

110TH CONGRESS
1ST SESSION

S. 680

AN ACT

To ensure proper oversight and accountability in Federal contracting, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Accountability in Gov-
3 ernment Contracting Act of 2007”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

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- Sec. 101. Federal acquisition workforce.

TITLE II—COMPETITION AND ACCOUNTABILITY

- Sec. 201. Requirement for purchase of property and services pursuant to multiple award contracts.
- Sec. 202. Statement of work requirements for certain task or delivery orders.
- Sec. 203. Protests of task and delivery orders.
- Sec. 204. Publication of justification and approval documents.
- Sec. 205. Limitation on length of certain noncompetitive contracts.
- Sec. 206. Prohibition on award of certain large task or delivery order contracts for services.
- Sec. 207. Guidance on use of tiered evaluations of offers for contracts and task orders under contracts.
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- Sec. 301. Definitizing of letter contracts.
- Sec. 302. Preventing abuse of interagency contracts and assisted acquisition services.
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- Sec. 304. Lead systems integrators.
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- Sec. 306. Responsibility of contractors that are serious threats to national security.
- Sec. 307. Required certification of program managers for Department of Homeland Security level one programs.
- Sec. 308. Elimination of one-year limitation on interest due on late payments to contractors.
- Sec. 309. Ensuring that Federal employees perform inherently governmental work.
- Sec. 310. Report on Acquisition Advisory Panel report implementation.
- Sec. 311. Report by the Government Accountability Office.
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- Sec. 314. Use of existing funds for regulations and reports.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) Except as otherwise provided, the term “ex-
4 ecutive agency” has the meaning given such term in
5 section 4 of the Office of Federal Procurement Pol-
6 icy Act (41 U.S.C. 403).

7 (2) The term “assisted acquisition” means a
8 procedure by which an executive agency needing sup-
9 plies or services (the requesting agency) obtains
10 them from another executive agency (the servicing
11 agency). The term includes acquisitions under sec-
12 tion 1535 of title 31, United States Code (commonly
13 referred to as the “Economy Act”), title III of the
14 Federal Property and Administrative Services Act of
15 1949 (41 U.S.C. 251 et seq.), the Clinger-Cohen Act
16 of 1996 (division E of Public Law 104–106), and
17 the Government Management Reform Act of 1994
18 (Public Law 103–356; 108 Stat. 3410).

19 (3) The term “micro-purchase” means a pur-
20 chase in an amount not in excess of the micro-pur-
21 chase threshold, as defined in section 32 of the Of-
22 fice of Federal Procurement Policy Act (41 U.S.C.
23 428).

24 (4) The term “multi-agency contract” means
25 any contract available for use by more than 1 execu-
26 tive agency.

TITLE I—ACQUISITION WORKFORCE

SEC. 101. FEDERAL ACQUISITION WORKFORCE.

(a) ASSOCIATE ADMINISTRATOR FOR ACQUISITION WORKFORCE PROGRAMS.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following new subsection:

“(1) The Administrator shall designate a member of the Senior Executive Service as the Associate Administrator for Workforce Programs. The Associate Administrator for Workforce Programs shall be located in the Federal Acquisition Institute, or its successor. The Associate Administrator shall be responsible for—

“(1) supervising the acquisition workforce training fund established under section 37(h)(3);

“(2) administering the government-wide acquisition intern program established under section 43;

“(3) developing, in coordination with Chief Acquisition Officers and Chief Human Capital Officers, a human capital strategic plan for the acquisition workforce of the Federal Government;

“(4) reviewing and providing input to individual agency acquisition workforce succession plans;

“(5) recommending to the Administrator and other senior government officials appropriate pro-

1 grams, policies, and practices to increase the quan-
2 tity and quality of the Federal acquisition workforce;
3 and

4 “(6) carrying out such other functions as the
5 Administrator may assign.”.

6 (b) GOVERNMENT-WIDE ACQUISITION INTERN PRO-
7 GRAM.—The Office of Federal Procurement Policy Act
8 (41 U.S.C. 403 et seq.) is amended by adding at the end
9 the following new section:

10 **“SEC. 43. GOVERNMENT-WIDE ACQUISITION INTERN PRO-**
11 **GRAM.**

12 “(a) ESTABLISHMENT OF PROGRAM.—The Adminis-
13 trator shall establish a government-wide Acquisition In-
14 tern Program to strengthen the Federal acquisition work-
15 force to carry out its key missions through the Federal
16 procurement process. The Administrator shall have a goal
17 of involving not less than 200 college graduates per year
18 in the Acquisition Intern Program.

19 “(b) ADMINISTRATION OF PROGRAMS.—The Asso-
20 ciate Administrator for Acquisition Workforce Programs
21 designated under section 6(l) shall be responsible for the
22 management, oversight, and administration of the Acquisi-
23 tion Intern Program and shall give strong consideration
24 to utilizing existing similar programs and seek to build

1 upon those programs instead of replacing them or creating
2 new programs.

3 “(c) TERMS OF ACQUISITION INTERN PROGRAM.—

4 “(1) BUSINESS-RELATED COURSE WORK RE-
5 QUIREMENT.—

6 “(A) IN GENERAL.—Each participant in
7 the Acquisition Intern Program shall have com-
8 pleted 24 credit hours of business-related col-
9 lege course work by not later than 3 years after
10 admission into the program.

11 “(B) CERTIFICATION CRITERIA.—The Ad-
12 ministrator shall establish criteria for certifying
13 the completion of the course work requirement
14 under subparagraph (A).

15 “(2) STRUCTURE OF PROGRAM.—The Acquisi-
16 tion Intern Program shall consist of one year of pre-
17 paratory education and training in Federal procure-
18 ment followed by 3 years of on-the-job training and
19 development focused on Federal procurement but in-
20 cluding rotational assignments in other functional
21 areas.

22 “(3) EMPLOYMENT STATUS OF INTERNS.—In-
23 terns participating in the Acquisition Intern Pro-
24 gram shall be considered probationary employees
25 without civil service protections under chapter 33 of

1 title 5, United States Code. In administering any
2 personnel ceiling applicable to an executive agency
3 or a unit of an executive agency, an individual as-
4 signed as an intern under the program shall not be
5 counted.

6 “(4) AGENCY MANAGEMENT OF PROGRAM.—
7 The Chief Acquisition Officer of each executive
8 agency, in consultation with the Chief Human Cap-
9 ital Officer of such agency, shall establish a central
10 intern management function in the agency to super-
11 vise and manage interns participating in the Acqui-
12 sition Intern Program.”.

13 (c) CONTINGENCY CONTRACTING CORPS.—The Of-
14 fice of Federal Procurement Policy Act (41 U.S.C. 403
15 et seq.), as amended by subsection (b), is further amended
16 by adding at the end the following new section:

17 **“SEC. 44. CONTINGENCY CONTRACTING CORPS.**

18 “(a) ESTABLISHMENT.—The Administrator shall es-
19 tablish a government-wide Contingency Contracting Corps
20 (in this section, referred to as the ‘Corps’). The members
21 of the Corps shall be available for deployment in respond-
22 ing to disasters, natural and man-made, and contingency
23 operations both within and outside the continental United
24 States.

1 “(b) MEMBERSHIP.—Membership in the Corps shall
2 be voluntary and open to all Federal employees, including
3 uniformed members of the Armed Services, who are cur-
4 rently members of the Federal acquisition workforce.

