

Union Calendar No. 22

110TH CONGRESS
1ST SESSION

H. R. 1362

[Report No. 110–47, Parts I and II]

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 12, 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 *italie*]

MARCH 12, 2007

Referral to the Committee on Armed Services extended for a period ending not later than March 14, 2007

MARCH 14, 2007

Additional sponsors: Mr. TOWNS, Mr. CUMMINGS, and Mr. YARMUTH

MARCH 14, 2007

Reported from the Committee on Armed Services with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[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”.*

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.

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.

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 after
6 the date of the enactment of this Act, the Federal Acquisi-
7 tion Regulation shall be revised to restrict the contract pe-
8 riod of any contract described in subsection (c) to the min-
9 imum contract period necessary—

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

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

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

20 (c) *COVERED CONTRACTS.*—This section applies to
21 any contract in an amount greater than the simplified ac-
22 quisition threshold entered into by an executive agency
23 using procedures other than competitive procedures pursu-
24 ant to the exception provided in section 303(c)(2) of the
25 Federal Property and Administrative Services Act of 1949

1 *(41 U.S.C. 253(c)(2)) or section 2304(c)(2) of title 10,*
2 *United States Code.*

3 *(d) DEFINITIONS.—In this section:*

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

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

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

12 *(a) PLANS REQUIRED.—Subject to subsection (c), the*
13 *head of each executive agency covered by title III of the Fed-*
14 *eral Property and Administrative Services Act of 1949 (41*
15 *U.S.C. 251 et seq.) and the head of each agency covered*
16 *by chapter 137 of title 10, United States Code, shall develop*
17 *and implement a plan to minimize the use of contracts en-*
18 *tered into using procedures other than competitive proce-*
19 *dures by the agency concerned. The plan shall contain*
20 *measurable goals and shall be completed and submitted to*
21 *the Committee on Oversight and Government Reform of the*
22 *House of Representatives, the Committee on Homeland Se-*
23 *curity and Governmental Affairs of the Senate, and the*
24 *Committees on Appropriations of the House of Representa-*
25 *tives and the Senate with a copy provided to the Comp-*

1 troller General, not later than 1 year after the date of the
2 enactment of this Act.

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

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

13 **SEC. 103. MINIMIZING COST-REIMBURSEMENT TYPE CON-**
14 **TRACTS.**

15 (a) *PLANS REQUIRED.*—Subject to subsection (c), the
16 head of each executive agency covered by title III of the Fed-
17 eral Property and Administrative Services Act of 1949 (41
18 U.S.C. 251 et seq.) and the head of each agency covered
19 by chapter 137 of title 10, United States Code, shall develop
20 and implement a plan to minimize the use of cost-reim-
21 bursement type contracts by the agency concerned. The plan
22 shall contain measurable goals and shall be completed and
23 submitted to the Committee on Oversight and Government
24 Reform of the House of Representatives, the Committee on
25 Homeland Security and Governmental Affairs of the Sen-

1 ate, and the Committees on Appropriations of the House
2 of Representatives and the Senate with a copy provided to
3 the Comptroller General, not later than 1 year after the date
4 of the enactment of this Act.

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

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

15 **TITLE II—INCREASING** 16 **CONTRACT OVERSIGHT**

17 **SEC. 201. PUBLIC DISCLOSURE OF JUSTIFICATION AND AP-**
18 **PROVAL DOCUMENTS FOR NONCOMPETITIVE**
19 **CONTRACTS.**

20 (a) *CIVILIAN AGENCY CONTRACTS.*—

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

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

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

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

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

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

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

18 (b) *DEFENSE AGENCY CONTRACTS.—*

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

22 “(l)(1) *In the case of a procurement permitted by sub-*
23 *section (c), the head of an agency shall make publicly avail-*
24 *able, within 14 days after the award of the contract, the*

1 *documents containing the justification and approval re-*
2 *quired by subsection (f)(1) with respect to the procurement.*

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

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

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

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

12 (B) *by redesignating paragraphs (5) and*
13 *(6) as paragraphs (4) and (5), respectively.*

14 **SEC. 202. DISCLOSURE OF GOVERNMENT CONTRACTOR**
15 **OVERCHARGES.**

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

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

21 (A) *A list of audits or other reports issued*
22 *during the applicable quarter that describe con-*
23 *tractor costs in excess of \$1,000,000 that have*
24 *been identified as unjustified, unsupported, ques-*

1 tioned, or unreasonable under any contract, task
2 or delivery order, or subcontract.

