINIMIZING COST-REIMBURSEMENT TYPE CON-**  
20 **TRACTS.**

21 (a) PLANS REQUIRED.—Subject to subsection (c),  
22 the head of each executive agency covered by title III of  
23 the Federal Property and Administrative Services Act of  
24 1949 (41 U.S.C. 251 et seq.) and the head of each agency  
25 covered by chapter 137 of title 10, United States Code,

1 shall develop and implement a plan to minimize the use  
2 of cost-reimbursement type contracts by the agency con-  
3 cerned. The plan shall contain measurable goals and shall  
4 be completed and submitted to the Committee on Over-  
5 sight and Government Reform of the House of Represent-  
6 atives, the Committee on Homeland Security and Govern-  
7 mental Affairs of the Senate, and the Committees on Ap-  
8 propriations of the House of Representatives and the Sen-  
9 ate with a copy provided to the Comptroller General, not  
10 later than 1 year after the date of the enactment of this  
11 Act.

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

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

## **TITLE II—INCREASING CONTRACT OVERSIGHT**

### **SEC. 201. PUBLIC DISCLOSURE OF JUSTIFICATION AND APPROVAL DOCUMENTS FOR NONCOMPETITIVE CONTRACTS.**

(a) CIVILIAN AGENCY CONTRACTS.—

(1) IN GENERAL.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended by adding at the end the following new subsection:

“(j)(1) In the case of a procurement permitted by subsection (c), the head of an executive agency shall make publicly available, within 14 days after the award of the contract, the documents containing the justification and approval required by subsection (f)(1) with respect to the procurement.

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

“(3) This subsection does not require the public availability of information that is exempt from public disclosure under section 552(b) of title 5, United States Code.”.

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

(A) by striking paragraph (4); and

1 (B) by redesignating paragraph (5) as  
2 paragraph (4).

3 (b) DEFENSE AGENCY CONTRACTS.—

4 (1) IN GENERAL.—Section 2304 of title 10,  
5 United States Code, is amended by adding at the  
6 end the following new subsection:

7 “(1)(1) In the case of a procurement permitted by  
8 subsection (c), the head of an agency shall make publicly  
9 available, within 14 days after the award of the contract,  
10 the documents containing the justification and approval  
11 required by subsection (f)(1) with respect to the procure-  
12 ment.

13 “(2) The documents shall be made available on the  
14 website of the agency and through the Federal Procure-  
15 ment Data System.

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

19 (2) CONFORMING AMENDMENT.—Section  
20 2304(f) of such title is amended—

21 (A) by striking paragraph (4); and

22 (B) by redesignating paragraphs (5) and  
23 (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  
6 member of each committee specified in paragraph  
7 (2) on a quarterly basis a report that includes the  
8 following:

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

15 (B) The specific amounts of costs identi-  
16 fied as unjustified, unsupported, questioned, or  
17 unreasonable and the percentage of their total  
18 value of the contract, task or delivery order, or  
19 subcontract.

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



1           (2) The report described in paragraph (1) shall  
2       be submitted to the Committee on Oversight and  
3       Government Reform of the House of Representa-  
4       tives, the Committee on Homeland Security and  
5       Governmental Affairs of the Senate, the Committees  
6       on Appropriations of the House of Representatives  
7       and the Senate, and other committees of jurisdic-  
8       tion.

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

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

19      **SEC. 203. FUNDING CONTRACT OVERSIGHT.**

20      (a) CIVILIAN AGENCY CONTRACTS.—Title III of the  
21      Federal Property and Administrative Services Act of 1949  
22      (41 U.S.C. 251 et seq.) is amended by adding at the end  
23      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 “In addition to the sums used for the purposes listed  
6 in this section as of the date of the enactment of this sec-  
7 tion, each fiscal year, the head of an executive agency shall  
8 ensure that the agency uses an additional amount equal  
9 to 1 percent of the aggregate amount of contracts entered  
10 into by the agency during that fiscal year for the following  
11 purposes:

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

14 “(2) Contract planning.

15 “(3) Contract administration and oversight.

16 “(4) Contract audits and enforcement.”.

