

112TH CONGRESS
2D SESSION

S. 2139

To enhance security, increase accountability, and improve the contracting of the Federal Government for overseas contingency operations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 29, 2012

Mrs. McCASKILL (for herself and Mr. WEBB) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To enhance security, increase accountability, and improve the contracting of the Federal Government for overseas contingency operations, 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 “Comprehensive Contin-
5 gency Contracting Reform Act of 2012”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

TITLE I—ORGANIZATION AND MANAGEMENT OF FEDERAL GOVERNMENT FOR CONTRACTING FOR OVERSEAS CONTINGENCY OPERATIONS

Subtitle A—Government-Wide Matters

- Sec. 101. Responsibilities of the President regarding financing of overseas contingency operations.
- Sec. 102. Responsibilities of the Director of the Office of Management and Budget regarding overseas contingency operations.
- Sec. 103. Responsibilities of inspectors general for overseas contingency operations.
- Sec. 104. Oversight of contracts and contracting activities for overseas contingency operations in responsibilities of Chief Acquisition Officers of Federal agencies.

Subtitle B—Multi-Agency Matters

- Sec. 111. Inclusion of contracts for support of overseas contingency operations in management structure of Department of Defense, Department of State, and United States Agency for International Development for procurement of contract services.
- Sec. 112. Requirements and limitations for suspension and debarment officials of the Department of Defense, Department of State, and United States Agency for International Development.
- Sec. 113. Additional bases for suspension of contractors from contracting with the Federal Government.

Subtitle C—Department of Defense Matters

- Sec. 121. Responsibility within Department of Defense for contract support for overseas contingency operations.
- Sec. 122. Inclusion of contract support in certain Department of Defense planning requirements.
- Sec. 123. Inclusion of matters relating to contingency operations in joint professional military education.

Subtitle D—Department of State and Related Agencies Matters

- Sec. 131. Reorganization of acquisition functions of Department of State and United States Agency for International Development.
- Sec. 132. Inclusion of contract support in certain Department of State planning activities.
- Sec. 133. Professional education for Department of State personnel on acquisition for Department of State support and participation in Department of Defense overseas contingency operations.

TITLE II—TRANSPARENCY, SUSTAINABILITY, AND ACCOUNTABILITY IN CONTRACTS FOR OVERSEAS CONTINGENCY OPERATIONS

Subtitle A—Limitations in Contracting

- Sec. 201. Limitations applicable to certain contracts in connection with overseas contingency operations.

- Sec. 202. Performance of certain security functions in overseas areas of overseas contingency operations.
- Sec. 203. Justification and approval for sole-source contracts of unusual and compelling urgency exception to contract award through competitive procedures.

Subtitle B—Enhancements of Contracting Process

- Sec. 211. Uniform contract writing system requirements for Federal agencies.
- Sec. 212. Database on prices of items and services under Federal contracts.

Subtitle C—Contractor Accountability

- Sec. 221. Contractor consent to jurisdiction for certain civil actions under certain contracts for work overseas.
- Sec. 222. Combating trafficking in persons.
- Sec. 223. Information on corporate contractor performance and integrity through the Federal Awardee Performance and Integrity Information System.
- Sec. 224. Contractor performance evaluations and the Past Performance Information Retrieval System.

Subtitle D—Other Matters

- Sec. 231. Sustainability requirements for certain capital projects funded by the Department of Defense for overseas contingency operations.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE COMMITTEES OF CON-
 4 GRESS.—The term “appropriate committees of Con-
 5 gress” means—

6 (A) the Committee on Armed Services, the
 7 Committee on Foreign Relations, the Com-
 8 mittee on Homeland Security and Govern-
 9 mental Affairs, and the Committee on Appro-
 10 priations of the Senate; and

11 (B) the Committee on Armed Services, the
 12 Committee on Foreign Affairs, the Committee
 13 on Oversight and Government Reform, and the

1 Committee on Appropriations of the House of
2 Representatives.

3 (2) FEDERAL ACQUISITION REGULATORY COUN-
4 CIL.—The term “Federal Acquisition Regulatory
5 Council” means the Federal Acquisition Regulatory
6 Council under section 1302(a) of title 41, United
7 States Code.

8 (3) OVERSEAS CONTINGENCY OPERATION.—The
9 term “overseas contingency operation” means a mili-
10 tary operation outside the United States and its ter-
11 ritories and possessions that is—

12 (A) a contingency operation, as that term
13 is defined in subparagraph (A) of section
14 101(a)(13) of title 10, United States Code; or

15 (B) a contingency operation, as that term
16 is defined in subparagraph (B) of section
17 101(a)(13) of title 10, United States Code, but
18 only if such operation involves actual or poten-
19 tial hostilities against an enemy of the United
20 States or against an opposing military force.

