

111TH CONGRESS
2^D SESSION

H. R. 4650

To phase out the use of private military contractors.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 2010

Ms. SCHAKOWSKY (for herself, Mr. HINCHEY, Mr. GRIJALVA, Mr. MCGOVERN, Mr. STARK, Ms. BALDWIN, Ms. MOORE of Wisconsin, Ms. LEE of California, Ms. WOOLSEY, Mr. GONZALEZ, Mr. FILNER, Mr. ELLISON, Mr. HALL of New York, Mrs. MALONEY, Mr. POLIS of Colorado, Mr. HOLT, Ms. SHEA-PORTER, and Mr. GUTIERREZ) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services and Select Intelligence (Permanent Select), 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

A BILL

To phase out the use of private military contractors.

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 “Stop Outsourcing Se-
5 curity Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The United States Government is increas-
2 ingly relying on armed private security contractors
3 to perform mission-critical and emergency essential
4 functions that historically have been performed by
5 United States military or Government personnel.

6 (2) In August 2008, the Congressional Budget
7 Office estimated that there were approximately
8 190,000 contractors operating in Iraq, and between
9 25,000 and 30,000 of these were private security
10 contractors.

11 (3) As of September 2009, the Department of
12 Defense had approximately 218,000 contract em-
13 ployees operating in Iraq and Afghanistan, as com-
14 pared to 195,000 members of the United States
15 Armed Forces operating in these two theaters of
16 war.

17 (4) As of June 2009, the Department of De-
18 fense had deployed over 13,000 armed private secu-
19 rity contractors in Iraq and over 5,000 in Afghani-
20 stan, an increase from 10,743 and 4,111, respec-
21 tively, in March 2009.

22 (5) As of February 28, 2009, the Department
23 of State used 3,321 armed private security contrac-
24 tors in Iraq and 689 in Afghanistan.

1 (6) In September 2009, photos surfaced show-
2 ing individuals hired by ArmorGroup North Amer-
3 ica, which was awarded a contract by the Depart-
4 ment of State to provide security at the United
5 States embassy in Kabul, engaging in lewd and
6 drunken sexual conduct and hazing.

7 (7) There is evidence that ArmorGroup North
8 America, and its parent company Wackenhut Serv-
9 ices, had previously ignored repeated reports of mis-
10 conduct by its employees in Kabul.

11 (8) The Department of State issued numerous
12 formal notices to ArmorGroup North America re-
13 garding performance deficiencies, and in March
14 2009 wrote to the company expressing “grave con-
15 cern” about the short-staffing of guard posts.

16 (9) In May 2009, four men employed as mili-
17 tary trainers for Paravant LLC, a Blackwater affil-
18 iate, fired on a civilian vehicle in Kabul, killing one
19 Afghan and wounding two others.

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

24 (11) A Federal judge dismissed criminal
25 charges against the Blackwater contractors involved

1 in the Nisour Square shooting after finding that
2 Federal prosecutors misused evidence, a decision
3 that has been appealed by the Department of Jus-
4 tice.

5 (12) On October 18, 2007, Secretary of De-
6 fense Robert Gates stated that the work of many
7 contractors in Iraq is “at cross-purposes to our larg-
8 er mission in Iraq,” and that “right now those mis-
9 sions are in conflict”.

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

18 (14) In the wake of the 2004 killing of four
19 Blackwater contractors in Fallujah, the families of
20 the men killed filed a civil suit against the company,
21 alleging that Blackwater failed to properly equip and
22 man its armored vehicles.

23 (15) Xe Services, LLC, the company formerly
24 known as Blackwater, has also faced allegations of

1 weapons smuggling and improperly licensing fire-
2 arms.

3 (16) In 2007, the Committee on Oversight and
4 Government Reform of the House of Representatives
5 investigated Blackwater's employment practices and
6 found that the company's classification of its secu-
7 rity guards may have allowed the firm to avoid pay-
8 ing Social Security, Medicare, and Federal income
9 and employment taxes.