5 “(c) EDUCATION AND TRAINING.—The Adminis-
6 trator may establish additional educational and training
7 requirements, and may pay for these additional require-
8 ments from funds available in the acquisition workforce
9 training fund.

10 “(d) CLOTHING AND EQUIPMENT.—The Adminis-
11 trator shall identify any necessary clothing and equipment
12 requirements, and may pay for this clothing and equip-
13 ment from funds available in the acquisition workforce
14 training fund.

15 “(e) SALARY.—The salaries for members of the
16 Corps shall be paid by their parent agencies out of existing
17 appropriations.

18 “(f) AUTHORITY TO DEPLOY THE CORPS.—The Ad-
19 ministrator, or the Administrator’s designee, shall have
20 the authority to determine when members of the Corps
21 shall be deployed, in consultation with the head of the
22 agency or agencies employing the members to be deployed.

23 “(g) ANNUAL REPORT.—

24 “(1) IN GENERAL.—The Administrator shall
25 provide to the Committee on Homeland Security and

1 Governmental Affairs and the Committee on Armed
2 Services of the Senate and the Committee on Over-
3 sight and Government Reform and the Committee
4 on Armed Services of the House of Representatives
5 an annual report on the status of the Contingency
6 Contracting Corps.

7 “(2) CONTENT.—At a minimum, each report
8 under paragraph (1) shall include the number of
9 members of the Contingency Contracting Corps, the
10 fully burdened cost of operating the program, the
11 number of deployments of members of the program,
12 and the performance of members of the program in
13 deployment.”.

14 (d) ACQUISITION AND CONTRACTING TRAINING PRO-
15 GRAMS.—The head of each executive agency, after con-
16 sultation with the Associate Administrator for Acquisition
17 Workforce Programs, shall establish and operate acqui-
18 sition and contracting training programs. Such programs
19 shall—

20 (1) have curricula covering a broad range of ac-
21 quisition and contracting disciplines corresponding
22 to the specific acquisition and contracting needs of
23 the agency involved;

24 (2) be developed and applied according to rig-
25 orous standards; and

1 (3) be designed to maximize efficiency, through
2 the use of self-paced courses, online courses, on-the-
3 job training, and the use of remote instructors,
4 wherever such features can be applied without re-
5 ducing the effectiveness of the training or negatively
6 impacting academic standards.

7 (e) GOVERNMENT-WIDE POLICIES AND EVALUA-
8 TION.—The Administrator shall issue policies to promote
9 the development of performance standards for training
10 and uniform implementation of this subsection by execu-
11 tive agencies, with due regard for differences in program
12 requirements among agencies that may be appropriate and
13 warranted in view of the agency mission. The Adminis-
14 trator shall evaluate the implementation of the provisions
15 of subsection (d) by executive agencies.

16 (f) CHIEF ACQUISITION OFFICER AUTHORITIES AND
17 RESPONSIBILITIES.—Subject to the authority, direction,
18 and control of the head of an executive agency, the Chief
19 Acquisition Officer of such agency shall carry out all pow-
20 ers, functions, and duties of the head of the agency with
21 respect to implementation of subsection (d). The Chief Ac-
22 quisition Officer shall ensure that the policies of the agen-
23 cy head established in accordance with such subsection are
24 implemented throughout the agency.

1 (g) ACQUISITION AND CONTRACTING TRAINING RE-
2 PORTING.—The Administrator shall ensure that the heads
3 of executive agencies collect and maintain standardized in-
4 formation on the acquisition and contracting workforce re-
5 lated to the implementation of subsection (d).

6 (h) ACQUISITION WORKFORCE HUMAN CAPITAL
7 SUCCESSION PLAN.—

8 (1) IN GENERAL.—Not later than 1 year after
9 the date of the enactment of this Act, each Chief Ac-
10 quisition Officer for an executive agency appointed
11 pursuant to section 16 of the Office of Federal Pro-
12 curement Policy Act (41 U.S.C. 414) shall develop,
13 in consultation with the Chief Human Capital Offi-
14 cer for the agency and the Associate Administrator
15 for Acquisition Workforce Programs, a succession
16 plan consistent with the agency’s strategic human
17 capital plan for the recruitment, development, and
18 retention of the agency’s acquisition workforce, with
19 a particular focus on warranted contracting officers
20 and program managers of the agency.

21 (2) CONTENT OF PLAN.—The acquisition work-
22 force succession plan shall address—

23 (A) recruitment goals for personnel from
24 procurement intern programs;

1 (B) the agency's acquisition workforce
2 training needs;

3 (C) actions to retain high performing ac-
4 quisition professionals who possess critical rel-
5 evant skills;

6 (D) recruitment goals for personnel from
7 the Federal Career Intern Program; and

8 (E) recruitment goals for personnel from
9 the Presidential Management Fellows Program.

10 (i) AUTHORIZATION OF APPROPRIATIONS FOR AC-
11 QUISTION PROGRAMS.—

12 (1) AUTHORIZATION.—There is authorized to
13 be appropriated \$5,000,000 for each of fiscal years
14 2008 and 2009 for the acquisition workforce train-
15 ing fund.

16 (2) USE OF FUNDS.—Amounts appropriated
17 pursuant to the authorization of appropriations in
18 paragraph (1) shall be used for—

19 (A) the establishment salary of the Asso-
20 ciate Administrator for Acquisition Workforce
21 Training Programs;

22 (B) the establishment and operations of
23 the Acquisition Intern Program and the Contin-
24 gency Contracting Corps;

1 (C) the costs of administering the acquisi-
2 tion workforce training fund, not to exceed 10
3 percent of the total funds available in the Fund;
4 and

5 (D) the equipping, education, and training
6 of participants in the Acquisition Intern Pro-
7 gram, personnel recruited from the Presidential
8 Management Fellowship Program, personnel re-
9 cruited from the Federal Career Intern Pro-
10 gram, and Contingency Contracting Corps Pro-
11 gram.

12 (3) AVAILABILITY.—Amounts appropriated pur-
13 suant to the authorization of appropriations under
14 paragraph (1) shall remain available until expended.

15 (j) ELIMINATION OF SUNSET PROVISION FOR ACQUI-
16 SITION WORKFORCE TRAINING FUND.—Section 37(h)(3)
17 of the Office of Federal Procurement Policy Act (41
18 U.S.C. 433(h)(3)) is amended by striking subparagraph
19 (H).

20 (k) TRAINING IN THE ACQUISITION OF ARCHITECT
21 AND ENGINEERING SERVICES.—The Administrator for
22 Federal Procurement Policy shall ensure that a sufficient
23 number of Federal employees are trained in the acquisi-
24 tion of architect and engineering services.

1 (l) EXTENSION OF DIRECT HIRING AUTHORITY.—
2 Section 1413(b) of the Services Acquisition Reform Act
3 of 2003 (title XIV of Public Law 108–136) is amended
4 by striking “September 30, 2007” and inserting “Sep-
5 tember 30, 2010”.

6 (m) QUALIFICATIONS OF CHIEF ACQUISITION OFFI-
7 CERS.—Section 16(a) of the Office of Federal Procure-
8 ment Policy Act (41 U.S.C. 414) is amended by adding
9 at the end the following new paragraph:

10 “(2) Chief Acquisition Officers shall be appointed
11 from among persons who have an extensive management
12 background.”.