1 **TITLE I—ORGANIZATION AND**
2 **MANAGEMENT OF FEDERAL**
3 **GOVERNMENT FOR CON-**
4 **TRACTING FOR OVERSEAS**
5 **CONTINGENCY OPERATIONS**
6 **Subtitle A—Government-Wide**
7 **Matters**

8 **SEC. 101. RESPONSIBILITIES OF THE PRESIDENT REGARD-**
9 **ING FINANCING OF OVERSEAS CONTINGENCY**
10 **OPERATIONS.**

11 The President shall ensure that any request to Con-
12 gress for funds for or relating to an overseas contingency
13 operation includes the following:

14 (1) A specific statement of the requested funds,
15 broken out by—

16 (A) amounts requested for each appropria-
17 tions account covered by the request; and

18 (B) amounts intended to be allocated to
19 each program, project, and activity to be funded
20 through the request.

21 (2) A specific proposal for means of financing
22 the amount requested, including an increase in spec-
23 ified revenues, a decrease in specified programs,
24 projects, or activities, borrowing by the Federal Gov-
25 ernment, or other appropriate means.

1 **SEC. 102. RESPONSIBILITIES OF THE DIRECTOR OF THE OF-**
2 **FICE OF MANAGEMENT AND BUDGET RE-**
3 **GARDING OVERSEAS CONTINGENCY OPER-**
4 **ATIONS.**

5 (a) RESPONSIBILITIES REGARDING COSTS AND FI-
6 NANCING.—

7 (1) IN GENERAL.—The Director of the Office of
8 Management and Budget shall be the principal offi-
9 cial of the Federal Government with responsibility
10 for advising the President on financial matters in
11 connection with overseas contingency operations, in-
12 cluding the costs and proposed means of financing
13 of all programs, projects, and activities of the Fed-
14 eral Government in connection with such operations.

15 (2) PARTICULAR RESPONSIBILITIES.—The re-
16 sponsibility of the Director under this subsection
17 shall include the responsibilities as follows:

18 (A) To advise and report to the President
19 on estimates of costs in connection with over-
20 seas contingency operations, including direct
21 and indirect costs, current and future costs,
22 and anticipated contracting costs.

23 (B) To identify and report to the President
24 on means of financing the costs of the Federal
25 Government in connection with overseas contin-
26 gency operations, including an increase in speci-

1 fied revenues, a decrease in specified programs,
2 projects, or activities, borrowing by the Federal
3 Government, or other appropriate means.

4 (3) CONSULTATION.—The Director shall carry
5 out the responsibility of the Director under this sub-
6 section in consultation with the Secretary of the
7 Treasury, the Secretary of Defense, the Secretary of
8 State, and other appropriate officials of the Federal
9 Government.

10 (b) ANNUAL REPORTS TO CONGRESS.—Not later
11 than 45 days after the end of each fiscal year in which
12 Federal funds are obligated for or in connection with an
13 overseas contingency operation, the Director of the Office
14 of Management and Budget shall submit to Congress a
15 report on the obligation and expenditure of Federal funds
16 for or in relation to the operation during such fiscal year
17 and in the aggregate since the commencement or designa-
18 tion of the operation as a contingency operation.

19 **SEC. 103. RESPONSIBILITIES OF INSPECTORS GENERAL**
20 **FOR OVERSEAS CONTINGENCY OPERATIONS.**

21 (a) IN GENERAL.—The Inspector General Act of
22 1978 (5 U.S.C. App.) is amended—

23 (1) by redesignating section 8L as section 8M;
24 and

1 (2) by inserting after section 8K the following
 2 new section 8L:

3 **“SEC. 8L. SPECIAL PROVISIONS CONCERNING OVERSEAS**
 4 **CONTINGENCY OPERATIONS.**

5 “(a) IN GENERAL.—Upon the commencement or des-
 6 ignation of a military operation as an overseas contingency
 7 operation that exceeds 30 days, the Chair of the Council
 8 of Inspectors General on Integrity and Efficiency (CIGIE)
 9 shall, in consultation with the members of the Council,
 10 have the additional responsibilities specified in subsection
 11 (c) with respect to the Inspectors General specified in sub-
 12 section (b).

13 “(b) INSPECTORS GENERAL.—The Inspectors Gen-
 14 eral specified in this subsection are the Inspectors General
 15 as follows:

16 “(1) The Inspector General of the Department
 17 of Defense.

18 “(2) The Inspector General of the Department
 19 of State.

20 “(3) The Inspector General of the United
 21 States Agency for International Development.

22 “(c) SPECIFIC RESPONSIBILITIES.—The responsibil-
 23 ities specified in this subsection are the following:

24 “(1) In consultation with the Inspectors Gen-
 25 eral specified in subsection (b), to designate a lead

1 Inspector General in accordance with subsection (d)
2 to discharge the authorities of lead Inspector Gen-
3 eral for the contingency operation concerned as set
4 forth in that subsection.

5 “(2) To resolve conflicts of jurisdiction among
6 the Inspectors General specified in subsection (b) on
7 investigations, inspections, and audits with respect
8 to such contingency operation in accordance with
9 subsection (d)(3)(B).