3 (B) The specific amounts of costs identified
4 as unjustified, unsupported, questioned, or un-
5 reasonable and the percentage of their total value
6 of the contract, task or delivery order, or sub-
7 contract.

8 (C) A list of audits or other reports issued
9 during the applicable quarter that identify sig-
10 nificant or substantial deficiencies in the per-
11 formance of any contractor or in any business
12 system of any contractor under any contract,
13 task or delivery order, or subcontract.

14 (2) The report described in paragraph (1) shall
15 be submitted to the Committee on Oversight and Gov-
16 ernment Reform of the House of Representatives, the
17 Committee on Homeland Security and Governmental
18 Affairs of the Senate, the Committees on Appropria-
19 tions of the House of Representatives and the Senate,
20 and other committees of jurisdiction.

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

1 (b) *SUBMISSION OF INDIVIDUAL AUDITS.*—The head of
2 each Federal agency or department shall provide, within
3 14 days after a request in writing by the chairman or rank-
4 ing member of any of the committees described in subsection
5 (a)(2), a full and unredacted copy of any audit or other
6 report described in subsection (a)(1).

7 **SEC. 203. FUNDING CONTRACT OVERSIGHT.**

8 (a) *CIVILIAN AGENCY CONTRACTS.*—Title III of the
9 Federal Property and Administrative Services Act of 1949
10 (41 U.S.C. 251 et seq.) is amended by adding at the end
11 the following new section:

12 **“SEC. 318. REQUIREMENT FOR 1 PERCENT OF CONTRACT**
13 **AMOUNTS TO BE USED FOR CONTRACT PER-**
14 **SONNEL, ADMINISTRATION, OVERSIGHT, AND**
15 **PLANNING.**

16 “(a) *REQUIREMENT.*—In addition to the sums used for
17 the purposes listed in this section during fiscal year 2006,
18 each fiscal year, the head of an executive agency shall ensure
19 that the agency uses an additional amount equal to 1 per-
20 cent of the aggregate amount of contracts entered into by
21 the agency during that fiscal year for the following pur-
22 poses:

23 “(1) *Hiring and training of acquisition work-*
24 *force personnel.*

25 “(2) *Contract planning.*

1 “(3) *Contract administration.*

2 “(4) *Contract oversight, including audits and en-*
3 *forcement.*

4 “(b) *GUIDELINES.—The Administrator for Federal*
5 *Procurement Policy shall issue guidelines for executive*
6 *agencies on the implementation of this section. Such guide-*
7 *lines shall ensure that the amount described in subsection*
8 *(a) is additional funding above the fiscal year 2006 level.*
9 *Such guidelines also shall provide direction to agencies on*
10 *identifying priorities for the use of the additional funds.”.*

11 (b) *DEFENSE CONTRACTS.—*

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

15 “**§2410q. Requirement for 1 percent of contract**
16 **amounts to be used for contract per-**
17 **sonnel, administration, oversight, and**
18 **planning**

19 “(a) *REQUIREMENT.—In addition to the sums used for*
20 *the purposes listed in this section during fiscal year 2006,*
21 *each fiscal year, the head of an agency (as defined in section*
22 *2302(1) of this title) shall ensure that the agency uses an*
23 *additional amount equal to 1 percent of the aggregate*
24 *amount of contracts entered into by the agency during that*
25 *fiscal year for the following purposes:*

1 “(1) *Hiring and training of acquisition work-*
2 *force personnel.*”

3 “(2) *Contract planning.*”

4 “(3) *Contract administration.*”

5 “(4) *Contract oversight, including audits and en-*
6 *forcement.*”

7 “(b) *GUIDELINES.—The Administrator for Federal*
8 *Procurement Policy shall issue guidelines for agencies on*
9 *the implementation of this section. Such guidelines shall en-*
10 *sure that the amount described in subsection (a) is addi-*
11 *tional funding above the fiscal year 2006 level. Such guide-*
12 *lines also shall provide direction to agencies on identifying*
13 *priorities for the use of the additional funds.”.*

14 (2) *CLERICAL AMENDMENT.—The table of sec-*
15 *tions at the beginning of such chapter is amended by*
16 *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.”.