13 (n) UTILIZATION OF RECRUITMENT AND RETENTION
14 AUTHORITIES.—The Administrator for Federal Procure-
15 ment Policy, in coordination with the Director of the Of-
16 fice of Personnel Management, shall encourage agencies
17 to utilize existing authorities, including direct hire author-
18 ity and tuition assistance programs, to recruit and retain
19 acquisition personnel and consider recruiting acquisition
20 personnel who may be retiring from the private sector,
21 consistent with existing laws and regulations.

1 **TITLE II—COMPETITION AND**
2 **ACCOUNTABILITY**

3 **SEC. 201. REQUIREMENT FOR PURCHASE OF PROPERTY**
4 **AND SERVICES PURSUANT TO MULTIPLE**
5 **AWARD CONTRACTS.**

6 (a) REGULATIONS REQUIRED.—Not later than 180
7 days after the date of the enactment of this Act, the Ad-
8 ministrator for Federal Procurement Policy shall promul-
9 gate in the Federal Acquisition Regulation, regulations re-
10 quiring competition in the purchase of property and serv-
11 ices by all executive agencies pursuant to multiple award
12 contracts.

13 (b) CONTENT OF REGULATIONS.—

14 (1) IN GENERAL.—The regulations required by
15 subsection (a) shall provide, at a minimum, that
16 each individual purchase of property or services in
17 excess of the simplified acquisition threshold that is
18 made under a multiple award contract shall be made
19 on a competitive basis unless a contracting officer—

20 (A) waives the requirement on the basis of
21 a determination that—

22 (i) one of the circumstances described
23 in paragraphs (1) through (4) of section
24 303J(b) of the Federal Property and Ad-
25 ministrative Services Act of 1949 (41

1 U.S.C. 253j(b)) or section 2304c(b) of title
2 10, United States Code, applies to such in-
3 dividual purchase; or

4 (ii) a law expressly authorizes or re-
5 quires that the purchase be made from a
6 specified source; and

7 (B) justifies the determination in writing.

8 (2) COMPETITIVE BASIS PROCEDURES.—For
9 purposes of this subsection, an individual purchase
10 of property or services is made on a competitive
11 basis only if it is made pursuant to procedures
12 that—

13 (A) except as provided in paragraph (3),
14 require fair notice of the intent to make that
15 purchase (including a description of the work to
16 be performed and the basis on which the selec-
17 tion will be made) to be provided to all contrac-
18 tors offering such property or services under
19 the multiple award contract; and

20 (B) afford all contractors responding to
21 the notice a fair opportunity to make an offer
22 and have that offer fairly considered by the offi-
23 cial making the purchase.

24 (3) EXCEPTION TO NOTICE REQUIREMENT.—

1 (A) IN GENERAL.—Notwithstanding para-
2 graph (2)(A), and subject to subparagraph (B),
3 notice may be provided to fewer than all con-
4 tractors offering such property or services
5 under a multiple award contract as described in
6 subsection (d)(2)(A) if notice is provided to as
7 many contractors as practicable.

8 (B) LIMITATION ON EXCEPTION.—A pur-
9 chase may not be made pursuant to a notice
10 that is provided to fewer than all contractors
11 under subparagraph (A) unless—

12 (i) offers were received from at least
13 3 qualified contractors; or

14 (ii) a contracting officer of the execu-
15 tive agency determines in writing that no
16 additional qualified contractors were able
17 to be identified despite reasonable efforts
18 to do so.

19 (c) NOTICE REQUIREMENTS RELATED TO SOLE
20 SOURCE TASK OR DELIVERY ORDERS.—The Adminis-
21 trator for Federal Procurement Policy shall promulgate
22 regulations in the Federal Acquisition Regulation requir-
23 ing the head of each executive agency—

24 (1) to publish on FedBizOpps notice of all sole
25 source task or delivery orders in excess of the sim-

1 plified acquisition threshold (as defined by section 4
2 of the Office of Federal Procurement Policy Act (41
3 U.S.C. 403)) that are placed against multiple award
4 contracts or multiple award blanket purchase agree-
5 ments not later than 10 days after such orders are
6 placed, except in the event of extraordinary cir-
7 cumstances or classified orders; and

8 (2) to publish on the Internet website of the ex-
9 ecutive agency and on FedBizOpps the justification
10 and approval documents related to sole source task
11 or delivery orders placed against multiple award con-
12 tracts or multiple award blanket purchase agree-
13 ments not later than 14 days after such orders are
14 placed, except in the event of extraordinary cir-
15 cumstances or classified orders.

16 (d) DEFINITIONS.—In this section:

17 (1) The term “individual purchase” means a
18 task order, delivery order, or other purchase.

19 (2) The term “multiple award contract”
20 means—

21 (A) a contract that is entered into by the
22 Administrator of General Services under the
23 multiple award schedule program referred to in
24 section 2302(2)(C) of title 10, United States
25 Code;

1 (B) a multiple award task order contract
2 that is entered into under the authority of sec-
3 tions 2304a through 2304d of title 10, United
4 States Code, or sections 303H through 303K of
5 the Federal Property and Administrative Serv-
6 ices Act of 1949 (41 U.S.C. 253h through
7 253k); and

8 (C) any other indefinite delivery, indefinite
9 quantity contract that is entered into by the
10 head of an executive agency with 2 or more
11 sources pursuant to the same solicitation.

12 (e) **APPLICABILITY.**—The regulations promulgated
13 by the Administrator for Federal Procurement Policy pur-
14 suant to subsection (a) shall take effect not later than 180
15 days after the date of the enactment of this Act and shall
16 apply to all individual purchases of property or services
17 that are made under multiple award contracts on or after
18 such effective date, without regard to whether the multiple
19 award contracts were entered into before, on, or after such
20 effective date.

21 **SEC. 202. STATEMENT OF WORK REQUIREMENTS FOR CER-**
22 **TAIN TASK OR DELIVERY ORDERS.**

23 (a) **CIVILIAN CONTRACTS.**—Section 303J(c) of the
24 Federal Property and Administrative Services Act of 1949
25 (41 U.S.C. 253j(c)) is amended to read as follows:

1 “(c) STATEMENT OF WORK AND SELECTION
2 BASIS.—

3 “(1) IN GENERAL.—A task or delivery order
4 shall include a statement of work that clearly speci-
5 fies all tasks to be performed or property to be deliv-
6 ered under the order.

7 “(2) TASK OR DELIVERY ORDERS IN EXCESS OF
8 THE THRESHOLD FOR USE OF SIMPLIFIED PROCE-
9 DURES FOR COMMERCIAL ITEMS.—The statement of
10 work for a task or delivery order in excess of the
11 threshold for use of simplified procedures for com-
12 mercial items under a task or delivery order contract
13 shall be made available to each contractor awarded
14 such contract and shall—

15 “(A) include a clear statement of the execu-
16 tive agency’s requirements;

17 “(B) permit a reasonable response period;

18 “(C) disclose the significant factors and
19 sub-factors that the executive agency expects to
20 consider in evaluating proposals, including cost,
21 price, past performance, and the relative impor-
22 tance of those and other factors;

23 “(D) in the case of an award that is to be
24 made on a best value basis, include a written
25 statement documenting the basis for the award

1 and the relative importance of quality, past per-
2 formance, and price or cost factors; and

3 “(E) provide an opportunity for a post-
4 award debriefing consistent with the require-
5 ments of section 303B(e).”.