10 “(3) To assist in identifying for the Lead In-
11 spector General for Overseas Contingency Oper-
12 ations, Inspectors General and inspector general of-
13 fice personnel available to assist the lead Inspector
14 General and the other Inspectors General specified
15 in subsection (b) on matters relating to such contin-
16 gency operation.

17 “(d) LEAD INSPECTOR GENERAL FOR OVERSEAS
18 CONTINGENCY OPERATION.—(1) A lead Inspector Gen-
19 eral for an overseas contingency operation shall be des-
20 ignated by the Chair of the Council of Inspectors General
21 on Integrity and Efficiency under subsection (c)(1) not
22 later than 15 days after the commencement or designation
23 of the military operation concerned as an overseas contin-
24 gency operation that exceeds 30 days.

1 “(2) The lead Inspector General for a contingency op-
2 eration shall be designated from among the Inspectors
3 General specified in subsection (b).

4 “(3) The lead Inspector General for a contingency op-
5 eration shall have the following responsibilities:

6 “(A) To appoint, from among the offices of the
7 other Inspectors General specified in subsection (b),
8 an Inspector General to act as associate Inspector
9 General for the contingency operation who shall act
10 in a coordinating role to assist the lead Inspector
11 General in the discharge of responsibilities under
12 this subsection.

13 “(B)(i) If none of the Inspectors General speci-
14 fied in subsection (b) has principal jurisdiction over
15 a matter with respect to the contingency operation,
16 to exercise responsibility for discharging oversight
17 responsibilities in accordance with this Act with re-
18 spect to such matter.

19 “(ii) If more than one of the Inspectors General
20 specified in subsection (b) has jurisdiction over a
21 matter with respect to the contingency operation, to
22 determine principal jurisdiction for discharging over-
23 sight responsibilities in accordance with this Act
24 with respect to such matter.

1 “(C) To employ, or authorize the employment
2 by the other Inspectors General specified in sub-
3 section (b), on a temporary basis using the authori-
4 ties in section 3161 of title 5, United States Code,
5 such auditors, investigators, and other personnel as
6 the lead Inspector General considers appropriate to
7 assist the lead Inspector General and such other In-
8 spectors General on matters relating to the contin-
9 gency operation.

10 “(D) To submit to Congress on a bi-annual
11 basis, and to make available on an Internet website
12 available to the public, a report on the activities of
13 the lead Inspector General and the Inspectors Gen-
14 eral specified in subsection (b) with respect to the
15 contingency operation, including—

16 “(i) the status and results of investiga-
17 tions, inspections, and audits and of referrals to
18 the Department of Justice; and

19 “(ii) overall plans for the review of the
20 contingency operation by inspectors general, in-
21 cluding plans for investigations, inspections,
22 and audits.

23 “(E) To submit to Congress on a quarterly
24 basis, and to make available on an Internet website
25 available to the public, a report on the contingency

1 operation setting forth the information specified in
2 paragraph (4).

3 “(F) To carry out such other responsibilities re-
4 lating to the coordination and efficient and effective
5 discharge by the Inspectors General specified in sub-
6 section (b) of duties relating to the contingency op-
7 eration as the lead Inspector General shall specify.

8 “(4) The information specified in this paragraph with
9 respect to a contingency operation is as follows:

10 “(A) Obligations and expenditures of appro-
11 priated funds.

12 “(B) A project-by-project and program-by-pro-
13 gram accounting of the costs incurred to date for
14 the contingency operation, together with the esti-
15 mate of the Department of Defense, the Department
16 of State, and the United States Agency for Inter-
17 national Development, as applicable, of the costs to
18 complete each project and each program.

19 “(C) Revenues attributable to or consisting of
20 funds provided by foreign nations or international
21 organizations to programs and projects for the con-
22 tingency operation that are funded by any depart-
23 ment or agency of the United States Government,
24 and any obligations or expenditures of such reve-
25 nues.

1 “(D) Revenues attributable to or consisting of
2 foreign assets seized or frozen that contribute to
3 programs and projects for the contingency operation
4 that are funded by any department or agency of the
5 United States Government, and any obligations or
6 expenditures of such revenues.

7 “(E) Operating expenses of agencies or entities
8 receiving amounts appropriated or otherwise made
9 available for the contingency operation.

10 “(F) In the case of any contract, grant, agree-
11 ment, or other funding mechanism with respect to
12 the contingency operation—

13 “(i) the amount of the contract, grant,
14 agreement, or other funding mechanism;

15 “(ii) a brief discussion of the scope of the
16 contract, grant, agreement, or other funding
17 mechanism;

18 “(iii) a discussion of how the department
19 or agency of the United States Government in-
20 volved in the contract, grant, agreement, or
21 other funding mechanism identified, and solic-
22 ited offers from, potential individuals or entities
23 to perform the contract, grant, agreement, or
24 other funding mechanism, together with a list

1 of the potential individuals or entities that were
2 issued solicitations for the offers; and

3 “(iv) the justification and approval docu-
4 ments on which was based the determination to
5 use procedures other than procedures that pro-
6 vide for full and open competition.