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

18 (a) *REQUIREMENT FOR STUDY.—The Administrator*
19 *for Federal Procurement Policy shall conduct a study of*
20 *the composition, scope, and functions of the Government-*
21 *wide acquisition workforce and develop a comprehensive*
22 *definition of, and method of measuring, such workforce.*

23 (b) *REPORT.—Not later than 1 year after the date of*
24 *the enactment of this Act, the Administrator shall submit*

1 *to the relevant congressional committees a report on the re-*
 2 *sults of the study required by subsection (a), with such find-*
 3 *ings and recommendations as the Administrator determines*
 4 *appropriate.*

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

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

9 **TITLE III—PROMOTING**
 10 **INTEGRITY IN CONTRACTING**

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

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

18 *(1) in paragraph (1)—*

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

21 *(B) in subparagraph (C), by striking “per-*
 22 *sonally made for the Federal agency—” and in-*
 23 *serting “participated personally and substan-*
 24 *tially in—”; and*

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

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

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

12 “(B) *acceptance of the compensation is appro-*
13 *priate and will not affect the integrity of the procure-*
14 *ment process.”.*

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

21 (c) *REQUIREMENT ON AWARD OF GOVERNMENT CON-*
22 *TRACTS TO FORMER EMPLOYERS.—Section 27 of such Act*
23 *(41 U.S.C. 423) is amended by adding at the end the fol-*
24 *lowing new subsection:*

1 “(i) *PROHIBITION ON INVOLVEMENT BY CERTAIN*
2 *FORMER CONTRACTOR EMPLOYEES IN PROCUREMENTS.*—
3 *An employee of the Federal Government who is a former*
4 *employee of a contractor with the Federal Government shall*
5 *not be personally and substantially involved with any*
6 *award of a contract to the employee’s former employer, or*
7 *the administration of such a contract, for the one-year pe-*
8 *riod beginning on the date on which the employee leaves*
9 *the employment of the contractor, unless the employee has*
10 *received a waiver from the agency’s designated ethics officer.*
11 *In determining whether to issue a waiver, the designated*
12 *ethics officer shall take into account the agency’s need for*
13 *the involvement of the employee and the impact a waiver*
14 *would have on public confidence in the integrity of the pro-*
15 *curement process.”.*

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

19 “(j) *REGULATIONS.*—*The Administrator, in consulta-*
20 *tion with the Director of the Office of Government Ethics,*
21 *shall—*

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

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

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

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

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

9 **(b) TABLE OF CONTENTS.**—**The table of con-**
 10 **tents for this Act is as follows:**

Sec. 1. Short title and table of contents.

TITLE I—IMPROVING THE QUALITY OF CONTRACTS

Sec. 101. Limitation on length of noncompetitive contracts.

Sec. 102. Minimizing sole-source contracts.

Sec. 103. Maximizing fixed-price procurement contracts.

TITLE II—INCREASING CONTRACT OVERSIGHT

Sec. 201. Public disclosure of justification and approval docu-
 ments for noncompetitive contracts.

Sec. 202. Disclosure of Government contractor audit findings.

Sec. 203. Study of acquisition workforce.

Sec. 204. Repeal of sunset of training fund.

TITLE III—PROMOTING INTEGRITY IN CONTRACTING

Sec. 301. Additional provisions relating to procurement offi-
 cials.

11 **TITLE I—IMPROVING THE**
 12 **QUALITY OF CONTRACTS**

13 **SEC. 101. LIMITATION ON LENGTH OF NONCOMPETITIVE**
 14 **CONTRACTS.**

15 **(a) REVISION OF FAR.**—**Not later than one**
 16 **year after the date of the enactment of this**
 17 **Act, the Federal Acquisition Regulation shall**

1 be revised to restrict the contract period of
2 any contract described in subsection (c) to the
3 minimum contract period necessary—

4 (1) to meet the urgent and compelling
5 requirements of the work to be per-
6 formed under the contract; and

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

10 (b) **CONTRACT PERIOD.**—The regulations
11 promulgated under subsection (a) shall re-
12 quire the contract period to not exceed one
13 year, unless the head of the executive agency
14 concerned determines that the Government
15 would be seriously injured by the limitation
16 on the contract period.

17 (c) **COVERED CONTRACTS.**—This section ap-
18 plies to any contract in an amount greater
19 than \$1,000,000 entered into by an executive
20 agency using procedures other than competi-
21 tive procedures pursuant to the exception
22 provided in section 303(c)(2) of the Federal
23 Property and Administrative Services Act of
24 1949 (41 U.S.C. 253(c)(2)) or section 2304(c)(2)
25 of title 10, United States Code.

