

112TH CONGRESS  
1ST SESSION

# H. R. 2665

To phase out the use of private military contractors.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2011

Ms. SCHAKOWSKY (for herself, Ms. WOOLSEY, Mr. HINCHEY, Ms. LEE of California, Ms. HIRONO, Mr. CONYERS, Mr. FILNER, Ms. MOORE, Ms. ESHOO, Ms. KAPTUR, Mr. POLIS, Mr. STARK, Mr. GUTIERREZ, and Mr. MCGOVERN) 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

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## 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) As of March 2011, the Department of De-  
7           fense had approximately 155,000 contract employees  
8           operating in Iraq and Afghanistan, as compared to  
9           145,000 members of the United States Armed  
10          Forces operating in these two theaters of war.

11          (3) As of March 2011, the Department of De-  
12          fense had deployed 9,207 armed private security  
13          contractors in Iraq and 18,971 in Afghanistan, a  
14          change from 10,743 and 4,111, respectively, in  
15          March 2009.

16          (4) As of April 1, 2011, the Department of  
17          State had over 2,500 security contractors in Iraq  
18          and 1,272 in Afghanistan, under the Worldwide Per-  
19          sonal Protective Services (WPPS) contract.

20          (5) In September 2009, photos were published  
21          showing employees of ArmorGroup North America  
22          (AGNA), hired by the Department of State to pro-  
23          vide security at the United States Embassy in  
24          Kabul, engaging in lewd sexual hazing and harass-  
25          ment.

1           (6) Before the September 2009 incident, the  
2 Department of State had issued multiple deficiency  
3 notices, a cure notice, and a show-cause notice ex-  
4 pressing grave concerns about the company’s per-  
5 formance on the contract; one State Department of-  
6 ficial even wrote that the company’s deficiencies “en-  
7 danger performance of the contract to such a degree  
8 that the security of the U.S. Embassy in Kabul is  
9 in jeopardy”.

10           (7) On July 7, 2011, the Department of Justice  
11 announced that Armor Group North America paid a  
12 \$7.5 million settlement to resolve charges that the  
13 company submitted false claims for payment on a  
14 State Department contract; the settlement resolves  
15 claims that AGNA guards violated the Trafficking  
16 Victims Protection Act by visiting brothels in Kabul  
17 with the knowledge of AGNA’s management, as well  
18 as allegations that AGNA misrepresented the prior  
19 work experience of 38 third country nationals hired  
20 to guard the embassy.

21           (8) A 2010 Senate Armed Services Committee  
22 investigation found that EOD Technology, the com-  
23 pany hired to take over protection of the Kabul Em-  
24 bassy from AGNA, was suspected of hiring local  
25 warlords with possible Taliban ties, and in March

1 2011 the EODT contract was terminated for de-  
2 fault.

3 (9) In May 2009, four men employed as mili-  
4 tary trainers for Paravant LLC, a Blackwater affil-  
5 iate, fired on a civilian vehicle in Kabul, killing one  
6 Afghan and wounding two others; two of the guards  
7 were convicted of involuntary manslaughter in  
8 March 2011.

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

13 (11) In August 2010, XE Services, LLC, the  
14 company formerly known as Blackwater, entered  
15 into a civil settlement with the State Department,  
16 under which the company agreed to pay a penalty of  
17 \$42 million for 288 alleged violations of the Arms  
18 Export Control Act (AECA) and the International  
19 Traffic in Arms Regulations (ITAR).

20 (12) In July 2010, The Washington Post  
21 quoted Secretary of Defense Robert Gates as saying  
22 "This is a terrible confession . . . I can't get a  
23 number on how many contractors work for the Of-  
24 fice of the Secretary of Defense."

1           (13) On October 18, 2007, Secretary Gates  
2           stated that the work of many contractors in Iraq is  
3           “at cross-purposes to our larger mission in Iraq,”  
4           and that “right now those missions are in conflict”.

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

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

20          (16) In the wake of the 2004 killing of four  
21          Blackwater contractors in Fallujah, the families of  
22          the men killed filed a civil suit against the company,  
23          alleging that Blackwater failed to properly equip and  
24          man its armored vehicles; after nearly seven years in

1 court, the case was thrown out when the families  
2 could reportedly no longer pay the court costs.

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

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

20 (19) Signed affidavits were filed in a civil law-  
21 suit against Blackwater that company founder Erik  
22 Prince views himself “as a Christian crusader tasked  
23 with eliminating Muslims and the Islamic faith from  
24 the globe”, that he knowingly deployed “demon-  
25 strably unfit men” to Iraq, and that he used illegal

1 ammunition, including a bullet designed to explode  
2 after entering the human body, among other  
3 charges.

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

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

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

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

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

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

6 (A) means—

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

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

15 (B) includes—

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

18 (ii) the provision of security advice  
19 and planning;

20 (iii) military and police training;

21 (iv) prison administration;

22 (v) interrogation; and

23 (vi) intelligence.

24 (2) CONTINGENCY OPERATION.—The term  
25 “contingency operation” has the meaning provided

1 by section 101(a)(13) of title 10, United States  
2 Code.

3 (3) OTHER SIGNIFICANT MILITARY OPER-  
4 ATIONS.—The term “other significant military oper-  
5 ations” means activities, other than combat oper-  
6 ations, that are carried out by United States Armed  
7 Forces in an uncontrolled or unpredictable high-  
8 threat environment where personnel performing se-  
9 curity functions may be called upon to use deadly  
10 force.