7 “(5)(A) The lead Inspector General for a contingency
8 operation may employ, or authorize the employment by the
9 other Inspectors General specified in subsection (b) of, an-
10 nuityants covered by section 9902(g) of title 5, United
11 States Code, for purposes of assisting the lead Inspector
12 General in discharging responsibilities under this sub-
13 section with respect to the contingency operation.

14 “(B) The employment of annuityants under this para-
15 graph shall be subject to the provisions of section 9902(g)
16 of title 5, United States Code, as if the lead Inspector
17 General concerned was the Department of Defense.

18 “(C) The period of employment of an annuityant
19 under this paragraph may not exceed three years, except
20 that the period may be extended for up to an additional
21 two years in accordance with the regulations prescribed
22 pursuant to section 3161(b)(2) of title 5, United States
23 Code.

24 “(6) The lead Inspector General for a contingency op-
25 eration shall discharge the responsibilities for the contin-

1 gency operation under this subsection in a manner con-
2 sistent with the authorities and requirements of this Act
3 generally and the authorities and requirements applicable
4 to the Inspectors General specified in subsection (b) under
5 this Act.

6 “(e) SUNSET FOR PARTICULAR CONTINGENCY OPER-
7 ATIONS.—The requirements and authorities of this section
8 with respect to a contingency operation shall cease at the
9 end of the first fiscal year after the commencement or des-
10 ignation of the contingency operation in which the total
11 amount appropriated for the contingency operation is less
12 than \$20,000,000.

13 “(f) CONSTRUCTION OF AUTHORITY.—Nothing in
14 this Act shall be construed to limit the ability of the In-
15 spectors General specified in subsection (b) to enter into
16 agreements to conduct joint audits, inspections, or inves-
17 tigations in the exercise of their oversight responsibilities
18 in accordance with this Act with respect to overseas con-
19 tingency operations.

20 “(g) OVERSEAS CONTINGENCY OPERATION DE-
21 FINED.—In this section, the term ‘overseas contingency
22 operation’ means a military operation outside the United
23 States and its territories and possessions that is—

1 “(1) a contingency operation, as that term is
2 defined in subparagraph (A) of section 101(a)(13) of
3 title 10, United States Code; or

4 “(2) a contingency operation, as that term is
5 defined in subparagraph (B) of section 101(a)(13)
6 of title 10, United States Code, but only if such op-
7 eration involves actual or potential hostilities against
8 an enemy of the United States or against an oppos-
9 ing military force.”.

10 (b) CONFORMING AMENDMENT RELATING TO TEM-
11 PORARY EMPLOYMENT AUTHORITY.—Section 3161 of
12 title 5, United States Code, is amended by adding at the
13 end the following new subsection:

14 “(j) LEAD INSPECTORS GENERAL FOR OVERSEAS
15 CONTINGENCY OPERATIONS AS TEMPORARY ORGANIZA-
16 TION.—In addition to the meaning given that term in sub-
17 section (a), the term ‘temporary organization’ for purposes
18 of this subchapter shall also include the lead Inspector
19 General for an overseas contingency operation under sec-
20 tion 8L of the Inspector General Act of 1978 and the In-
21 spectors General and inspector general office personnel as-
22 sisting the lead Inspector General in the discharge of re-
23 sponsibilities under subsection (d) of that section with re-
24 spect to the contingency operation.”.

1 **SEC. 104. OVERSIGHT OF CONTRACTS AND CONTRACTING**
 2 **ACTIVITIES FOR OVERSEAS CONTINGENCY**
 3 **OPERATIONS IN RESPONSIBILITIES OF CHIEF**
 4 **ACQUISITION OFFICERS OF FEDERAL AGEN-**
 5 **CIES.**

6 (a) IN GENERAL.—Subsection (b)(3) of section 1702
 7 of title 41, United States Code, is amended—

8 (1) by redesignating subparagraphs (F) and
 9 (G) as subparagraphs (G) and (H), respectively; and

10 (2) by inserting after subparagraph (E) the fol-
 11 lowing new subparagraph (F):

12 “(F) advising the executive agency on the appli-
 13 cability of relevant policy on the contracts of the
 14 agency for overseas contingency operations and en-
 15 suring the compliance of the contracts and con-
 16 tracting activities of the agency with such policy;”.

17 (b) DEFINITION.—Such section is further amended
 18 by adding at the following new subsection:

19 “(d) OVERSEAS CONTINGENCY OPERATIONS DE-
 20 FINED.—In this section, the term ‘overseas contingency
 21 operations’ means military operations outside the United
 22 States and its territories and possessions that are—

23 “(1) a contingency operation, as that term is
 24 defined in subparagraph (A) of section 101(a)(13) of
 25 title 10; or

1 “(2) a contingency operation, as that term is
 2 defined in subparagraph (B) of such section, but
 3 only if such operation involves actual or potential
 4 hostilities against an enemy of the United States or
 5 against an opposing military force.”.