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

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

6 **(2) The term “head of the executive**
7 **agency” means the head of an executive**
8 **agency except that, in the case of the De-**
9 **partment of Defense, the term means—**

10 **(A) in the case of a military de-**
11 **partment, the Secretary of the mili-**
12 **tary department;**

13 **(B) in the case of a Defense Agen-**
14 **cy, the head of the Defense Agency;**
15 **and**

16 **(C) in the case of any part of the**
17 **Department of Defense other than a**
18 **military department or Defense Agen-**
19 **cy, the Under Secretary of Defense**
20 **for Acquisition, Technology, and Lo-**
21 **gistics.**

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

23 **(a) PLANS REQUIRED.—Subject to sub-**
24 **section (c), the head of each executive agency**
25 **covered by title III of the Federal Property**

1 and Administrative Services Act of 1949 (41
2 U.S.C. 251 et seq.) or, in the case of the Depart-
3 ment of Defense, the Under Secretary of De-
4 fense for Acquisition, Technology, and Logis-
5 tics, shall develop and implement a plan to
6 minimize, to the maximum extent practicable,
7 the use of contracts entered into using proce-
8 dures other than competitive procedures by
9 the agency or department concerned. The
10 plan shall contain measurable goals and shall
11 be completed and submitted to the Committee
12 on Oversight and Government Reform of the
13 House of Representatives, the Committee on
14 Homeland Security and Governmental Affairs
15 of the Senate, and the Committees on Appro-
16 priations of the House of Representatives and
17 the Senate and, in the case of the Department
18 of Defense and the Department of Energy, the
19 Committees on Armed Services of the Senate
20 and the House of Representatives, with a copy
21 provided to the Comptroller General, not
22 later than 1 year after the date of the enact-
23 ment of this Act.

24 (b) **COMPTROLLER GENERAL REVIEW.**—The
25 Comptroller General shall review the plans

1 provided under subsection (a) and submit a
2 report to Congress on the plans not later than
3 18 months after the date of the enactment of
4 this Act.

5 (c) REQUIREMENT LIMITED TO CERTAIN
6 AGENCIES.—The requirement of subsection (a)
7 shall apply only to those agencies that award-
8 ed contracts in a total amount of at least
9 \$1,000,000,000 in the fiscal year preceding the
10 fiscal year in which the report is submitted.

11 SEC. 103. MAXIMIZING FIXED-PRICE PROCUREMENT CON-
12 TRACTS.

13 (a) PLANS REQUIRED.—Subject to sub-
14 section (c), the head of each executive agency
15 covered by title III of the Federal Property
16 and Administrative Services Act of 1949 (41
17 U.S.C. 251 et seq.) or, in the case of the Depart-
18 ment of Defense, the Under Secretary of De-
19 fense for Acquisition, Technology, and Logis-
20 tics, shall develop and implement a plan to
21 maximize, to the fullest extent practicable,
22 the use of fixed-price type contracts for the
23 procurement of goods and services by the
24 agency or department concerned. The plan
25 shall contain measurable goals and shall be

1 completed and submitted to the Committee on
2 Oversight and Government Reform of the
3 House of Representatives, the Committee on
4 Homeland Security and Governmental Affairs
5 of the Senate, and the Committees on Appro-
6 priations of the House of Representatives and
7 the Senate and, in the case of the Department
8 of Defense and the Department of Energy, the
9 Committees on Armed Services of the Senate
10 and the House of Representatives, with a copy
11 provided to the Comptroller General, not
12 later than 1 year after the date of the enact-
13 ment of this Act.

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

20 (c) **REQUIREMENT LIMITED TO CERTAIN**
21 **AGENCIES.**—The requirement of subsection (a)
22 shall apply only to those agencies that award-
23 ed contracts in a total amount of at least
24 \$1,000,000,000 in the fiscal year preceding the
25 fiscal year in which the report is submitted.

1 **TITLE II—INCREASING**
2 **CONTRACT OVERSIGHT**

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

6 **(a) CIVILIAN AGENCY CONTRACTS.—**

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

12 **“(j)(1)(A) Except as provided in subpara-**
13 **graph (B), in the case of a procurement per-**
14 **mitted by subsection (c), the head of an execu-**
15 **tive agency shall make publicly available,**
16 **within 14 days after the award of the con-**
17 **tract, the documents containing the justifica-**
18 **tion and approval required by subsection**
19 **(f)(1) with respect to the procurement.**

20 **“(B) In the case of a procurement per-**
21 **mitted by subsection (c)(2), subparagraph (A)**
22 **shall be applied by substituting ‘30 days’ for**
23 **‘14 days’.**

1 **“(2) The documents shall be made avail-**
2 **able on the website of the agency and through**
3 **the Federal Procurement Data System.**

