

110TH CONGRESS
1ST SESSION

S. 2147

To require accountability for contractors and contract personnel under Federal contracts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 4, 2007

Mr. REID (for Mr. OBAMA (for himself, Mr. DURBIN, Mr. WHITEHOUSE, Mr. BYRD, and Mr. KERRY)) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require accountability for contractors and contract personnel under Federal contracts, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Security Contractor
5 Accountability Act of 2007”.

6 **SEC. 2. LEGAL STATUS OF CONTRACT PERSONNEL.**

7 (a) CLARIFICATION OF THE MILITARY
8 EXTRATERRITORIAL JURISDICTION ACT.—

1 (1) INCLUSION OF CONTRACTORS.—Subsection
2 (a) of section 3261 of title 18, United States Code,
3 is amended—

4 (A) by striking “or” at the end of para-
5 graph (1);

6 (B) by striking the comma at the end of
7 paragraph (2) and inserting “; or”; and

8 (C) by inserting after paragraph (2) the
9 following:

10 “(3) while employed under a contract (or sub-
11 contract at any tier) awarded by any department or
12 agency of the United States, where the work under
13 such contract is carried out in an area, or in close
14 proximity to an area (as designated by the Depart-
15 ment of Defense), where the Armed Forces is con-
16 ducting a contingency operation,”.

17 (2) DEFINITION.—Section 3267 of title 18,
18 United States Code, is amended by adding at the
19 end the following:

20 “(5) The term ‘contingency operation’ has the
21 meaning given such term in section 101(a)(13) of
22 title 10.”.

23 (b) DEPARTMENT OF JUSTICE INSPECTOR GENERAL
24 REPORT.—

1 (1) REPORT REQUIRED.—Not later than 180
2 days after the date of the enactment of this Act, the
3 Inspector General of the Department of Justice shall
4 submit to Congress a report in accordance with this
5 subsection.

6 (2) CONTENT OF REPORT.—The report under
7 paragraph (1) shall include—

8 (A) a description of the status of Depart-
9 ment of Justice investigations of alleged viola-
10 tions of section 3261 of title 18, United States
11 Code, to have been committed by contract per-
12 sonnel, which shall include—

13 (i) the number of complaints received
14 by the Department of Justice;

15 (ii) the number of investigations into
16 complaints opened by the Department of
17 Justice;

18 (iii) the number of criminal cases
19 opened by the Department of Justice; and

20 (iv) the number and result of criminal
21 cases closed by the Department of Justice;
22 and

23 (B) findings and recommendations about
24 the number of criminal cases prosecuted by the

1 Department of Justice involving violations of
2 section 3261 of title 18, United States Code.

3 (3) **FORMAT OF REPORT.**—The report under
4 paragraph (1) shall be submitted in unclassified for-
5 mat, but may contain a classified annex as appro-
6 priate.

7 **SEC. 3. FEDERAL BUREAU OF INVESTIGATION INVESTIGA-**
8 **TIVE UNIT FOR CONTINGENCY OPERATIONS.**

9 (a) **ESTABLISHMENT OF THEATER INVESTIGATIVE**
10 **UNIT.**—The Director of the Federal Bureau of Investiga-
11 tion shall ensure that there are adequate personnel
12 through the creation of Theater Investigative Units to in-
13 vestigate allegations of criminal violations of section 3261
14 of title 18, United States Code, by contract personnel.

15 (b) **RESPONSIBILITIES OF THEATER INVESTIGATIVE**
16 **UNIT.**—The Theater Investigative Unit established for a
17 theater of operations shall—

18 (1) investigate reports that raise reasonable
19 suspicion of criminal misconduct by contract per-
20 sonnel;

21 (2) investigate reports of fatalities resulting
22 from the use of force by contract personnel; and

23 (3) upon conclusion of an investigation of al-
24 leged criminal misconduct, refer the case to the At-
25 torney General of the United States for further ac-

1 tion, as appropriate in the discretion of the Attorney
2 General.

3 (c) RESPONSIBILITIES OF FEDERAL BUREAU OF IN-
4 VESTIGATION.—

5 (1) RESOURCES.—The Director of the Federal
6 Bureau of Investigation shall ensure that each The-
7 ater Investigative Unit has adequate resources and
8 personnel to carry out its responsibilities.

9 (2) NOTIFICATION.—The Director of the Fed-
10 eral Bureau of Investigation shall notify Congress
11 whenever a Theater Investigative Unit is established
12 or terminated in accordance with this section.

13 (d) RESPONSIBILITIES OF OTHER FEDERAL AGEN-
14 CIES.—An agency operating in an area, or in close prox-
15 imity to an area (as designated by the Department of De-
16 fense), where the Armed Forces is conducting a contin-
17 gency operation shall cooperate with and support the ac-
18 tivities of the Theater Investigative Unit. Any investiga-
19 tion carried out by the Inspector General of an agency
20 shall be coordinated with the activities of the Theater In-
21 vestigative Unit as appropriate.

22 **SEC. 4. DEFINITIONS.**

23 In this Act:

24 (1) COVERED CONTRACT.—The term “covered
25 contract” means an agreement—

1 (A) that is—

2 (i) a prime contract awarded by an
3 agency;

4 (ii) a subcontract at any tier under
5 any prime contract awarded by an agency;
6 or

7 (iii) a task order issued under a task
8 or delivery order contract entered into by
9 an agency; and

10 (B) according to which the work under
11 such contract, subcontract, or task order is car-
12 ried out in a region outside the United States
13 in which the Armed Forces are conducting a
14 contingency operation.

15 (2) AGENCY.—The term “agency” has the
16 meaning given the term “Executive agency” in sec-
17 tion 105 of title 5, United States Code.

18 (3) CONTINGENCY OPERATION.—The term
19 “contingency operation” has the meaning given the
20 term section 101(13) of title 10, United States
21 Code.

22 (4) CONTRACTOR.—The term “contractor”
23 means an entity performing a covered contract.

24 (5) CONTRACT PERSONNEL.—The term “con-
25 tract personnel” means persons assigned by a con-

1 tractor (including subcontractors at any tier) to per-
2 form work under a covered contract.

3 **SEC. 5. EFFECTIVE DATE.**

4 (a) APPLICABILITY.—The provisions of this Act shall
5 apply to all covered contracts and all covered contract per-
6 sonnel in which the work under the contract is carried out
7 in an area, or in close proximity to an area (as designated
8 by the Department of Defense), where the Armed Forces
9 is conducting a contingency operation on or after the date
10 of the enactment of this Act.

11 (b) IMMEDIATE EFFECTIVENESS.—The provisions of
12 this Act shall enter into effect immediately upon the enact-
13 ment of this Act.

14 (c) IMPLEMENTATION.—With respect to covered con-
15 tracts and covered contract personnel discussed in sub-
16 section (a)(1), the Director of the Federal Bureau of In-
17 vestigation, and the head of any other agency to which
18 this Act applies, shall have 90 days after the date of the
19 enactment of this Act to ensure compliance with the provi-
20 sions of this Act.

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