6 **Subtitle B—Multi-Agency Matters**

7 **SEC. 111. INCLUSION OF CONTRACTS FOR SUPPORT OF** 8 **OVERSEAS CONTINGENCY OPERATIONS IN** 9 **MANAGEMENT STRUCTURE OF DEPARTMENT** 10 **OF DEFENSE, DEPARTMENT OF STATE, AND** 11 **UNITED STATES AGENCY FOR INTER-** 12 **NATIONAL DEVELOPMENT FOR PROCURE-** 13 **MENT OF CONTRACT SERVICES.**

14 (a) DEPARTMENT OF DEFENSE.—Section 2330(c) of
 15 title 10, United States Code, is amended—

16 (1) in paragraph (2), by striking “other than
 17 services” and all that follows and inserting “includ-
 18 ing services in support of overseas contingency oper-
 19 ations. The term does not include services relating
 20 to research and development or military construc-
 21 tion.”; and

22 (2) by adding at the end the following new
 23 paragraph:

1 “(3) The term ‘overseas contingency operations’
 2 means military operations outside the United States
 3 and its Commonwealths and possessions that are—

4 “(A) a contingency operation, as that term
 5 is defined in subparagraph (A) of section
 6 101(a)(13) of this title; or

7 “(B) a contingency operation, as that term
 8 is defined in subparagraph (B) of such section,
 9 but only if such operation involves actual or po-
 10 tential hostilities against an enemy of the
 11 United States or against an opposing military
 12 force.”.

13 (b) DEPARTMENT OF STATE.—

14 (1) IN GENERAL.—The Secretary of State shall
 15 establish and implement a management structure for
 16 the procurement of contract services for the Depart-
 17 ment of State.

18 (2) ELEMENTS.—The management structure
 19 required by this subsection shall include such ele-
 20 ments of the management structure for the procure-
 21 ment of contract services for the Department of De-
 22 fense under section 2330 of title 10, United States
 23 Code (as amended by subsection (a)), as the Sec-
 24 retary of State considers appropriate for the pro-
 25 curement of contract services.

1 (3) DISCHARGE OF PRINCIPAL RESPONSIBIL-
2 ITIES.—Any responsibility in the management struc-
3 ture for the procurement of contract services for the
4 Department of State under this subsection that is
5 derived from a responsibility discharged by the
6 Under Secretary of Defense for Acquisition, Tech-
7 nology, and Logistics under section 2330 of title 10,
8 United States Code (as so amended), shall be dis-
9 charged in the management structure under this
10 subsection by the Director of Acquisition and Logis-
11 tics of the Department of State under section 63 of
12 the State Department Basic Authorities Act of 1956
13 (as added by section 131(a) of this Act).

14 (c) USAID.—

15 (1) IN GENERAL.—The Administrator of the
16 United States Agency for International Development
17 shall establish and implement a management struc-
18 ture for the procurement of contract services for the
19 United States Agency for International Develop-
20 ment.

21 (2) ELEMENTS.—The management structure
22 required by this subsection shall include such ele-
23 ments of the management structure for the procure-
24 ment of contract services for the Department of De-
25 fense under section 2330 of title 10, United States

1 Code (as amended by subsection (a)), as the Admin-
2 istrator considers appropriate for the procurement of
3 contract services.

4 (3) DISCHARGE OF PRINCIPAL RESPONSIBIL-
5 ITIES.—Any responsibility in the management struc-
6 ture for the procurement of contract services for the
7 United States Agency for International Development
8 under this subsection that is derived from a respon-
9 sibility discharged by the Under Secretary of De-
10 fense for Acquisition, Technology, and Logistics
11 under section 2330 of title 10, United States Code
12 (as so amended), shall be discharged in the manage-
13 ment structure under this subsection by the Director
14 of Acquisition and Assistance of the United States
15 Agency for International Development under section
16 131(b) of this Act.

17 (d) CONTRACT SERVICES DEFINED.—In this section
18 the term “contract services” includes all services acquired
19 from private sector entities by or for an agency, including
20 services in support of activities of the agency in connection
21 with overseas contingency operations.

22 (e) REPORTS TO CONGRESS.—

23 (1) REPORTS REQUIRED.—Not later than one
24 year after the date of the enactment of this Act, the
25 Secretary of Defense, the Secretary of State, and

1 the Administrator of the United States Agency for
2 International Development shall each submit to the
3 appropriate committees of Congress a report on the
4 implementation by the department or agency con-
5 cerned of this section and the amendments made by
6 this section, as applicable.

7 (2) ELEMENTS FOR DEPARTMENT OF STATE
8 AND USAID.—The report of the Secretary of State
9 and the Administrator of the United States Agency
10 for International Development under this subsection
11 shall each set forth the following:

12 (A) A comprehensive description of the
13 management structure established and imple-
14 mented by the department or agency, as the
15 case may be, under this section.