11 (4) SPECIFIED CONGRESSIONAL COMMIT-  
12 TEES.—The term “specified congressional commit-  
13 tees” means the following committees:

14 (A) The Committee on Armed Services, the  
15 Committee on Oversight and Government Re-  
16 form, the Committee on Appropriations, the  
17 Committee on Foreign Affairs, and the Perma-  
18 nent Select Committee on Intelligence of the  
19 House of Representatives.

20 (B) The Committee on Armed Services,  
21 the Committee on Homeland Security and Gov-  
22 ernmental Affairs, the Committee on Appro-  
23 priations, the Committee on Foreign Relations,  
24 and the Select Committee on Intelligence of the  
25 Senate.

1 **SEC. 4. REQUIREMENT FOR GOVERNMENT PERSONNEL TO**  
2 **PERFORM DIPLOMATIC SECURITY IN AREAS**  
3 **OF CONTINGENCY OPERATIONS AND OTHER**  
4 **SIGNIFICANT MILITARY OPERATIONS.**

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

12 **SEC. 5. REQUIREMENTS RELATING TO CONTRACTORS PER-**  
13 **FORMING MISSION CRITICAL OR EMERGENCY**  
14 **ESSENTIAL FUNCTIONS IN ALL AREAS OF**  
15 **CONTINGENCY OPERATIONS AND OTHER SIG-**  
16 **NIFICANT MILITARY OPERATIONS.**

17 (a) REPORT BY PRESIDENT.—

18 (1) REQUIREMENT.—Not later than June 1,  
19 2012, the President shall submit to the specified  
20 congressional committees a report on the status of  
21 planning for the transition away from the use of pri-  
22 vate contractors for mission critical or emergency es-  
23 sential functions by January 1, 2013, in all areas of  
24 contingency operations and other significant military  
25 operations.

1           (2) ADDITIONAL MATTERS COVERED.—If the  
2 report submitted under paragraph (1) states that  
3 the relevant agencies will not be able to transition to  
4 government and military personnel for such func-  
5 tions by January 1, 2013, the President shall in-  
6 clude in the report the following:

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

12           (B) A certification that—

13           (i) all contract employees have under-  
14 gone background checks to ensure that  
15 they do not have criminal records and have  
16 not been accused of human rights abuses;

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

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

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

1                   (v) contracts include whistleblower  
2                   protections for employees to provide good  
3                   faith information to management, govern-  
4                   ment agencies, and Congress of any con-  
5                   tract violations, human rights abuses, or  
6                   criminal actions.

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

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

18                  (c) REQUIREMENTS RELATING TO CONTRACT RE-  
19                  NEWALS.—Any contract with the Federal Government re-  
20                  quiring personnel to perform mission critical or emergency  
21                  essential functions that is proposed to be renewed after  
22                  the date of the enactment of this Act may be renewed only  
23                  if—

24                         (1) the President reports to the specified con-  
25                         gressional committees that the relevant agency does

1 not have adequate personnel to perform the duties  
2 stipulated in the contract; and

3 (2) the President certifies that—

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

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

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

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

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

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

23 (a) REQUIREMENT TO ALLOW CONGRESS ACCESS TO  
24 COPIES AND DESCRIPTIONS OF CERTAIN CONTRACTS AND  
25 TASK ORDERS.—

1           (1) REQUIREMENT REGARDING CONTRACTS  
2           AND TASK ORDERS BEFORE ENACTMENT.—The Sec-  
3           retary of Defense, the Secretary of State, the Sec-  
4           retary of the Interior, and the Administrator of the  
5           United States Agency for International Development  
6           shall allow the chairman and the ranking minority  
7           member of each specified congressional committee  
8           access to a copy of, and a description of the work  
9           performed or to be performed under, each contract,  
10          and each task order issued under an existing con-  
11          tract, in an amount greater than \$5,000,000 entered  
12          into by the Department of Defense, the Department  
13          of State, the Department of the Interior, and the  
14          Agency for International Development, respectively,  
15          during the period beginning on October 1, 2001, and  
16          ending on the last day of the month during which  
17          this Act is enacted for work to be performed in  
18          areas of contingency operations and other significant  
19          military operations.

20          (2) FORM OF SUBMISSIONS.—The copies and  
21          descriptions required by paragraph (1) shall be sub-  
22          mitted in unclassified form, to the maximum extent  
23          possible, but may contain a classified annex, if nec-  
24          essary.

1 (b) REPORTS ON CONTRACTS FOR WORK TO BE  
2 PERFORMED IN AREAS OF CONTINGENCY OPERATIONS  
3 AND OTHER SIGNIFICANT MILITARY OPERATIONS.—The  
4 Secretary of Defense, the Secretary of State, the Secretary  
5 of the Interior, and the Administrator of the United States  
6 Agency for International Development shall each submit  
7 to each specified congressional committee a report not  
8 later than 60 days after the date of the enactment of this  
9 Act that contains the following information:

10 (1) The number of persons performing work in  
11 areas of contingency operations and other significant  
12 military operations under contracts (and sub-  
13 contracts at any tier) entered into by Department of  
14 Defense, the Department of State, the Department  
15 of the Interior, and the United States Agency for  
16 International Development, respectively.

17 (2) The total cost of such contracts.

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

21 (4) A description of the disciplinary actions  
22 that have been taken against persons performing  
23 work under such contracts by the contractor, the  
24 United States Government, or the government of  
25 any country in which the area of contingency oper-

1 ations or other significant military operations is lo-  
2 cated.

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