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

19 (18) Signed affidavits have been filed in a civil
20 lawsuit against Blackwater that company founder
21 Erik Prince views himself "as a Christian crusader
22 tasked with eliminating Muslims and the Islamic
23 faith from the globe", that he knowingly deployed
24 "demonstrably unfit men" to Iraq, and that he used
25 illegal ammunition, including a bullet designed to ex-

1 plode after entering the human body, among other
2 charges.

3 (19) In November 2007, a contractor employed
4 by DynCorp International, LLC, reportedly shot and
5 killed an unarmed taxi driver who, according to wit-
6 nesses, posed no threat to the DynCorp convoy.

7 (20) A January 2007 report by the Special In-
8 spector General for Iraq Reconstruction stated that
9 DynCorp billed the United States for millions of dol-
10 lars of work that was never authorized.

11 (21) In October 2007, an audit report issued by
12 the Special Inspector General for Iraq Reconstruc-
13 tion stated that the Department of State “does not
14 know specifically what it received for most of the
15 \$1,200,000,000 in expenditures under its DynCorp
16 Contract for the Iraqi Police Training Program”.

17 (22) Congress does not have complete access to
18 information about all security contracts, the number
19 of armed private security contractors working in
20 Iraq, Afghanistan, and other combat zones, the
21 number of contractors who have died, and any dis-
22 ciplinary actions taken against contract personnel or
23 companies.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

1 (1) MISSION CRITICAL OR EMERGENCY ESSEN-
2 TIAL FUNCTIONS.—The term “mission critical or
3 emergency essential functions”—

4 (A) means—

5 (i) activities for which continued per-
6 formance is considered essential to support
7 combat systems and operational activities;
8 or

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

13 (B) includes—

14 (i) the provision of protective services;

15 (ii) the provision of security advice
16 and planning;

17 (iii) military and police training;

18 (iv) repair and maintenance for weap-
19 ons systems;

20 (v) prison administration;

21 (vi) interrogation; and

22 (vii) intelligence.

23 (2) SPECIFIED CONGRESSIONAL COMMIT-
24 TEES.—The term “specified congressional commit-
25 tees” means the following committees:

1 (A) The Committee on Armed Services, the
2 Committee on Oversight and Government Re-
3 form, the Committee on Appropriations, the
4 Committee on Foreign Affairs, and the Perma-
5 nent Select Committee on Intelligence of the
6 House of Representatives.

7 (B) The Committee on Armed Services,
8 the Committee on Homeland Security and Gov-
9 ernmental Affairs, the Committee on Appro-
10 priations, the Committee on Foreign Relations,
11 and the Select Committee on Intelligence of the
12 Senate.

13 **SEC. 4. REQUIREMENT FOR GOVERNMENT PERSONNEL TO**
14 **PERFORM DIPLOMATIC SECURITY IN IRAQ**
15 **AND AFGHANISTAN.**

16 Not later than 180 days after the date of the enact-
17 ment of this Act, the Secretary of State shall ensure that
18 all personnel at any United States diplomatic or consular
19 mission in Iraq or Afghanistan are provided security serv-
20 ices only by United States Government personnel.

1 **SEC. 5. REQUIREMENTS RELATING TO CONTRACTORS PER-**
2 **FORMING MISSION CRITICAL OR EMERGENCY**
3 **ESSENTIAL FUNCTIONS IN ALL CONFLICT**
4 **ZONES IN WHICH CONGRESS HAS AUTHOR-**
5 **IZED THE USE OF FORCE.**

6 (a) REPORT BY PRESIDENT.—

7 (1) REQUIREMENT.—Not later than June 1,
8 2010, the President shall submit to the specified
9 congressional committees a report on the status of
10 planning for the transition away from the use of pri-
11 vate contractors for mission critical or emergency es-
12 sential functions by January 1, 2011, in all conflict
13 zones in which Congress has authorized the use of
14 force.

15 (2) ADDITIONAL MATTERS COVERED.—If the
16 report submitted under paragraph (1) states that
17 the relevant agencies will not be able to transition to
18 government and military personnel for such func-
19 tions by January 1, 2011, the President shall in-
20 clude in the report the following:

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

26 (B) A certification that—

1 (i) all contract employees have under-
2 gone background checks to ensure that
3 they do not have criminal records and have
4 not been accused of human rights abuses;

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

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

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

14 (v) contracts include whistleblower
15 protections for employees to provide good
16 faith information to management, govern-
17 ment agencies, and Congress of any con-
18 tract violations, human rights abuses, or
19 criminal actions.

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

24 (b) EXAMINATION OF CONTRACTOR ACCOUNTING
25 PRACTICES.—Any individual or entity under contract with

1 the Federal Government to provide mission critical or
2 emergency essential functions after January 1, 2011, shall
3 allow the specified congressional committees to examine
4 their accounting practices with respect to any such con-
5 tract quarterly and upon request.

6 (c) REQUIREMENTS RELATING TO CONTRACT RE-
7 NEWALS.—Any contract with the Federal Government re-
8 quiring personnel to perform mission critical or emergency
9 essential functions that is proposed to be renewed after
10 the date of the enactment of this Act may be renewed only
11 if—

12 (1) the President reports to the specified con-
13 gressional committees that the relevant agency does
14 not have adequate personnel to perform the duties
15 stipulated in the contract; and

16 (2) the President certifies that—

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

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

23 (C) all contract employees are under the
24 jurisdiction of section 3261 of title 18, United

1 States Code (relating to military extraterritorial
2 jurisdiction);

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

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

11 **SEC. 6. CONGRESSIONAL ACCESS TO CONTRACTS.**

12 (a) REQUIREMENT TO ALLOW CONGRESS ACCESS TO
13 COPIES AND DESCRIPTIONS OF CONTRACTS AND TASK
14 ORDERS IN EXCESS OF \$5,000,000 FOR WORK TO BE
15 PERFORMED IN IRAQ AND AFGHANISTAN.—

16 (1) REQUIREMENT REGARDING CONTRACTS
17 AND TASK ORDERS BEFORE ENACTMENT.—The Sec-
18 retary of Defense, the Secretary of State, the Sec-
19 retary of the Interior, and the Administrator of the
20 United States Agency for International Development
21 shall allow the chairman and the ranking minority
22 member of each specified congressional committee
23 access to a copy of, and a description of the work
24 performed or to be performed under, each contract,
25 and each task order issued under an existing con-

1 tract, in an amount greater than \$5,000,000 entered
2 into by the Department of Defense, the Department
3 of State, the Department of the Interior, and the
4 Agency for International Development, respectively,
5 during the period beginning on October 1, 2001, and
6 ending on the last day of the month during which
7 this Act is enacted for work to be performed in Iraq
8 and Afghanistan.

9 (2) FORM OF SUBMISSIONS.—The copies and
10 descriptions required by paragraph (1) shall be sub-
11 mitted in unclassified form, to the maximum extent
12 possible, but may contain a classified annex, if nec-
13 essary.

14 (b) REPORTS ON IRAQ AND AFGHANISTAN CON-
15 TRACTS.—The Secretary of Defense, the Secretary of
16 State, the Secretary of the Interior, and the Administrator
17 of the United States Agency for International Develop-
18 ment shall each submit to each specified congressional
19 committee a report not later than 60 days after the date
20 of the enactment of this Act that contains the following
21 information:

22 (1) The number of persons performing work in
23 Iraq and Afghanistan under contracts (and sub-
24 contracts at any tier) entered into by Department of
25 Defense, the Department of State, the Department

1 of the Interior, and the United States Agency for
2 International Development, respectively.

3 (2) The total cost of such contracts.

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

7 (4) A description of the disciplinary actions
8 that have been taken against persons performing
9 work under such contracts by the contractor, the
10 United States Government, or the Government of
11 Iraq or Afghanistan.

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