16 (B) An identification of any elements of
17 the management structure of the Department
18 of Defense under section 2330 of title 10,
19 United States Code (as amended by subsection
20 (a)), that are not included in the management
21 structure of the department or agency, as the
22 case may be, and a justification for the omis-
23 sion of such elements.

24 (C) An identification of any elements of
25 the management structure of the department or

1 agency, as the case may be, that are not in-
2 cluded in the management structure of the De-
3 partment of Defense, and a justification for the
4 inclusion of such elements.

5 **SEC. 112. REQUIREMENTS AND LIMITATIONS FOR SUSPEN-**
6 **SION AND DEBARMENT OFFICIALS OF THE**
7 **DEPARTMENT OF DEFENSE, DEPARTMENT OF**
8 **STATE, AND UNITED STATES AGENCY FOR**
9 **INTERNATIONAL DEVELOPMENT.**

10 (a) IN GENERAL.—Each administering official shall
11 take appropriate actions to ensure that the requirements
12 and limitations set forth in subsection (b) apply to each
13 suspension and debarment official under the jurisdiction
14 of such administering official and are complied with.

15 (b) COVERED REQUIREMENTS AND LIMITATIONS.—
16 The requirements and limitations set forth in this sub-
17 section with respect to a suspension and debarment official
18 are as follows:

19 (1) There shall be not less than one suspension
20 and debarment official for each department or agen-
21 cy concerned.

22 (2) A suspension and debarment official may
23 not be located or co-located within the acquisition of-
24 fice of the department or agency concerned.

1 (3) The sole duties of a suspension and debarment official shall be as follows:

2
3 (A) The direction, management, and oversight of suspension and debarment activities.

4
5 (B) Membership on the Interagency Committee on Debarment and Suspension, including
6 submittal of periodic reports on the suspension
7 and debarment activities of such official to the
8 Committee for purposes fulfilling the requirements of the Committee for reports to Congress
9 on suspension and debarment activities of the
10 Federal Government required by section 873 of
11 the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law
12 110–417; 122 Stat. 4557; 31 U.S.C. 6101
13 note).

14
15 (4) Each official shall have a staff and resources adequate for the discharge of the suspension
16 and debarment activities of such official.

17
18 (5) The sole duties of the staff of each official
19 under paragraph (4) shall be suspension and debarment activities.

20
21 (6) Each official shall adopt and comply with
22 guidance on policies and procedures for suspension
23 and debarment activities. The guidance adopted
24
25

1 under this paragraph shall be subject to the ap-
2 proval of the administering official concerned. The
3 guidance shall, to the extent practicable, be uniform
4 across the department or agency concerned.

5 (7) Each official shall adopt and implement
6 policies on training and uniform practices for refer-
7 rals of suspension and debarment matters. The poli-
8 cies adopted under this paragraph shall be subject to
9 the approval of the administering official concerned.

10 (8) The reports of each official to the Inter-
11 agency Committee on Debarment and Suspension on
12 the suspension and debarment activities of such offi-
13 cial shall include, in addition to any information re-
14 quired by section 873 of the Duncan Hunter Na-
15 tional Defense Authorization Act for Fiscal Year
16 2009, a description of the basis for any final deci-
17 sion declining to pursue suspension or debarment
18 and information on any administrative agreements
19 in lieu of suspension or debarment entered into by
20 such office during the period covered by such re-
21 ports.

22 (c) CONSTRUCTION OF LOCATION LIMITATION.—
23 Nothing in subsection (b)(2) shall be construed as author-
24 izing a reduction in the number of suspension and debar-
25 ment officials at the Department of Defense, the military

1 departments, the Department of State, or the United
2 States Agency for International Development from the
3 number at the applicable agency as of the date of the en-
4 actment of this Act.

5 (d) DEFINITIONS.—In this section:

6 (1) The term “administering official” means
7 the following:

8 (A) The Secretary of Defense, with respect
9 to the Department of Defense.

10 (B) The Secretary of the Army, with re-
11 spect to the Department of the Army.

12 (C) The Secretary of the Navy, with re-
13 spect to the Department of the Navy.

14 (D) The Secretary of the Air Force, with
15 respect to the Department of the Air Force.

16 (E) The Secretary of State, with respect to
17 the Department of State.

18 (F) The Administrator of the United
19 States Agency for International Development,
20 with respect to the United States Agency for
21 International Development.

22 (2) The term “Interagency Committee on De-
23 barment and Suspension” means the committee con-
24 stituted under sections 4 and 5 of Executive Order
25 No. 12549.