4 **“(3) This subsection does not require the**
5 **public availability of information that is ex-**
6 **empt from public disclosure under section**
7 **552(b) of title 5, United States Code.”.**

8 **(2) CONFORMING AMENDMENT.—Section**
9 **303(f) of such Act is amended—**

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

11 **(B) by redesignating paragraph**

12 **(5) as paragraph (4).**

13 **(b) DEFENSE AGENCY CONTRACTS.—**

14 **(1) IN GENERAL.—Section 2304 of title**
15 **10, United States Code, is amended by**
16 **adding at the end the following new sub-**
17 **section:**

18 **“(1)(A) Except as provided in subpara-**
19 **graph (B), in the case of a procurement per-**
20 **mitted by subsection (c), the head of an agen-**
21 **cy shall make publicly available, within 14**
22 **days after the award of the contract, the docu-**
23 **ments containing the justification and ap-**
24 **proval required by subsection (f)(1) with re-**
25 **spect to the procurement.**

1 **“(B) In the case of a procurement per-**
2 **mitted by subsection (c)(2), subparagraph (A)**
3 **shall be applied by substituting ‘30 days’ for**
4 **‘14 days’.**

5 **“(2) The documents shall be made avail-**
6 **able on the website of the agency and through**
7 **the Federal Procurement Data System.**

8 **“(3) This subsection does not require the**
9 **public availability of information that is ex-**
10 **empt from public disclosure under section**
11 **552(b) of title 5.”.**

12 **(2) CONFORMING AMENDMENT.—Section**
13 **2304(f) of such title is amended—**

14 **(A) by striking paragraph (4); and**
15 **(B) by redesignating paragraphs**
16 **(5) and (6) as paragraphs (4) and (5),**
17 **respectively.**

18 **SEC. 202. DISCLOSURE OF GOVERNMENT CONTRACTOR**
19 **AUDIT FINDINGS.**

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

21 **(1) The head of each Federal agency**
22 **or department or, in the case of the De-**
23 **partment of Defense, the Under Secretary**
24 **of Defense for Acquisition, Technology,**
25 **and Logistics, shall submit to the chair-**

1 man and ranking member of each com-
2 mittee specified in paragraph (2) on a
3 quarterly basis a report that includes the
4 following:

5 (A) A list of completed audits per-
6 formed by such agency or department
7 issued during the applicable quarter
8 that describe contractor costs in ex-
9 cess of \$10,000,000 that have been
10 identified as unjustified, un-
11 supported, questioned, or unreasonable
12 under any contract, task or delivery
13 order, or subcontract.

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

20 (C) A list of completed audits per-
21 formed by such agency or department
22 issued during the applicable quarter
23 that identify material deficiencies in
24 the performance of any contractor or
25 in any business system of any con-

1 **tractor under any contract, task or**
2 **delivery order, or subcontract.**

3 **(2) The report described in paragraph**
4 **(1) shall be submitted to—**

5 **(A) the Committee on Oversight**
6 **and Government Reform of the House**
7 **of Representatives;**

8 **(B) the Committee on Homeland**
9 **Security and Governmental Affairs of**
10 **the Senate;**

11 **(C) the Committees on Appropria-**
12 **tions of the House of Representatives**
13 **and the Senate;**

14 **(D) in the case of reports from the**
15 **Department of Defense or the Depart-**
16 **ment of Energy, the Committees on**
17 **Armed Services of the Senate and the**
18 **House of Representatives; and**

19 **(E) the committees of primary ju-**
20 **risdiction over the agency or depart-**
21 **ment submitting the report.**

22 **(3) Paragraph (1) shall not apply to**
23 **an agency or department with respect to**
24 **a calendar quarter if no audits described**

1 in paragraph (1) were issued during that
2 quarter.

3 **(b) SUBMISSION OF INDIVIDUAL AUDITS.—**

4 (1) The head of each Federal agency
5 or department shall provide, within 14
6 days after a request in writing by the
7 chairman or ranking member of any com-
8 mittee listed in paragraph (2), a full and
9 unredacted copy of any audit described
10 in subsection (a)(1). Such copy shall in-
11 clude an identification of information in
12 the audit exempt from public disclosure
13 under section 552(b) of title 5, United
14 States Code.

15 (2) The committees listed in this para-
16 graph are the following:

17 (A) The Committee on Oversight
18 and Government Reform of the House
19 of Representatives.

20 (B) The Committee on Homeland
21 Security and Governmental Affairs of
22 the Senate.