6 (b) DEFENSE CONTRACTS.—Section 2304e(c) of title
7 10, United States Code, is amended to read as follows:

8 “(c) STATEMENT OF WORK AND SELECTION
9 BASIS.—

10 “(1) IN GENERAL.—A task or delivery order
11 shall include a statement of work that clearly speci-
12 fies all tasks to be performed or property to be deliv-
13 ered under the order.

14 “(2) TASK OR DELIVERY ORDERS IN EXCESS OF
15 THE THRESHOLD FOR USE OF SIMPLIFIED PROCE-
16 DURES FOR COMMERCIAL ITEMS.—The statement of
17 work for a task or delivery order in excess of the
18 threshold for use of simplified procedures for com-
19 mercial items under a task or delivery order contract
20 shall be made available to each contractor awarded
21 such contract and shall—

22 “(A) include a clear statement of the agen-
23 cy’s requirements;

24 “(B) permit a reasonable response period;

1 “(C) disclose the significant factors and
2 sub-factors that the agency expects to consider
3 in evaluating proposals, including cost, price,
4 past performance, and the relative importance
5 of those and other factors;

6 “(D) in the case of an award that is to be
7 made on a best value basis, include a written
8 statement documenting the basis for the award
9 and the relative importance of quality, past per-
10 formance, and price or cost factors; and

11 “(E) provide an opportunity for a post-
12 award debriefing consistent with the require-
13 ments of section 2305(b)(5) of this title.”.

14 **SEC. 203. PROTESTS OF TASK AND DELIVERY ORDERS.**

15 (a) CIVILIAN AGENCY CONTRACTS.—Section 303J(d)
16 of the Federal Property and Administrative Services Act
17 of 1949 (41 U.S.C. 253j(d)) is amended to read as follows:

18 “(d) PROTESTS.—A protest is not authorized in con-
19 nection with the issuance or proposed issuance of a task
20 or delivery order except for—

21 “(1) a protest on the ground that the order in-
22 creases the scope, period, or maximum value of the
23 contract under which the order is issued; or

24 “(2) a protest by an interested party of an
25 order valued at greater than the threshold estab-

1 lished pursuant to section 203(c) of the Account-
2 ability in Government Contracting Act of 2007.”.

3 (b) DEFENSE CONTRACTS.—Section 2304c(d) of title
4 10, United States Code is amended to read as follows:

5 “(d) PROTESTS.—A protest is not authorized in con-
6 nection with the issuance or proposed issuance of a task
7 or delivery order except for—

8 “(1) a protest on the ground that the order in-
9 creases the scope, period, or maximum value of the
10 contract under which the order is issued; or

11 “(2) a protest by an interested party of an
12 order valued at greater than the threshold estab-
13 lished pursuant to section 203(c) of the Account-
14 ability in Government Contracting Act of 2007.”.

15 (c) ESTABLISHMENT OF THRESHOLD.—The Admin-
16 istrator for Federal Procurement Policy shall promulgate
17 a rule in the Federal Acquisition Regulation establishing
18 a threshold for protests under section 303J(d) of the Fed-
19 eral Property and Administrative Services Act of 1949 (41
20 U.S.C. 253j(d)) and section 2304c(d) of title 10, United
21 States Code, as amended by subsections (a) and (b), re-
22 spectively. The threshold shall be \$5,000,000 unless the
23 Administrator determines that the threshold is unduly
24 burdensome on executive agencies, in which case the Ad-
25 ministrator may increase the threshold, but in no case

1 shall the threshold exceed \$25,000,000. The threshold
2 shall be \$5,000,000 until a final rule is promulgated in
3 accordance with such determination.

4 **SEC. 204. PUBLICATION OF JUSTIFICATION AND APPROVAL**
5 **DOCUMENTS.**

6 (a) CIVILIAN CONTRACTS.—Section 303(f)(1) of the
7 Federal Property and Administrative Services Act of 1949
8 (41 U.S.C. 253(f)(1)) is amended—

9 (1) in subparagraph (B)(iii), by striking “;
10 and” and inserting a semicolon;

11 (2) in subparagraph (C), by striking the period
12 at the end and inserting “; and”; and

13 (3) by adding at the end the following new sub-
14 paragraph:

15 “(D) the justification and approval documents
16 are made publicly available on the Internet website
17 of the agency and FedBizOpps.”.

18 (b) DEFENSE CONTRACTS.—Section 2304(f) of title
19 10, United States Code, is amended—

20 (1) in subparagraph (B)(iii), by striking “;
21 and” and inserting a semicolon;

22 (2) in subparagraph (C), by striking the period
23 at the end and inserting “; and”; and

24 (3) by adding at the end the following new sub-
25 paragraph:

1 “(D) the justification and approval documents
2 are made publicly available on the Internet website
3 of the agency and FedBizOpps.”.

4 **SEC. 205. LIMITATION ON LENGTH OF CERTAIN NON-**
5 **COMPETITIVE CONTRACTS.**

6 (a) CIVILIAN AGENCY CONTRACTS.—Section 303(d)
7 of the Federal Property and Administrative Services Act
8 of 1949 (41 U.S.C. 253(d)) is amended by adding at the
9 end the following new paragraph:

10 “(3)(A) The contract period of a contract described
11 in subparagraph (B) that is entered into by an executive
12 agency pursuant to the authority provided under sub-
13 section (c)(2)—

14 “(i) may not exceed the time necessary—

15 “(I) to meet the unusual and compelling
16 requirements of the work to be performed under
17 the contract; and

18 “(II) for the executive agency to enter into
19 another contract for the required goods or serv-
20 ices through the use of competitive procedures;
21 and

22 “(ii) may not exceed 270 days unless the head
23 of the executive agency entering into such contract
24 determines that exceptional circumstances apply.

1 “(B) This paragraph applies to any contract in an
2 amount greater than the simplified acquisition threshold
3 (as defined by section 4 of the Office of Federal Procure-
4 ment Policy Act (41 U.S.C. 403)).”.

5 (b) DEFENSE CONTRACTS.—Section 2304(d) of title
6 10, United States Code, is amended by adding at the end
7 the following new paragraph:

8 “(3)(A) The contract period of a contract described
9 in subparagraph (B) that is entered into by an agency
10 pursuant to the authority provided under subsection
11 (c)(2)—

12 “(i) may not exceed the time necessary—

13 “(I) to meet the unusual and compelling
14 requirements of the work to be performed under
15 the contract; and

16 “(II) for the agency to enter into another
17 contract for the required goods or services
18 through the use of competitive procedures; and

19 “(ii) may not exceed 270 days unless the head
20 of the agency entering into such contract determines
21 that exceptional circumstances apply.

22 “(B) This paragraph applies to any contract in an
23 amount greater than the simplified acquisition threshold
24 (as defined by section 4 of the Office of Federal Procure-
25 ment Policy Act (41 U.S.C. 403)).”.

1 **SEC. 206. PROHIBITION ON AWARD OF CERTAIN LARGE**
2 **TASK OR DELIVERY ORDER CONTRACTS FOR**
3 **SERVICES.**

4 (a) CIVILIAN AGENCY CONTRACTS.—Section
5 303H(d) of the Federal Property and Administrative
6 Services Act of 1949 (41 U.S.C. 253h(d)) is amended by
7 adding at the end the following new paragraph:

8 “(4)(A) No task or delivery order contract for serv-
9 ices in an amount estimated to exceed \$100,000,000 (in-
10 cluding all options) may be awarded to a single contractor
11 unless the head of the executive agency determines in writ-
12 ing that—

13 “(i) because of the size, scope, or method of
14 performance of the requirement, it would not be
15 practical to award multiple task or delivery order
16 contracts;

17 “(ii) the task orders expected under the con-
18 tract are so integrally related that only a single con-
19 tractor can reasonably perform the work; or

20 “(iii) for any other reason, it is necessary in the
21 public interest to award the contract to a single con-
22 tractor.