1 (e) DUTIES OF INTERAGENCY COMMITTEE ON DE-
2 BARMENT AND SUSPENSION.—Section 873 of the Duncan
3 Hunter National Defense Authorization Act for Fiscal
4 Year 2009 is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1), by inserting “, in-
7 cluding with respect to contracts in connection
8 with overseas contingency operations” before
9 the semicolon; and

10 (B) in paragraph (7)—

11 (i) in subparagraph (B), by striking “;
12 and” and inserting a semicolon;

13 (ii) in subparagraph (C), by striking
14 the period at the end and inserting “;
15 and”; and

16 (iii) by adding at the end the fol-
17 lowing new subparagraph:

18 “(D) all information on suspensions,
19 debarments, and administrative agreements in-
20 cluded in the report that do not appear in the
21 Federal Awardee Performance and Integrity In-
22 formation System required by section 2313 of
23 title 41, United States Code.”; and

24 (2) by striking subsection (b) and inserting the
25 following new subsections:

1 “(b) DATE OF SUBMITTAL OF ANNUAL REPORTS.—

2 The annual report required by subsection (a)(7) shall be
3 submitted not later than 180 days after the date of the
4 enactment of the Comprehensive Contingency Contracting
5 Reform Act of 2012, and annually thereafter.

6 “(c) DEFINITIONS.—In this section:

7 “(1) The term ‘overseas contingency operations’
8 means military operations outside the United States
9 and its territories and possessions that are—

10 “(A) a contingency operation, as that term
11 is defined in subparagraph (A) of section
12 101(a)(13) of title 10, United States Code; or

13 “(B) a contingency operation, as that term
14 is defined in subparagraph (B) of section
15 101(a)(13) of title 10, United States Code, but
16 only if such operation involves actual or poten-
17 tial hostilities against an enemy of the United
18 States or against an opposing military force.

19 “(2) The term ‘Interagency Committee on De-
20 barment and Suspension’ means the committee con-
21 stituted under sections 4 and 5 of Executive Order
22 No. 12549.”.

1 **SEC. 113. ADDITIONAL BASES FOR SUSPENSION OF CON-**
2 **TRACTORS FROM CONTRACTING WITH THE**
3 **FEDERAL GOVERNMENT.**

4 Not later than 90 days after the date of the enact-
5 ment of this Act, the Federal Acquisition Regulatory
6 Council shall amend the Federal Acquisition Regulation
7 to provide for the automatic suspension of a contractor
8 from contracting with the Federal Government in the
9 event of the following:

10 (1) A charge by indictment or information of
11 the contractor on a Federal offense relating to the
12 performance of a contract with the Department of
13 Defense, the Department of State, or the United
14 States Agency for International Development in con-
15 nection with an overseas contingency operation.

16 (2) A final determination by the head of a con-
17 tracting agency of the Department of Defense, the
18 Department of State, or the United States Agency
19 for International Development that the contractor
20 has failed to pay or refund amounts due or owed to
21 the Federal Government in connection with an over-
22 seas contingency operation.

23 (3) A charge by the Federal Government in a
24 civil or criminal proceeding alleging fraudulent ac-
25 tions on the part of the contractor, whether by an
26 employee, affiliate, or subsidiary of the contractor or

1 any business owned or controlled by the contractor,
 2 on any contract with the Federal Government
 3 whether or not in connection with an overseas con-
 4 tingency operation.

5 **Subtitle C—Department of Defense** 6 **Matters**

7 **SEC. 121. RESPONSIBILITY WITHIN DEPARTMENT OF DE-** 8 **FENSE FOR CONTRACT SUPPORT FOR OVER-** 9 **SEAS CONTINGENCY OPERATIONS.**

10 (a) RESPONSIBILITY.—

11 (1) IN GENERAL.—Not later than one year
 12 after the date of the enactment of this Act, the Sec-
 13 retary of Defense shall prescribe in regulations the
 14 chain of authority and responsibility within the De-
 15 partment of Defense for policy, planning, and execu-
 16 tion of contract support for overseas contingency op-
 17 erations.

18 (2) ELEMENTS.—The regulations under para-
 19 graph (1) shall, at a minimum—

20 (A) specify the officials, offices, and com-
 21 ponents of the Department within the chain of
 22 authority and responsibility described in para-
 23 graph (1);

24 (B) identify for each official, office, and
 25 component specified under subparagraph (A)—

1 (i) requirements for policy, planning,
2 and execution of contract support for over-
3 seas contingency operations, including, at a
4 minimum, requirements in connection
5 with—

6 (I) coordination of functions, au-
7 thorities, and responsibilities related
8 to operational contract support for
9 overseas contingency operations;

10 (II) assessments of total force
11 data in support of Department force
12 planning scenarios, including the ap-
13 propriateness of and necessity for the
14 use of contractors for identified func-
15 tions;

16 (III) determinations of capability
17 requirements for non-acquisition com-
18 munity operational contract support,
19 and identification of resources re-
20 quired for planning, training, and exe-
21 cution to meet such requirements;

22 (IV) determinations of policy re-
23 garding the use of contractors by
24 function, and identification of the
25 training exercises that will be required

1 for contract support (including an as-
2 sessment whether or not such exer-
3 cises will include contractors); and

