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.

A BILL

To reform acquisition practices of the Federal Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Accountability in Contracting Act”.

(b) TABLE OF CONTENTS.—The table of contents for 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. 203. Funding contract oversight.

TITLE III—DETERRING CORRUPTION IN CONTRACTING

Sec. 301. Additional provisions relating to procurement officials.

TITLE I—LIMITING THE USE OF ABUSE-PRONE CONTRACTS

SEC. 101. LIMITATION ON LENGTH OF NONCOMPETITIVE CONTRACTS.

(a) Revision of FAR.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to restrict the contract period of any contract described in subsection (c) to the minimum contract period necessary—

(1) to meet the urgent and compelling requirements of the work to be performed under the contract; and

(2) to enter into another contract for the required goods or services through the use of competitive procedures.

(b) Contract Period.—The regulations promulgated under subsection (a) shall require the contract period to not exceed 240 days, unless the head of the executive agency concerned determines that exceptional circumstances apply.
(c) COVERED CONTRACTS.—This section applies to any contract in an amount greater than the simplified acquisition threshold entered into by an executive agency using procedures other than competitive procedures pursuant to the exception provided in section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)) or section 2304(c)(2) of title 10, United States Code.

(d) DEFINITIONS.—In this section:

(1) The term “executive agency” has the meaning provided in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

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

SEC. 102. MINIMIZING SOLE-SOURCE CONTRACTS.

(a) PLANS REQUIRED.—Subject to subsection (c), the head of each executive agency covered by title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) and the head of each agency covered by chapter 137 of title 10, United States Code, shall develop and implement a plan to minimize the use of contracts entered into using procedures other than competitive procedures by the agency concerned. The plan
shall contain measurable goals and shall be completed and submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate with a copy provided to the Comptroller General, not later than 1 year after the date of the enactment of this Act.

(b) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall review the plans provided under subsection (a) and submit a report to Congress on the plans not later than 18 months after the date of the enactment of this Act.

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

SEC. 103. MINIMIZING COST-REIMBURSEMENT TYPE CONTRACTS.

(a) PLANS REQUIRED.—Subject to subsection (c), the head of each executive agency covered by title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) and the head of each agency covered by chapter 137 of title 10, United States Code,
shall develop and implement a plan to minimize the use of cost-reimbursement type contracts by the agency concerned. The plan shall contain measurable goals and shall be completed and submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate with a copy provided to the Comptroller General, not later than 1 year after the date of the enactment of this Act.

(b) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall review the plans provided under subsection (a) and submit a report to Congress on the plans not later than 18 months after the date of the enactment of this Act.

(c) REQUIREMENT LIMITED TO CERTAIN AGENCIES.—The requirement of subsection (a) shall apply only to those agencies that awarded contracts in a total amount of at least $1,000,000,000 in the fiscal year preceding the 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
(B) by redesignating paragraph (5) as paragraph (4).

(b) DEFENSE AGENCY CONTRACTS.—

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

“(1)(1) In the case of a procurement permitted by subsection (c), the head of an 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 2304(f) of such title is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.
SEC. 202. DISCLOSURE OF GOVERNMENT CONTRACTOR OVERCHARGES.

(a) QUARTERLY REPORT TO CONGRESS.—

(1) The head of each Federal agency or department shall submit to the chairman and ranking member of each committee specified in paragraph (2) on a quarterly basis a report that includes the following:

(A) A list of audits or other reports issued during the applicable quarter that describe contractor costs in excess of $1,000,000 that have been identified as unjustified, unsupported, questioned, or unreasonable under any contract, task or delivery order, or subcontract.

(B) The specific amounts of costs identified as unjustified, unsupported, questioned, or unreasonable and the percentage of their total value of the contract, task or delivery order, or subcontract.

(C) A list of audits or other reports issued during the applicable quarter that identify significant or substantial deficiencies in the performance of any contractor or in any business system of any contractor under any contract, task or delivery order, or subcontract.
(2) The report described in paragraph (1) shall be submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, and other committees of jurisdiction.

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

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

SEC. 203. FUNDING CONTRACT OVERSIGHT.

(a) CIVILIAN AGENCY CONTRACTS.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:
“SEC. 318. REQUIREMENT FOR 1 PERCENT OF CONTRACT AMOUNTS TO BE USED FOR CONTRACT PERSONNEL, ADMINISTRATION, OVERSIGHT, AND PLANNING.

“In addition to the sums used for the purposes listed in this section as of the date of the enactment of this section, each fiscal year, the head of an executive agency shall ensure that the agency uses an additional amount equal to 1 percent of the aggregate amount of contracts entered into by the agency during that fiscal year for the following purposes:

“(1) Hiring and training of acquisition workforce personnel.
“(2) Contract planning.
“(3) Contract administration and oversight.
“(4) Contract audits and enforcement.”.

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

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

“In addition to the sums used for the purposes listed in this section as of the date of the enactment of this section, each fiscal year, the head of an agency (as defined
in section 2302(1) of this title) shall ensure that the agency uses an additional amount equal to 1 percent of the aggregate amount of contracts entered into by the agency during that fiscal year for the following purposes:

“(1) Hiring and training of acquisition workforce personnel.

“(2) Contract planning.

“(3) Contract administration and oversight.

“(4) Contract audits and enforcement.”.

TITLE III—DETERRING CORRUPTION IN CONTRACTING

SEC. 301. ADDITIONAL PROVISIONS RELATING TO PROCUREMENT OFFICIALS.

(a) Elimination of Loopholes That Allow Former Federal Officials To Accept Compensation From Contractors or Related Entities.—Section 27(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(d)) is amended—

(1) in paragraph (1)—

(A) by striking “or consultant” and inserting “consultant, lawyer, or lobbyist”;

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

(C) in subparagraph (C), by striking “personally made for the Federal agency—” and in-
serting “participated personally and substan-
tially in—”; and

(2) by amending paragraph (2) to read as fol-

ows:

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

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

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

(b) Requirement for Federal Procurement
Officers to Disclose Job Offers Made on Behalf
of Relatives.—Section 27(c)(1) of such Act (41 U.S.C.
423(c)(1)) is amended by inserting after “that official”
the following: “or for a relative of that official (as defined
in section 3110 of title 5, United States Code)”.

(c) Requirement on Award of Government
Contracts to Former Employers.—Section 27 of
such Act (41 U.S.C. 423) is amended by adding at the end the following new subsection:

“(i) Prohibition on Involvement by Certain Former Contractor Employees in Procurements.—An employee of the Federal Government who is a former employee of a contractor with the Federal Government shall not be personally and substantially involved with any award of a contract to the employee’s former employer, or the administration of such a contract, for the two-year period beginning on the date on which the employee leaves the employment of the contractor.”.

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

“(j) Regulations.—The Administrator, in consultation with the Director of the Office of Government Ethics, shall—

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

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

(e) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that the amendment made by sub-
1 section (a)(1)(B) shall apply to individuals who terminate