23 (C) The Committees on Appro-
24 priations of the House of Representa-
25 tives and the Senate.

1 **(D) In the case of the Department**
2 **of Defense or the Department of En-**
3 **ergy, the Committees on Armed Serv-**
4 **ices of the Senate and House of Rep-**
5 **resentatives.**

6 **(E) The committees of primary ju-**
7 **risdiction over the agency or depart-**
8 **ment to which the request is made.**

9 **SEC. 203. STUDY OF ACQUISITION WORKFORCE.**

10 **(a) REQUIREMENT FOR STUDY.—The Admin-**
11 **istrator for Federal Procurement Policy shall**
12 **conduct a study of the composition, scope,**
13 **and functions of the Government-wide acqui-**
14 **sition workforce and develop a comprehen-**
15 **sive definition of, and method of measuring**
16 **the size of, such workforce.**

17 **(b) REPORT.—Not later than 1 year after**
18 **the date of the enactment of this Act, the Ad-**
19 **ministrator shall submit to the relevant con-**
20 **gressional committees a report on the results**
21 **of the study required by subsection (a), with**
22 **such findings and recommendations as the**
23 **Administrator determines appropriate.**

1 SEC. 204. REPEAL OF SUNSET OF TRAINING FUND.

2 Subparagraph (H) of section 37(h)(3) of
3 the Office of Federal Procurement Policy Act
4 (41 U.S.C. 433(h)(3)) is repealed.

5 **TITLE III—PROMOTING**
6 **INTEGRITY IN CONTRACTING**

7 SEC. 301. ADDITIONAL PROVISIONS RELATING TO PRO-
8 CUREMENT OFFICIALS.

9 (a) ELIMINATION OF LOOPHOLES THAT
10 ALLOW FORMER FEDERAL OFFICIALS TO ACCEPT
11 COMPENSATION FROM CONTRACTORS OR RE-
12 LATED ENTITIES.—Section 27(d) of the Office of
13 Federal Procurement Policy Act (41 U.S.C.
14 423(d)) is amended—

15 (1) in paragraph (1) by striking “or
16 consultant” and inserting “consultant,
17 lawyer, or lobbyist”; and

18 (2) by amending paragraph (2) to
19 read as follows:

20 “(2) Paragraph (1) shall not prohibit a
21 former official of a Federal agency from ac-
22 cepting compensation from any division or af-
23 filiate of a contractor that does not produce
24 the same or similar products or services as
25 the entity of the contractor that is responsible
26 for the contract referred to in subparagraph

1 (A), (B), or (C) of such paragraph if the agen-
2 cy's designated ethics officer determines that
3 the former official's acceptance of compensa-
4 tion would not damage public confidence in
5 the integrity of the procurement process.”.

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

13 (c) REQUIREMENT ON AWARD OF GOVERN-
14 MENT CONTRACTS TO FORMER EMPLOYERS.—Sec-
15 tion 27 of such Act (41 U.S.C. 423) is amended
16 by adding at the end the following new sub-
17 section:

18 “(i) PROHIBITION ON INVOLVEMENT BY CER-
19 TAIN FORMER CONTRACTOR EMPLOYEES IN PRO-
20 CUREMENTS.—An employee of the Federal Gov-
21 ernment who is a former employee of a con-
22 tractor with the Federal Government shall
23 not be personally and substantially involved
24 with any award of a contract to the employ-
25 ee's former employer for the one-year period

1 **beginning on the date on which the employee**
2 **leaves the employment of the contractor un-**
3 **less the employee has received a waiver from**
4 **the agency’s designated ethics officer. In de-**
5 **termining whether to issue a waiver, the des-**
6 **ignated ethics officer shall take into account**
7 **the agency’s need for the involvement of the**
8 **employee and the impact a waiver would have**
9 **on public confidence in the integrity of the**
10 **procurement process.”.**

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

14 **“(j) REGULATIONS.—The Administrator, in**
15 **consultation with the Director of the Office of**
16 **Government Ethics, shall—**

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

20 **“(2) monitor and investigate indi-**
21 **vidual and agency compliance with this**
22 **section.”.**

23 **(e) EFFECTIVE DATE.—The amendments**
24 **made by this section shall take effect on the**
25 **date of the enactment of this Act.**

Union Calendar No. 22

110TH CONGRESS
1ST Session

H. R. 1362

[Report No. 110-47, Parts I and II]

A BILL

To reform acquisition practices of the Federal
Government.

MARCH 14, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed