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1ST SESSION

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To require accountability for personnel performing private security functions  
under Federal contracts.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2005

Mr. PRICE of North Carolina (for himself, Mr. SPRATT, Mr. SNYDER, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on International Relations, 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

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## A BILL

To require accountability for personnel performing private  
security functions under Federal contracts.

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 “Transparency and Ac-  
5       countability in Security Contracting Act”.

1 **SEC. 2. REQUIREMENTS RELATING TO PERSONNEL PER-**  
2 **FORMING PRIVATE SECURITY FUNCTIONS**  
3 **UNDER FEDERAL CONTRACTS.**

4 (a) ACCOUNTABILITY REQUIREMENTS FOR PER-  
5 SONNEL PERFORMING PRIVATE SECURITY FUNCTIONS  
6 UNDER FEDERAL CONTRACTS.—

7 (1) REQUIREMENT TO PROVIDE CERTAIN IN-  
8 FORMATION ABOUT PERSONNEL PERFORMING PRI-  
9 VATE SECURITY FUNCTIONS.—Each covered contract  
10 shall require the contractor to provide to the con-  
11 tracting officer for the contract, not later than 5  
12 days after award of the contract, the following infor-  
13 mation regarding private security functions per-  
14 formed under the contract:

15 (A) Number of persons to be used to per-  
16 form such functions.

17 (B) A description of how such persons are  
18 trained to carry out tasks specified under the  
19 contract relating to such functions.

20 (C) A description of each category of activ-  
21 ity relating to such functions required by the  
22 contract.

23 (2) UPDATES OF INFORMATION.—The informa-  
24 tion provided under paragraph (1) shall be updated  
25 during contract performance as necessary.

1           (3) SAFEGUARDING INFORMATION.—The head  
2       of each agency awarding a covered contract shall  
3       take such actions as are necessary to protect any in-  
4       formation provided under paragraph (1) that is a  
5       trade secret, or commercial or financial information,  
6       from disclosure to persons outside the Government.

7           (4) ACCOUNTING.—Each covered contract shall  
8       include the following requirements:

9           (A) Upon award of the contract, the con-  
10       tractor shall provide cost estimates of salary,  
11       benefits, insurance, materials, logistics, travel,  
12       administrative costs, and other costs of carrying  
13       out private security functions under the con-  
14       tract.

15          (B) Before contract closeout (other than  
16       closeout of a firm, fixed price contract), the  
17       contractor shall provide a report on the actual  
18       costs of carrying out private security functions  
19       under the contract, in the same categories as  
20       provided under subparagraph (A).

21          (5) CASUALTY REPORTING.—Each covered con-  
22       tract shall require full reporting to the contracting  
23       officer for the contract by the contractor of all per-  
24       sonnel casualties in carrying out the contract.

1           (6) OVERSIGHT.—Before a covered contract is  
2           awarded, the head of the agency awarding the con-  
3           tract shall ensure that sufficient resources are avail-  
4           able to enable contracting officers of the agency to  
5           perform oversight of the performance of the con-  
6           tract.

7           (7) WAIVER AUTHORITY.—

8                   (A) The head of the agency awarding a  
9           covered contract may waive a requirement of  
10          this section with respect to a contract in an  
11          emergency or exceptional situation, as deter-  
12          mined by the head of the agency. Any such  
13          waiver shall be limited to the requirements that  
14          are impossible or impracticable to implement  
15          because of the emergency or exceptional situa-  
16          tion. In any case in which the head of an agen-  
17          cy waives a requirement under this section with  
18          respect to a contract, the agency head shall  
19          submit to the congressional committees listed in  
20          subparagraph (B) a report, within 30 days  
21          after the date of the waiver, that describes the  
22          contract, the waiver, the emergency or excep-  
23          tional situation that justified the waiver, and a  
24          plan for bringing the contract into compliance  
25          with the waived requirements as soon as pos-

sible or an explanation of why the waiver needs to be permanent.