23 “(B) The head of the executive agency shall notify
24 Congress within 30 days of any determination under sub-
25 paragraph (A)(iii).

1 “(C) The head of the executive agency shall post the
2 justification and approval documents related to a deter-
3 mination under subparagraph (A) on the Internet website
4 of the agency and on the Federal Business Opportunities
5 (FedBizOpps) Internet website.”.

6 (b) DEFENSE CONTRACTS.—Section 2304a(d) of title
7 10, United States Code, is amended by adding at the end
8 the following new paragraph:

9 “(4)(A) No task or delivery order contract for serv-
10 ices in an amount estimated to exceed \$100,000,000 (in-
11 cluding all options) may be awarded to a single contractor
12 unless the head of the agency determines in writing that—

13 “(i) because of the size, scope, or method of
14 performance of the requirement, it would not be
15 practical to award multiple task or delivery order
16 contracts;

17 “(ii) the task orders expected under the con-
18 tract are so integrally related that only a single con-
19 tractor can reasonably perform the work; or

20 “(iii) for any other reason, it is necessary in the
21 public interest to award the contract to a single con-
22 tractor.

23 “(B) The head of the agency shall notify Congress
24 within 30 days of any determination under subparagraph
25 (A)(iii).

1 cient number of qualified small businesses are avail-
2 able to justify limiting competition for the award of
3 such contract or task or delivery order under appli-
4 cable law and regulations;

5 (2) is unable, after conducting market research
6 under paragraph (1), to make the determination de-
7 scribed in that paragraph; and

8 (3) includes in the contract file a written expla-
9 nation of why such contracting officer was unable to
10 make such determination.

11 **SEC. 208. GUIDANCE ON USE OF COST-REIMBURSEMENT**

12 **CONTRACTS.**

13 (a) **IN GENERAL.**—Not later than 180 days after the
14 date of the enactment of this Act, the Administrator for
15 Federal Procurement Policy shall promulgate in the Fed-
16 eral Acquisition Regulation, regulations outlining the
17 proper use of cost-reimbursement contracts.

18 (b) **CONTENT.**—The regulations promulgated under
19 subsection (a) shall include at minimum guidance regard-
20 ing—

21 (1) when and under what circumstances cost re-
22 imbursement contracts are appropriate;

23 (2) the acquisition plan findings necessary to
24 support a decision to use cost reimbursement con-
25 tracts; and

1 (3) the acquisition workforce resources nec-
2 essary to award and manage cost reimbursement
3 contracts.

4 (c) INSPECTOR GENERAL REVIEW.—The Inspector
5 General for each executive agency shall develop and sub-
6 mit as part of its annual audit plan a review of the use
7 of cost reimbursement contracts.

8 **SEC. 209. PREVENTING CONFLICTS OF INTEREST.**

9 (a) ORGANIZATIONAL CONFLICTS OF INTEREST.—
10 The Administrator for Federal Procurement Policy shall
11 create new, uniform, government-wide policies aimed at
12 preventing and mitigating organizational conflicts of inter-
13 est in Federal contracting, including—

14 (1) considering development of a standard orga-
15 nizational conflict of interest clause, or a set of
16 standard organizational conflict of interest clauses,
17 for inclusion in solicitations and contracts that set
18 forth the contractor’s responsibilities with respect to
19 its employees, subcontractors, partners, and any
20 other affiliated organizations or individuals;

21 (2) addressing conflicts that may arise in the
22 context of developing requirements and statements
23 of work, the selection process, and contract adminis-
24 tration;

1 (3) ensuring that adequate organizational con-
2 flict of interest safeguards are enacted in situations
3 in which contractors are employed by the Federal
4 Government to oversee other contractors or are hired
5 to assist in the acquisition process;

6 (4) ensuring that any policies or clauses devel-
7 oped address conflicts of interest that may arise
8 from financial interests, unfair competitive advan-
9 tages, and impaired objectivity; and

10 (5) maintaining a repository of best practices
11 relating to the prevention of organizational conflicts
12 of interest.

13 (b) **PERSONAL CONFLICTS OF INTEREST.**—The Ad-
14 ministrators for Federal Procurement Policy shall create
15 new, uniform, government-wide policies aimed at pre-
16 venting personal conflicts of interest by contractor employ-
17 ees in Federal contracting, including—

18 (1) determining whether greater disclosure, spe-
19 cific prohibitions, or reliance on specified principles
20 will accomplish the end objective of ethical behavior;

21 (2) identifying types of contracts that raise
22 heightened concerns for potential conflicts of inter-
23 est;

24 (3) considering the development of a standard
25 ethics clause or a set of standard ethics clauses that

1 set forth the contractor's responsibility for inclusion
2 in solicitations and contracts; and

3 (4) maintaining a repository of best practices
4 relating to the prevention of personal conflicts of in-
5 terest.

6 (c) REPORT.—Not later than 180 days after the date
7 of the enactment of this Act, the Administrator for Fed-
8 eral Procurement Policy shall submit to the Committee on
9 Homeland Security and Governmental Affairs of the Sen-
10 ate and the Committee on Oversight and Government Re-
11 form of the House of Representatives a report on actions
12 taken under this section.

13 **SEC. 210. LINKING OF AWARD AND INCENTIVE FEES TO AC-**
14 **QUISITION OUTCOMES.**

15 (a) GUIDANCE ON LINKING OF AWARD AND INCEN-
16 TIVE FEES TO ACQUISITION OUTCOMES.—Not later than
17 180 days after the date of the enactment of this Act, the
18 Administrator for Federal Procurement Policy shall issue
19 guidance, with detailed implementation instructions (in-
20 cluding definitions), for executive agencies on the appro-
21 priate use of award and incentive fees in Federal acquisi-
22 tion programs.

23 (b) ELEMENTS.—The guidance under subsection (a)
24 shall—

1 (1) ensure that all new contracts using award
2 fees link such fees to acquisition outcomes (which
3 shall be defined in terms of program cost, schedule,
4 and performance);

5 (2) establish standards for identifying the ap-
6 propriate level of officials authorized to approve the
7 use of award and incentive fees in new contracts;

8 (3) provide guidance on the circumstances in
9 which contractor performance may be judged to be
10 “excellent” or “superior” and the percentage of the
11 available award fee which contractors should be paid
12 for such performance;

13 (4) establish standards for determining the per-
14 centage of the available award fee, if any, which con-
15 tractors should be paid for performance that is
16 judged to be “acceptable”, “average”, “expected”,
17 “good”, or “satisfactory”;

18 (5) ensure that no award fee may be paid for
19 contractor performance that is judged to be below
20 satisfactory performance or performance that does
21 not meet the basic requirements of the contract;

22 (6) provide specific direction on the cir-
23 cumstances, if any, in which it may be appropriate
24 to roll over award fees that are not earned in one

1 award fee period to a subsequent award fee period
2 or periods;

3 (7) ensure consistent use of guidelines and defi-
4 nitions relating to award and incentive fees across
5 the Federal Government;

6 (8) ensure that each executive agency—

7 (A) collects relevant data on award and in-
8 centive fees paid to contractors; and

9 (B) has mechanisms in place to evaluate
10 such data on a regular basis;

11 (9) include performance measures to evaluate
12 the effectiveness of award and incentive fees as a
13 tool for improving contractor performance and
14 achieving desired program outcomes; and

15 (10) provide mechanisms for sharing proven in-
16 centive strategies for the acquisition of different
17 types of products and services among contracting
18 and program management officials.

19 **TITLE III—ACCOUNTABILITY** 20 **AND ADMINISTRATION**

21 **SEC. 301. DEFINITIZING OF LETTER CONTRACTS.**

22 (a) CIVILIAN CONTRACTS.—The Federal Property
23 and Administrative Services Act of 1949 (41 U.S.C. 251
24 et seq.) is amended by adding at the end the following
25 new section:

1 **“SEC. 318. DEFINITIZING OF LETTER CONTRACTS.**

2 “The head of an executive agency shall unilaterally
 3 determine all missing terms in an undefinitized letter con-
 4 tract that have not been agreed upon within 180 days
 5 after such letter contract has been entered into or before
 6 40 percent of the work under such letter contract has been
 7 completed. Any terms so determined shall be subject to
 8 the contract disputes process.”.

9 (b) **DEFENSE CONTRACTS.—**10 (1) **DEFINITIZING OF LETTER CONTRACTS.—**

11 Chapter 137 of title 10, United States Code, is
 12 amended by inserting after at the end the following
 13 new section:

14 **“§ 2334. Definitizing of letter contracts**

15 “The head of an agency shall unilaterally determine
 16 all missing terms in an undefinitized letter contract that
 17 have not been agreed upon within 180 days after such let-
 18 ter contract has been entered into or before the funds obli-
 19 gated under such letter contract exceed 50 percent of the
 20 not-to-exceed cost of the contract. Any terms so deter-
 21 mined shall be subject to the contract disputes process.”.

22 (2) **CLERICAL AMENDMENT.—**The table of sec-

23 tions at the beginning of such chapter is amended
 24 by adding at the end the following new item:

“2334. Definitizing of letter contracts.”.

1 **SEC. 302. PREVENTING ABUSE OF INTERAGENCY CON-**
2 **TRACTS AND ASSISTED ACQUISITION SERV-**
3 **ICES.**

4 (a) OFFICE OF MANAGEMENT AND BUDGET POLICY
5 GUIDANCE.—

6 (1) REPORT AND GUIDELINES.—Not later than
7 one year after the date of the enactment of this Act,
8 the Director of the Office of Management and Budg-
9 et shall—

10 (A) submit to Congress a comprehensive
11 report on interagency acquisitions, including
12 their frequency of use, management controls,
13 cost-effectiveness, and savings generated; and

14 (B) issue guidelines to assist the heads of
15 executive agencies in improving the manage-
16 ment of interagency acquisitions.

17 (2) MATTERS COVERED BY GUIDELINES.—For
18 purposes of paragraph (1)(B), the Director shall in-
19 clude guidelines on the following matters:

20 (A) Procedures for the use of interagency
21 acquisitions to maximize competition, deliver
22 best value to executive agencies, and minimize
23 waste, fraud, and abuse.

24 (B) Categories of contracting inappropriate
25 for interagency acquisition, due to high risk of
26 waste, fraud, or abuse.

1 (C) Requirements for training acquisition
2 workforce personnel in the proper use of inter-
3 agency acquisitions.

4 (b) REGULATIONS REQUIRED.—Not later than one
5 year after the date of the enactment of this Act, the Fed-
6 eral Acquisition Regulation shall be revised to require that
7 all assisted acquisitions—

8 (1) include a written agreement between the re-
9 questing agency and the servicing agency assigning
10 responsibility for the administration and manage-
11 ment of the contract;

12 (2) include a determination that an assisted ac-
13 quisition is the best procurement alternative; and

14 (3) include sufficient documentation to ensure
15 an adequate audit.

16 (c) AGENCY REPORTING REQUIREMENT.—The senior
17 procurement executive for each executive agency shall, as
18 directed by the Director of the Office of Management and
19 Budget, submit to the Director annual reports on the ac-
20 tions taken by the executive agency pursuant to the guide-
21 lines issued under subsection (a).

22 (d) REPORT ON INTERAGENCY CONTRACTING.—

23 (1) IN GENERAL.—Not later than 90 days after
24 the date of the enactment of this Act, the Adminis-

1 trator for Federal Procurement Policy shall report
2 on a survey of existing interagency contracts.

3 (2) CONTENT.—The report under paragraph
4 (1) shall include the following information:

5 (A) The number of interagency contracts
6 that are currently in operation, and the scope,
7 sponsoring agencies, primary users, activity lev-
8 els (in terms of orders and value) for the most
9 recent fiscal year, and rationales for such con-
10 tracts.

11 (B) The level of acquisition activity con-
12 ducted by the Intergovernmental Revolving
13 Funds (including the Franchise Funds) on be-
14 half of other executive agencies.

15 (C) The number of enterprisewide, single
16 agency contracts that are currently in oper-
17 ation, and the scope, activity levels (in terms of
18 orders and value) for the most recent fiscal
19 year, and rationales for such contracts.

20 (3) PUBLICATION.—The Director of the Office
21 of Management and Budget shall make the report
22 under this subsection publicly available, subject to
23 applicable statutory and regulatory limits on the re-
24 lease of such information.

1 (e) REVIEW OF FEDERAL SUPPLY SCHEDULE CON-
2 TRACTS.—Not later than 270 days after the date of the
3 enactment of this Act, the Administrator of General Serv-
4 ices shall review existing Federal Supply Schedule (FSS)
5 contracts to determine whether, in light of the entire in-
6 ventory of interagency contracts, any of the FSS contracts
7 should be eliminated in order to avoid unnecessary dupli-
8 cation.

9 (f) REVIEW AND AUTHORIZATION OF MULTI-AGENCY
10 CONTRACTS.—

11 (1) REGULATIONS REQUIRED.—Not later than
12 180 days after the date of the enactment of this Act,
13 the Administrator for Federal Procurement Policy
14 shall publish in the Federal Acquisition Regulation,
15 regulations requiring that the acquisition plan in
16 support of multi-agency contracts shall include a
17 business case analysis justifying the award and ad-
18 ministration of the contract. At a minimum, the
19 business case shall include the fully burdened cost to
20 the Federal Government of awarding and admin-
21 istering the contract and the impact the contract will
22 have on the ability of the Federal Government to le-
23 verage its buying power.

24 (2) REVIEW.—Not later than 270 days after
25 the date of enactment of this Act, the Administrator

1 for Federal Procurement Policy, in consultation with
2 the Administrator of General Services, shall review
3 all multi-agency contracts and determine whether
4 each contract is cost effective or redundant with ex-
5 isting contracts available for multi-agency use.

6 (3) APPROVAL REQUIRED.—No executive agen-
7 cy may exercise an option on an existing multi-agen-
8 cy contract or award a new multi-agency contract
9 without the express written approval of the Adminis-
10 trator for Federal Procurement Policy.

