

108TH CONGRESS
1ST SESSION

H. R. 3275

To require transparency, increased competition in contracting, and the increased use of Iraqi contractors in Iraq.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2003

Mrs. MALONEY (for herself, Mr. WAXMAN, and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To require transparency, increased competition in contracting, and the increased use of Iraqi contractors in Iraq.

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.**

4 This Act may be cited as the “Clean Contracting in
5 Iraq Act of 2003”.

6 **SEC. 2. TRANSPARENCY IN CONTRACTING: NOTIFICATION**
7 **TO CONGRESS.**

8 (a) NOTIFICATION TO CONGRESS.—(1) The head of
9 an executive agency that enters into a contract, or task
10 or delivery order under a task or delivery order contract,

1 in excess of \$1,000,000 relating to activities in Iraq shall,
2 within 7 days after entering into the contract or order,
3 notify the chairman and ranking member of the commit-
4 tees described in subsection (b) that the contract or order
5 has been entered into.

6 (2) Upon request of the chairman or ranking member
7 of a committee described in subsection (b), the head of
8 an executive agency shall provide, within 14 days after re-
9 ceipt of the request, unredacted copies of any documents
10 required to be maintained in the contracting office con-
11 tract file, the contract administration office contract file,
12 and the paying office contract file pursuant to subpart 4.8
13 of the Federal Acquisition Regulation, including—

- 14 (A) copies of the contract and all modifications;
- 15 (B) orders issued under the contract;
- 16 (C) justifications and approvals;
- 17 (D) any government estimate of contract price;
- 18 (E) source selection documentation;
- 19 (F) cost or price analysis;
- 20 (G) audit reports;
- 21 (H) justification for type of contract;
- 22 (I) authority for deviations from regulations,
23 statutory requirements, or other restrictions;
- 24 (J) bills, invoices, vouchers, and supporting doc-
25 uments; and

1 (K) records of payments or receipts.

2 (b) COMMITTEES.—The committees referred to in
3 subsection (a) are the following:

4 (1) The Committee on Governmental Affairs of
5 the Senate and the Committee on Government Re-
6 form of the House of Representatives.

7 (2) The Committees on Appropriations of the
8 Senate and House of Representatives.

9 (3) Each committee that the head of the execu-
10 tive agency determines has legislative jurisdiction for
11 the operations of the department or agency to which
12 the contract, task or delivery order, or documents
13 referred to in paragraph (1) or (2) of subsection (a)
14 relates.

15 **SEC. 3. COMPETITION IN CONTRACTING FOR THE RECON-**
16 **STRUCTION OF INFRASTRUCTURE IN IRAQ.**

17 (a) REQUIREMENTS FOR COMPETITION.—Notwith-
18 standing any other provision of law, and subject to sub-
19 section (b), none of the funds appropriated by this Act
20 to carry out sections 103 through 106 and chapter 4 of
21 part II of the Foreign Assistance Act of 1961 (22 U.S.C.
22 2151b–2151d; 2346 et seq.) that are made available for
23 assistance for Iraq may be used—

24 (1) to enter into any Federal contract (includ-
25 ing any follow-on contract) through the use of proce-

1 dures other than competitive procedures (as defined
2 in section 4(5) of the Office of Federal Procurement
3 Policy Act (41 U.S.C. 403(5)); or

4 (2) for a task or delivery order in excess of
5 \$1,000,000 issued under a task or delivery order
6 contract unless such contract was awarded to two or
7 more contractors, and such contractors have a fair
8 opportunity to be considered for the task or delivery
9 order.

10 (b) LIMITATIONS.—(1) Subsection (a)(1) shall not
11 apply in the case of a contract for which the Director of
12 the Office of Management and Budget approves the use
13 of procedures other than competitive procedures by reason
14 of the application of paragraph (1), (2), (3), (4), (5), (6),
15 or (7) under section 303(c) of title III of the Federal
16 Property and Administrative Services Act of 1949 (41
17 U.S.C. 253(c)).

18 (2) Subsection (a)(2) shall not apply in the case of
19 a task or delivery order contract for which the head of
20 the executive agency concerned approves the application
21 of paragraph (1), (2), (3) or (4) of section 303J(b) of title
22 III of the Federal Property and Administrative Services
23 Act of 1949 (41 U.S.C. 253j(b)) to such contract.

24 (c) APPLICABILITY.—This section shall not apply to
25 contracts entered into before October 1, 2003.

1 **SEC. 4. IRAQI INVOLVEMENT.**

2 (a) PLAN.—The head of each executive agency enter-
3 ing into a contract relating to activities in Iraq shall de-
4 velop a plan for minimizing costs to the Federal Govern-
5 ment through the use of Iraqi firms.

6 (b) COMPONENTS OF PLAN.—(1) The plan shall re-
7 quire the head of each executive agency to assess, before
8 entering into a contract relating to activities in Iraq,
9 whether the use of Iraqi firms to carry out the contract
10 could reduce the costs of such contract to the Federal Gov-
11 ernment.

12 (2) The plan may provide for the waiver of otherwise
13 applicable Federal procurement laws or regulations with
14 respect to the contract if the head of the executive agency
15 determines that such laws or regulations impede the abil-
16 ity of the executive agency to reduce the costs of such con-
17 tract to the Federal Government through the use of Iraqi
18 firms.

19 (3) The plan shall ensure that all contracts with re-
20 spect to which laws or regulations are waived pursuant
21 to paragraph (2) are entered into using contracting proce-
22 dures that are open, fair, accountable, and, to the max-
23 imum extent practicable, competitive.

24 **SEC. 5. LEGAL STATUS OF COALITION PROVISIONAL AU-**
25 **THORITY FOR IRAQ.**

26 In this section:

1 (1) The term “executive agency” has the mean-
2 ing given such term in section 105 of title 5, United
3 States Code. For purposes of the following provi-
4 sions of law, the term includes the Coalition Provi-
5 sional Authority for Iraq:

6 (A) Procurement statutes, including chap-
7 ters 137 and 141 of title 10, United States
8 Code, title III of the Federal Property and Ad-
9 ministrative Services Act of 1949 (41 U.S.C.
10 251 et seq.), and the Office of Federal Procure-
11 ment Policy Act (41 U.S.C. 403 et seq.).

12 (B) Section 552 of title 5, United States
13 Code (known as the Freedom of Information
14 Act).

15 (C) Financial management statutes requir-
16 ing the preparation of audited financial state-
17 ments, including section 3535 of title 31,
18 United States Code.

19 (2) The term “Coalition Provisional Authority
20 for Iraq” means the entity charged by the President
21 with directing reconstruction efforts in Iraq.

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