To phase out the use of private military contractors.

A BILL

To phase out the use of private military contractors.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Stop Outsourcing Se-
curity Act”.

SEC. 2. FINDINGS.

Congress finds the following:
(1) The United States Government is increasingly relying on armed private security contractors to perform mission-critical and emergency essential functions that historically have been performed by United States military or Government personnel.

(2) As of March 2011, the Department of Defense had approximately 155,000 contract employees operating in Iraq and Afghanistan, as compared to 145,000 members of the United States Armed Forces operating in these two theaters of war.

(3) As of March 2011, the Department of Defense had deployed 9,207 armed private security contractors in Iraq and 18,971 in Afghanistan, a change from 10,743 and 4,111, respectively, in March 2009.

(4) As of April 1, 2011, the Department of State had over 2,500 security contractors in Iraq and 1,272 in Afghanistan, under the Worldwide Personal Protective Services (WPPS) contract.

(5) In September 2009, photos were published showing employees of ArmorGroup North America (AGNA), hired by the Department of State to provide security at the United States Embassy in Kabul, engaging in lewd sexual hazing and harassment.
(6) Before the September 2009 incident, the Department of State had issued multiple deficiency notices, a cure notice, and a show-cause notice expressing grave concerns about the company’s performance on the contract; one State Department official even wrote that the company’s deficiencies “endanger performance of the contract to such a degree that the security of the U.S. Embassy in Kabul is in jeopardy”.

(7) On July 7, 2011, the Department of Justice announced that Armor Group North America paid a $7.5 million settlement to resolve charges that the company submitted false claims for payment on a State Department contract; the settlement resolves claims that AGNA guards violated the Trafficking Victims Protection Act by visiting brothels in Kabul with the knowledge of AGNA’s management, as well as allegations that AGNA misrepresented the prior work experience of 38 third country nationals hired to guard the embassy.

(8) A 2010 Senate Armed Services Committee investigation found that EOD Technology, the company hired to take over protection of the Kabul Embassy from AGNA, was suspected of hiring local warlords with possible Taliban ties, and in March
2011 the EODT contract was terminated for default.

(9) In May 2009, four men employed as military trainers for Paravant LLC, a Blackwater affiliate, fired on a civilian vehicle in Kabul, killing one Afghan and wounding two others; two of the guards were convicted of involuntary manslaughter in March 2011.

(10) On September 16, 2007, individuals hired by the company then known as Blackwater USA opened fire on Baghdad’s Nisour Square, killing 17 Iraqis and wounding at least 20 others.

(11) In August 2010, XE Services, LLC, the company formerly known as Blackwater, entered into a civil settlement with the State Department, under which the company agreed to pay a penalty of $42 million for 288 alleged violations of the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR).

(12) In July 2010, The Washington Post quoted Secretary of Defense Robert Gates as saying “This is a terrible confession . . . I can’t get a number on how many contractors work for the Office of the Secretary of Defense.”
(13) On October 18, 2007, Secretary Gates stated that the work of many contractors in Iraq is “at cross-purposes to our larger mission in Iraq,” and that “right now those missions are in conflict”.

(14) In 2007, the Committee on Oversight and Government Reform of the House of Representatives investigated Blackwater’s employment practices and found that the company’s classification of its security guards may have allowed the firm to avoid paying Social Security, Medicare, and Federal income and employment taxes.

(15) On Christmas Eve 2006, Blackwater contractor Andrew Moonen, while drunk, shot and killed a guard to Iraqi Vice President Adil Abd-al-Mahdi in the Green Zone, and though Mr. Moonen lost his job with Blackwater as a result of this incident, he was promptly hired by Combat Support Associates, another Department of Defense contractor, and sent to work in Kuwait.

(16) In the wake of the 2004 killing of four Blackwater contractors in Fallujah, the families of the men killed filed a civil suit against the company, alleging that Blackwater failed to properly equip and man its armored vehicles; after nearly seven years in
court, the case was thrown out when the families
could reportedly no longer pay the court costs.

(17) XE Services, LLC, the company formerly
known as Blackwater, has also faced allegations of
weapons smuggling and improperly licensing fire-
arms; in April 2010, five former Blackwater employ-
ees, including former president Gary Jackson, were
indicted on charges including conspiring to violate
Federal firearm laws, possession of unregistered fire-
arms, and obstruction of justice.

(18) In response to a request from the Com-
mittee on Oversight and Government Reform of the
House of Representatives, the Inspector General of
the Small Business Administration investigated
Blackwater in 2008 and found that the company
may have misrepresented its small business status,
enabling it to qualify for $110,000,000 in govern-
ment contracts set aside specifically for small busi-
nesses.

(19) Signed affidavits were filed in a civil law-
suit against Blackwater that company founder Erik
Prince views himself “as a Christian crusader tasked
with eliminating Muslims and the Islamic faith from
the globe”, that he knowingly deployed “demon-
strably unfit men” to Iraq, and that he used illegal
ammunition, including a bullet designed to explode after entering the human body, among other charges.

(20) In November 2007, a contractor employed by DynCorp International, LLC, reportedly shot and killed an unarmed taxi driver who, according to witnesses, posed no threat to the DynCorp convoy.

(21) A January 2007 report by the Special Inspector General for Iraq Reconstruction stated that DynCorp billed the United States for millions of dollars of work that was never authorized.

(22) In October 2007, an audit report issued by the Special Inspector General for Iraq Reconstruction stated that the Department of State “does not know specifically what it received for most of the $1,200,000,000 in expenditures under its DynCorp Contract for the Iraqi Police Training Program”.

(23) Congress does not have complete access to information about all security contracts, the number of armed private security contractors working in Iraq, Afghanistan, and other combat zones, the number of contractors who have died, and any disciplinary actions taken against contract personnel or companies.
SEC. 3. DEFINITIONS.

In this Act:

(1) MISSION CRITICAL OR EMERGENCY ESSENTIAL FUNCTIONS.—The term “mission critical or emergency essential functions”—

(A) means—

(i) activities for which continued performance is considered essential to support combat systems and operational activities; or

(ii) activities whose delay, absence, or failure of performance would significantly affect the broader success or failure of a military operation; and

(B) includes—

(i) the provision of protective services, including diplomatic security services;

(ii) the provision of security advice and planning;

(iii) military and police training;

(iv) prison administration;

(v) interrogation; and

(vi) intelligence.

(2) CONTINGENCY OPERATION.—The term “contingency operation” has the meaning provided
by section 101(a)(13) of title 10, United States Code.

(3) Other significant military operations.—The term “other significant military operations” means activities, other than combat operations, that are carried out by United States Armed Forces in an uncontrolled or unpredictable high-threat environment where personnel performing security functions may be called upon to use deadly force.

(4) Specified congressional committees.—The term “specified congressional committees” means the following committees:

(A) The Committee on Armed Services, the Committee on Oversight and Government Reform, the Committee on Appropriations, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

(B) The Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, the Committee on Appropriations, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.
SEC. 4. REQUIREMENT FOR GOVERNMENT PERSONNEL TO PERFORM DIPLOMATIC SECURITY IN AREAS OF CONTINGENCY OPERATIONS AND OTHER SIGNIFICANT MILITARY OPERATIONS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall ensure that all personnel working on behalf of the United States at any United States diplomatic or consular mission in areas of contingency operations and other significant military operations are provided diplomatic security services only by United States Government personnel.

SEC. 5. REQUIREMENTS RELATING TO CONTRACTORS PERFORMING MISSION CRITICAL OR EMERGENCY ESSENTIAL FUNCTIONS IN ALL AREAS OF CONTINGENCY OPERATIONS AND OTHER SIGNIFICANT MILITARY OPERATIONS.

(a) Report by President.—

(1) Requirement.—Not later than June 1, 2012, the President shall submit to the specified congressional committees a report on the status of planning for the transition away from the use of private contractors for mission critical or emergency essential functions by January 1, 2013, in all areas of contingency operations and other significant military operations.
(2) ADDITIONAL MATTERS COVERED.—If the report submitted under paragraph (1) states that the relevant agencies will not be able to transition to government and military personnel for such functions by January 1, 2013, the President shall include in the report the following:

(A) A statement of the reasons why the relevant agencies are unable to do so, the date by which they will be able to do so, and the plan to ensure that they will be able to do so by that date.

(B) A certification that—

(i) all contract employees have undergone background checks to ensure that they do not have criminal records and have not been accused of human rights abuses;

(ii) no contract employees are subject to pending criminal charges;

(iii) all contract employees are under the jurisdiction of section 3261 of title 18, United States Code (relating to military extraterritorial jurisdiction);

(iv) contract employees, if accused of crimes by the host country, must remain in United States custody; and
(v) contracts include whistleblower protections for employees to provide good faith information to management, government agencies, and Congress of any contract violations, human rights abuses, or criminal actions.

(3) FORM OF REPORT.—The report required by this subsection shall be submitted in unclassified form, to the maximum extent possible, but may contain a classified annex, if necessary.

(b) EXAMINATION OF CONTRACTOR ACCOUNTING PRACTICES.—Any individual or entity under contract with the Federal Government to provide mission critical or emergency essential functions after January 1, 2013, shall allow the specified congressional committees to examine their accounting practices with respect to any such contract quarterly and upon request.

(c) REQUIREMENTS RELATING TO CONTRACT RENEWALS.—Any contract with the Federal Government requiring personnel to perform mission critical or emergency essential functions that is proposed to be renewed after the date of the enactment of this Act may be renewed only if—

(1) the President reports to the specified congressional committees that the relevant agency does
not have adequate personnel to perform the duties
stipulated in the contract; and

(2) the President certifies that—

(A) all contract employees have undergone
background checks to ensure that they do not
have criminal records and have not been ac-
cused of human rights abuses;

(B) no contract employees are subject to
pending criminal charges;

(C) all contract employees are under the
jurisdiction of section 3261 of title 18, United
States Code (relating to military extraterritorial
jurisdiction);

(D) contract employees, if accused of
crimes by the host country, must remain in the
custody of the United States; and

(E) the contract includes whistleblower
protections for employees to provide good faith
information to management, government agen-
cies, and Congress of any contract violations,
human rights abuses, or criminal actions.

SEC. 6. CONGRESSIONAL ACCESS TO CONTRACTS.

(a) Requirement To Allow Congress Access To
Copies and Descriptions of Certain Contracts and
Task Orders.—
(1) Requirement regarding contracts and task orders before enactment.—The Secretary of Defense, the Secretary of State, the Secretary of the Interior, and the Administrator of the United States Agency for International Development shall allow the chairman and the ranking minority member of each specified congressional committee access to a copy of, and a description of the work performed or to be performed under, each contract, and each task order issued under an existing contract, in an amount greater than $5,000,000 entered into by the Department of Defense, the Department of State, the Department of the Interior, and the Agency for International Development, respectively, during the period beginning on October 1, 2001, and ending on the last day of the month during which this Act is enacted for work to be performed in areas of contingency operations and other significant military operations.

(2) Form of submissions.—The copies and descriptions required by paragraph (1) shall be submitted in unclassified form, to the maximum extent possible, but may contain a classified annex, if necessary.
(b) REPORTS ON CONTRACTS FOR WORK TO BE PERFORMED IN AREAS OF CONTINGENCY OPERATIONS AND OTHER SIGNIFICANT MILITARY OPERATIONS.—The Secretary of Defense, the Secretary of State, the Secretary of the Interior, and the Administrator of the United States Agency for International Development shall each submit to each specified congressional committee a report not later than 60 days after the date of the enactment of this Act that contains the following information:

(1) The number of persons performing work in areas of contingency operations and other significant military operations under contracts (and subcontracts at any tier) entered into by Department of Defense, the Department of State, the Department of the Interior, and the United States Agency for International Development, respectively.

(2) The total cost of such contracts.

(3) The total number of persons who have been wounded or killed in performing work under such contracts.

(4) A description of the disciplinary actions that have been taken against persons performing work under such contracts by the contractor, the United States Government, or the government of any country in which the area of contingency oper-
ations or other significant military operations is located.