11 (4) EVALUATION OF COSTS.—In determining
12 whether a contract is cost effective, the Adminis-
13 trator shall evaluate the fully burdened costs associ-
14 ated with awarding and maintaining the contract. In
15 the event that the fully burdened costs cannot be de-
16 termined, the Administrator shall use the same for-
17 mula for determining agency performance of a func-
18 tion identified in OMB Circular A-76.

19 (g) REVIEW OF OTHER INDEFINITE DELIVERY, IN-
20 DEFINITE QUANTITY CONTRACTS.—

21 (1) REVIEW.—Not later than 270 days after
22 the date of the enactment of this Act, the head of
23 each executive agency, in consultation with the Ad-
24 ministrator for Federal Procurement Policy, shall re-
25 view all indefinite delivery, indefinite quantity con-

1 tracts awarded by the executive agency and deter-
2 mine whether those contracts are cost effective or re-
3 dundant with other contracts within the agency or
4 available for the agency’s use.

5 (2) EVALUATION OF COSTS.—In determining
6 whether a contract is cost effective, the head of the
7 executive agency shall evaluate the fully burdened
8 costs associated with awarding and maintaining the
9 contract. In cases where the fully burdened costs
10 cannot be determined, the Administrator shall use
11 the same formula for determining Agency perform-
12 ance of a function identified in Office of Manage-
13 ment and Budget Circular A–76.

14 (h) IMPROVED TRANSPARENCY OF INTERAGENCY
15 CONTRACTING DATA.—Not later than 180 days after the
16 date of the enactment of this Act, the Director of the Of-
17 fice of Management and Budget shall direct appropriate
18 revisions to the government-wide procurement system
19 known as the Federal Procurement Data System-Next
20 Generation in order to facilitate the collecting and publica-
21 tion of complete and reliable order-level data on inter-
22 agency contracting transactions.

23 (i) EXECUTIVE AGENCY DEFINED.—In this section,
24 the term “executive agency” includes the Department of

1 Defense, but does not include the military departments
2 and defense agencies.

3 **SEC. 303. PURCHASE CARD WASTE ELIMINATION.**

4 (a) REQUIREMENT FOR GUIDANCE.—

5 (1) OFFICE OF MANAGEMENT AND BUDGET
6 POLICY GUIDANCE.—Not later than 180 days after
7 the date of the enactment of this Act, the Director
8 of the Office of Management and Budget shall issue
9 guidelines to assist the heads of executive agencies
10 in improving the management of the use of the Gov-
11 ernmentwide commercial purchase card for making
12 micro-purchases. The Director shall include guide-
13 lines on the following matters:

14 (A) Analysis of purchase card expenditures
15 to identify opportunities for achieving savings
16 through micro-purchases made in economical
17 volumes.

18 (B) Negotiation of discount agreements
19 with major vendors accepting the purchase
20 card.

21 (C) Establishment of communication pro-
22 grams to ensure that purchase cardholders re-
23 ceive information pertaining to the availability
24 of discounts, including programs for the train-

1 ing of purchase cardholders on the availability
2 of discounts.

3 (D) Assessment of cardholder purchasing
4 practices, including use of discount agreements.

5 (E) Collection and dissemination of best
6 practices and successful strategies for achieving
7 savings in micro-purchases.

8 (F) Analysis of purchase card expenditures
9 to identify opportunities for achieving and accu-
10 rately measuring fair participation of small
11 business concerns in micro-purchases consistent
12 with the national policy on small business par-
13 ticipation in Federal procurement set forth in
14 sections 2(a) and 15(g) of the Small Business
15 Act (15 U.S.C. 631(a) and 644(g)), and dis-
16 semination of best practices for participation of
17 small business concerns in micro-purchases.

18 (2) GENERAL SERVICES ADMINISTRATION.—

19 The Administrator of General Services shall—

20 (A) continue efforts to improve reporting
21 by financial institutions that issue the Govern-
22 mentwide commercial purchase card so that the
23 General Services Administration has the data
24 needed to identify opportunities for achieving
25 savings; and

1 (B) actively pursue point-of-sale discounts
2 with major vendors accepting the purchase card
3 so that any Federal Government purchaser
4 using the purchase card can benefit from such
5 point-of-sale discounts.

6 (3) AGENCY REPORTING REQUIREMENT.—The
7 senior procurement executive for each executive
8 agency shall, as directed by the Director of the Of-
9 fice of Management and Budget, submit to the Di-
10 rector periodic reports on the actions taken in such
11 executive agency pursuant to the guidelines issued
12 under paragraph (1).

13 (4) CONGRESSIONAL OVERSIGHT.—Not later
14 than December 31 of the year following the year in
15 which this Act is enacted, and December 31 of each
16 of the ensuing 3 years, the Director of the Office of
17 Management and Budget shall submit to the Com-
18 mittee on Homeland Security and Governmental Af-
19 fairs of the Senate and the Committee on Oversight
20 and Government Reform of the House of Represent-
21 atives a report summarizing for the fiscal year end-
22 ing in the year in which such report is due the
23 progress made—

1 (A) in improving the management of the
2 use of the Governmentwide commercial pur-
3 chase card for making micro-purchases; and

4 (B) in achieving savings in micro-pur-
5 chases made with such card, expressed in terms
6 of average savings achieved by each executive
7 agency in the use of discount agreements identi-
8 fied in paragraph (1) and the total savings
9 achieved Governmentwide.

10 (b) PAYMENTS TO FEDERAL CONTRACTORS WITH
11 FEDERAL TAX DEBT.—The General Services Administra-
12 tion, in conjunction with the Internal Revenue Service and
13 the Financial Management Service, shall develop proce-
14 dures to subject purchase card payments to Federal con-
15 tractors to the Federal Payment Levy program.

16 (c) REPORTING OF AIR TRAVEL BY FEDERAL GOV-
17 ERNMENT EMPLOYEES.—

18 (1) ANNUAL REPORTS REQUIRED.—The Admin-
19 istrator of the General Services shall submit annu-
20 ally to the Committee on Homeland Security and
21 Governmental Affairs of the Senate and the Com-
22 mittee on Oversight and Government Reform of the
23 House of Representatives a report on all first class
24 and business class travel by employees of each exec-

1 utive agency undertaken at the expense of the Fed-
2 eral Government.

3 (2) CONTENT.—The reports submitted pursu-
4 ant to paragraph (1) shall include, at a minimum,
5 with respect to each travel by first class or business
6 class—

7 (A) the names of each traveler;

8 (B) the date of travel;

9 (C) the points of origination and destina-
10 tion;

11 (D) the cost of the first class or business
12 class travel; and

13 (E) the cost difference between such travel
14 and travel by coach class.

15 **SEC. 304. LEAD SYSTEMS INTEGRATORS.**

16 (a) STUDY.—Not later than 180 days after the date
17 of the enactment of this Act, the Administrator for Fed-
18 eral Procurement Policy shall develop a government-wide
19 definition of lead systems integrators and complete a
20 study on the use of such integrators by executive agencies.

21 (b) GUIDANCE.—Not later than 180 days after the
22 study under subsection (a) is completed, the Adminis-
23 trator for Federal Procurement Policy shall issue guidance
24 on the appropriate use of lead system integrators to en-

1 sure that they are used in the best interests of the Federal
2 Government.

3 **SEC. 305. LIMITATIONS ON TIERING OF SUBCONTRACTORS.**

4 (a) REGULATIONS.—The Administrator for Federal
5 Procurement Policy shall promulgate regulations applica-
6 ble to contracts described in subsection (b) to minimize
7 the excessive use by contractors of subcontractors or tiers
8 of subcontractors in cases where a subcontractor does not
9 perform work in proportion to any overhead or profit that
10 the subcontractor receives under the contract.

11 (b) COVERED CONTRACTS.—This section applies to
12 any cost-reimbursement type contract or task or delivery
13 order in an amount greater than the simplified acquisition
14 threshold (as defined by section 4 of the Office of Federal
15 Procurement Policy Act (41 U.S.C. 403)).

16 **SEC. 306. RESPONSIBILITY OF CONTRACTORS THAT ARE**
17 **SERIOUS THREATS TO NATIONAL SECURITY.**

18 (a) RESPONSIBILITY OF CONTRACTOR.—The con-
19 tracting officer for an executive agency may consider
20 whether a contractor may pose a serious threat to national
21 security in assessing whether a contractor is responsible
22 enough to be awarded a Federal contract.

23 (b) REGULATIONS.—Not later than 180 days after
24 the date of the enactment of this Act, the Administrator

1 for Federal Procurement Policy shall provide guidance to
2 executive agencies on implementation of this section.

3 **SEC. 307. REQUIRED CERTIFICATION OF PROGRAM MAN-**
4 **AGERS FOR DEPARTMENT OF HOMELAND SE-**
5 **CURITY LEVEL ONE PROGRAMS.**

6 Not later than one year after the date of the enact-
7 ment of this Act, the Secretary of Homeland Security shall
8 assign to each program of the Department of Homeland
9 Security with an estimated value of more than
10 \$100,000,000 at least one program manager certified by
11 the Secretary as competent to administer programs of that
12 size.

13 **SEC. 308. ELIMINATION OF ONE-YEAR LIMITATION ON IN-**
14 **TEREST DUE ON LATE PAYMENTS TO CON-**
15 **TRACTORS.**

16 Section 3901(d)(3)(A) of title 31, United States
17 Code, is amended to read as follows:

18 “(3)(A) Except as provided in subparagraph (B), an
19 interest penalty under this chapter does not continue to
20 accrue after a claim for an interest penalty is filed in the
21 manner described in paragraph (2).”.

22 **SEC. 309. ENSURING THAT FEDERAL EMPLOYEES PERFORM**
23 **INHERENTLY GOVERNMENTAL WORK.**

24 The Administrator for Federal Procurement Policy
25 shall—

1 (1) analyze the services for which agencies are
2 contracting (other than through the process gov-
3 erned by Office of Management and Budget Circular
4 A-76);

5 (2) establish government-wide guidelines to en-
6 sure that inherently governmental work is performed
7 by Federal employees; and

8 (3) report to the Committee on Homeland Se-
9 curity and Governmental Affairs of the Senate and
10 the Committee on Oversight and Government Re-
11 form of the House of Representatives on actions
12 taken under this section not later than 180 days
13 after the date of the enactment of this Act.

14 **SEC. 310. REPORT ON ACQUISITION ADVISORY PANEL RE-**
15 **PORT IMPLEMENTATION.**

16 (a) IN GENERAL.—Not later than 90 days after the
17 date of the enactment of this Act, the Director of the Of-
18 fice of Management and Budget shall submit to the Com-
19 mittee on Homeland Security and Governmental Affairs
20 of the Senate and the Committee on Oversight and Gov-
21 ernment Reform of the House of Representatives a com-
22 prehensive report on implementation of the recommenda-
23 tions of the Acquisition Advisory Panel (in this section re-
24 ferred to as the “Panel”) established under section 1423

1 of the Services Acquisition Reform Act of 2003 (title XIV
2 of Public Law 108–136; 41 U.S.C. 405 note).

3 (b) CONTENT.—The report required under subsection
4 (a) shall include—

5 (1) a description of the implementation of the
6 recommendations of the Panel; and

7 (2) with respect to any recommendations of the
8 Panel not implemented, a justification and discus-
9 sion of the reasons for not implementing such rec-
10 ommendations.

11 **SEC. 311. REPORT BY THE GOVERNMENT ACCOUNTABILITY**

12 **OFFICE.**

13 (a) REPORT.—In order to assess additional actions
14 that should be taken to further improve the acquisition
15 system, the Comptroller General of the United States
16 shall, not later than 1 year after the date of the enactment
17 of this Act, conduct reviews and submit one or more re-
18 ports to Congress on Federal acquisition policy.

19 (b) CONTENT.—The report required under subsection
20 (a) shall include the following:

21 (1) An assessment of the 2 statutory standards
22 governing the qualifications of the government’s ac-
23 quisition workforce and an assessment of the imple-
24 mentation of and practical impact of both standards

1 and whether there should be a single standard for
2 the acquisition workforce.

3 (2) A list and assessment of all Federal institu-
4 tions providing acquisition and program manage-
5 ment education and training and a recommendation
6 on the advisability of continuing to offer education
7 and training through multiple institutions or wheth-
8 er education and training should be combined at one
9 government-wide institution.

10 (3) A review of agency compliance with Section
11 1412 of the Services Acquisition Reform Act of 2003
12 (title XIV of Public Law 108–136; 41 U.S.C. 433
13 note), including whether agencies have appointed
14 Chief Acquisition Officers whose primary duties are
15 acquisition management, and recommendations for
16 the appointment of Chief Acquisition Officers gov-
17 ernment-wide.

18 (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-
19 VIEW.—Not later than 18 months after the date of the
20 enactment of this Act, the Comptroller General of the
21 United States shall review the determinations made by ex-
22 ecutive agencies under section 303(g) regarding indefinite
23 delivery, indefinite quantity contracts and shall submit to
24 Congress a report on the implementation of requirements
25 related to such determinations.

1 **SEC. 312. MAPPING AND SURVEYING SERVICES.**

2 The Administrator for Federal Procurement Policy
3 shall amend the Federal Acquisition Regulation to provide
4 guidance on contracting for mapping and surveying serv-
5 ices in accordance with chapter 11 of title 40, United
6 States Code, to ensure that these services are being pro-
7 cured through appropriate competitive procedures and
8 that offers are evaluated using a qualifications-based se-
9 lection process.

10 **SEC. 313. TIMELY AND ACCURATE TRANSMISSION OF IN-**
11 **FORMATION INCLUDED IN FEDERAL PRO-**
12 **CUREMENT DATA SYSTEM.**

13 Section 19 of the Office of Federal Procurement Pol-
14 icy Act (41 U.S.C. 417(d)) is amended to read as follows:

15 “(d) TRANSMISSION AND DATA ENTRY OF INFORMA-
16 TION.—The head of each executive agency shall ensure the
17 accuracy of the information included in the record estab-
18 lished and maintained by such agency under subsection
19 (a) and shall timely transmit such information to the Gen-
20 eral Services Administration for entry into the Federal
21 Procurement Data System referred to in section 6(d)(4),
22 or any successor system.”.

1 **SEC. 314. USE OF EXISTING FUNDS FOR REGULATIONS AND**
2 **REPORTS.**

3 Provisions and amendments of this Act requiring the
4 promulgation of regulations or the production of reports
5 shall be carried out using existing funds.

Passed the Senate November 7, 2007.

Attest:

Secretary.

110TH CONGRESS
1ST SESSION

S. 680

AN ACT

To ensure proper oversight and accountability in
Federal contracting, and for other purposes.