17 (b) DEFENSE CONTRACTS.—Chapter 141 of title 10,  
18 United States Code, is amended by adding at the end the  
19 following new section:

20 **“§ 2410p. Requirement for 1 percent of contract**  
21 **amounts to be used for contract per-**  
22 **sonnel, administration, oversight, and**  
23 **planning**

24 “In addition to the sums used for the purposes listed  
25 in this section as of the date of the enactment of this sec-  
26 tion, each fiscal year, the head of an agency (as defined

1 in section 2302(1) of this title) shall ensure that the agen-  
 2 cy uses an additional amount equal to 1 percent of the  
 3 aggregate amount of contracts entered into by the agency  
 4 during that fiscal year for the following purposes:

5 “(1) Hiring and training of acquisition work-  
 6 force personnel.

7 “(2) Contract planning.

8 “(3) Contract administration and oversight.

9 “(4) Contract audits and enforcement.”.

## 10 **TITLE III—DETECTING** 11 **CORRUPTION IN CONTRACTING**

### 12 **SEC. 301. ADDITIONAL PROVISIONS RELATING TO PRO-** 13 **CUREMENT OFFICIALS.**

14 (a) ELIMINATION OF LOOPHOLES THAT ALLOW  
 15 FORMER FEDERAL OFFICIALS TO ACCEPT COMPENSA-  
 16 TION FROM CONTRACTORS OR RELATED ENTITIES.—Sec-  
 17 tion 27(d) of the Office of Federal Procurement Policy  
 18 Act (41 U.S.C. 423(d)) is amended—

19 (1) in paragraph (1)—

20 (A) by striking “or consultant” and insert-  
 21 ing “consultant, lawyer, or lobbyist”;

22 (B) by striking “one year” and inserting  
 23 “two years”; and

24 (C) in subparagraph (C), by striking “per-  
 25 sonally made for the Federal agency—” and in-

1           serting “participated personally and substan-  
2           tially in—”; and

3           (2) by amending paragraph (2) to read as fol-  
4       lows:

5       “(2) Paragraph (1) shall not prohibit a former offi-  
6       cial of a Federal agency from accepting compensation  
7       from any division or affiliate of a contractor that does not  
8       produce the same or similar products or services as the  
9       entity of the contractor that is responsible for the contract  
10      referred to in subparagraph (A), (B), or (C) of such para-  
11      graph if the agency’s designated ethics officer determines  
12      that—

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

15           “(B) acceptance of the compensation is appro-  
16      priate and will not affect the integrity of the pro-  
17      curement process.”.

18       (b) REQUIREMENT FOR FEDERAL PROCUREMENT  
19      OFFICERS TO DISCLOSE JOB OFFERS MADE ON BEHALF  
20      OF RELATIVES.—Section 27(c)(1) of such Act (41 U.S.C.  
21      423(c)(1)) is amended by inserting after “that official”  
22      the following: “or for a relative of that official (as defined  
23      in section 3110 of title 5, United States Code)”.

24       (c) REQUIREMENT ON AWARD OF GOVERNMENT  
25      CONTRACTS TO FORMER EMPLOYERS.—Section 27 of

1 such Act (41 U.S.C. 423) is amended by adding at the  
2 end the following new subsection:

3       “(i) PROHIBITION ON INVOLVEMENT BY CERTAIN  
4 FORMER CONTRACTOR EMPLOYEES IN PROCUREMENTS.—An employee of the Federal Government who is  
5 a former employee of a contractor with the Federal Gov-  
6 ernment shall not be personally and substantially involved  
7 with any award of a contract to the employee’s former em-  
8 ployer, or the administration of such a contract, for the  
9 two-year period beginning on the date on which the em-  
10 ployee leaves the employment of the contractor.”.

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

15       “(j) REGULATIONS.—The Administrator, in consulta-  
16 tion with the Director of the Office of Government Ethics,  
17 shall—

18               “(1) promulgate regulations to carry out and  
19 ensure the enforcement of this section; and

20               “(2) monitor and investigate individual and  
21 agency compliance with this section.”.

22       (e) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect on the date of the enactment  
24 of this Act, except that the amendment made by sub-

- 1 section (a)(1)(B) shall apply to individuals who terminate
- 2 Government service after March 31, 2007.