(B) The congressional committees referred to in subparagraph (A) are the following:

(i) The Committees on Appropriations, Armed Services, Government Reform, and International Relations of the House of Representatives.

(ii) The Committees on Appropriations, Armed Services, Homeland Security and Governmental Affairs, and Foreign Relations of the Senate.

(b) HIRING, TRAINING, AND EQUIPMENT STANDARDS RELATING TO PRIVATE SECURITY CONTRACTORS.—

(1) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall prescribe in regulations minimum standards (appropriate for each department or agency) for the persons that covered contractors may hire for the performance of private security functions under the contract, and minimum standards for the training of such persons, including the level of training and any certifications required.

1       The standards may vary based on the duties of per-  
2       sonnel, but must address past criminal activity, se-  
3       curity clearance requirements, and other issues that  
4       either Secretary or the Administrator determines  
5       may lead to security or performance concerns.

6               (2) GUIDANCE FOR EQUIPMENT.—The Sec-  
7       retary of Defense, the Secretary of State, and the  
8       Administrator for the United States Agency for  
9       International Development shall issue guidance (ap-  
10      propriate for each department or agency) on equip-  
11      ment used for private security functions under cov-  
12      ered contracts with the department or agency con-  
13      cerned, including appropriate levels of body armor  
14      and equipment armor, and a recommended list of re-  
15      armorers and weapons and armor manufacturers for  
16      complying with such guidelines.

17              (3) CONSULTATION WITH SECRETARY OF DE-  
18      FENSE.—The Secretary of State and the Adminis-  
19      trator of the United States Agency for International  
20      Development shall consult with the Secretary of De-  
21      fense in developing regulations and guidance under  
22      this subsection.

23              (c) REPORT ON COST ANALYSIS RELATING TO  
24      EQUIPMENT.—Not later than six months after the date  
25      of the enactment of this Act, the Secretary of Defense,

1 in consultation with the Secretary of State and the Admin-  
2 istrator of the United States Agency for International De-  
3 velopment, shall submit to Congress a report containing—

4           (1) an analysis of the costs to the Federal Gov-  
5 ernment of purchasing equipment to supply to con-  
6 tractors to carry out private security functions under  
7 covered contracts in comparison to the costs to the  
8 Federal Government of reimbursing contractors for  
9 equipment purchased by the contractors to carry out  
10 such functions; and

11           (2) such findings and recommendations as the  
12 Secretary considers appropriate.

13 (d) DEFINITIONS.—In this section:

14           (1) COVERED CONTRACT.—The term “covered  
15 contract” means—

16                   (A) a prime contract with the Department  
17 of Defense, the Department of State, or the  
18 United States Agency for International Devel-  
19 opment;

20                   (B) a subcontract at any tier under any  
21 prime contract with a department or agency re-  
22 ferred to in subparagraph (A); or

23                   (C) a task order issued under a task or de-  
24 livery order contract entered into by a depart-

1           ment or agency referred to in subparagraph  
2           (A);

3           if the work to be performed under the contract, sub-  
4           contract, or task order includes private security  
5           functions to be performed outside the United States.

6           (2) PRIVATE SECURITY FUNCTIONS.—The term  
7           “private security functions”, with respect to a cov-  
8           ered contract, means—

9                   (A) any activities for which personnel are  
10                  allowed to carry weapons in the performance of  
11                  the contract; or

12                  (B) the performance of any of the fol-  
13                  lowing:

14                           (i) Military logistics and maintenance.

15                           (ii) Interrogation of prisoners.

16                           (iii) Convoy security.

17                           (iv) Guarding vital facilities and per-  
18                  sonnel.

19                           (v) Tactical security work.

20                           (vi) Local force training.

21           (e) EFFECTIVE DATE.—This section shall apply to  
22           covered contracts entered into on or after the date occur-  
23           ring 60 days after the date of the enactment of this Act.

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