4 (V) establishment of an inven-
5 tory, and identification of areas of
6 high-risk and trade-offs, for use of
7 contract support in overseas contin-
8 gency operations and for areas in
9 which members of the Armed Forces
10 will be used in such operations instead
11 of contract support; and

12 (ii) roles, authorities, responsibilities,
13 and lines of supervision for the achieve-
14 ment of the requirements identified under
15 clause (i), including the position within the
16 chain of authority and responsibility de-
17 scribed in paragraph (1) with responsibility
18 for reporting directly to the Secretary re-
19 garding policy, planning, and execution of
20 contract support for overseas contingency
21 operations; and

22 (C) ensure that the chain of authority and
23 responsibility described in paragraph (1) is ap-
24 propriately aligned with, and appropriately inte-
25 grated into, the structure of the Department

1 for the conduct of overseas contingency oper-
2 ations, including the military departments, the
3 Joint Staff, and the commanders of the unified
4 combatant commands.

5 (b) SECRETARY OF DEFENSE REPORT.—Not later
6 than one year after the date of the enactment of this Act,
7 the Secretary shall submit to the appropriate committees
8 of Congress a report on the regulations prescribed under
9 subsection (a). The report shall set forth the following:

10 (1) The regulations.

11 (2) A comprehensive description of the require-
12 ments identified under clause (i) of subsection
13 (a)(2)(B), and a comprehensive description of the
14 manner in which the roles, authorities, responsibil-
15 ities, and lines of supervision under clause (ii) of
16 that subsection will further the achievement of such
17 requirements.

18 (3) A comprehensive description of the manner
19 in which the regulations will meet the requirements
20 in subsection (a)(2)(C).

21 (c) COMPTROLLER GENERAL REPORT.—Not later
22 than 18 months after the date of the enactment of this
23 Act, the Comptroller General of the United States shall
24 submit to the appropriate committees of Congress a report
25 on the regulations prescribed under subsection (a). The

1 report shall set forth an assessment by the Comptroller
 2 General of the extent to which the regulations will further
 3 the achievement by the Department of Defense of efficient
 4 and effective policy, planning, and execution of contract
 5 support for overseas contingency operations.

6 (d) ANNUAL REPORTS ON CONTRACT SUPPORT FOR
 7 OVERSEAS CONTINGENCY OPERATIONS.—

8 (1) IN GENERAL.—Upon the commencement or
 9 designation of a military operation as an overseas
 10 contingency operation that exceeds 30 days, and an-
 11 nually thereafter until the termination of the oper-
 12 ation, the commander of the combatant command
 13 having principal responsibility for the operation
 14 shall, in consultation with the Secretary of Defense,
 15 submit to the appropriate committees of Congress a
 16 report on contract support for the operation.

17 (2) ELEMENTS.—Each report under paragraph
 18 (1) regarding an operation shall set forth the fol-
 19 lowing:

20 (A) A description and assessment of the
 21 policy, planning, management, and oversight of
 22 the Department with respect to contract sup-
 23 port for the operation.

24 (B) With respect to contracts entered into
 25 in connection with the operation:

1 (i) The total number of contracts en-
2 tered into as of the date of such report.

3 (ii) The total number of such con-
4 tracts that are active as of such date.

5 (iii) The total value of contracts en-
6 tered into as of such date.

7 (iv) The total value of such contracts
8 that are active as of such date.

9 (v) An identification of the extent to
10 which the contracts entered into as of such
11 date were entered into using competitive
12 procedures.

13 (vi) The total number of contractor
14 personnel working under contracts entered
15 into as of the end of each calendar quarter
16 during the one-year period ending on such
17 date.

18 (vii) The total number of contractor
19 personnel performing security functions
20 under contracts entered into as of the end
21 of each calendar quarter during the one-
22 year period ending on such date.

23 (viii) The total number of contractor
24 personnel killed or wounded under any
25 contracts entered into.

1 (C) The sources of information and data
2 used to prepare the portion of such report re-
3 quired by subparagraph (B).

4 (D) A description of any known limitations
5 of the information or data reported under sub-
6 paragraph (B), including known limitations in
7 methodology or data sources.

8 (E) Any plans for strengthening collection,
9 coordination, and sharing of information on
10 contracts entered into in connection with the
11 operation.

12 (3) ESTIMATES.—In determining the total
13 number of contractor personnel working under con-
14 tracts for purposes of paragraph (2)(B)(vi), the
15 commander of the combatant command concerned
16 may use estimates for any category of contractor
17 personnel for which the commander determines it is
18 not feasible to provide an actual count. Each report
19 under paragraph (1) shall fully disclose the extent to
20 which such an estimate is used in lieu of an actual
21 count.

22 (4) PROHIBITION ON PREPARATION BY CON-
23 TRACTOR PERSONNEL.—A report under this sub-
24 section may not be prepared by contractor personnel.

1 **SEC. 122. INCLUSION OF CONTRACT SUPPORT IN CERTAIN**
2 **DEPARTMENT OF DEFENSE PLANNING RE-**
3 **QUIREMENTS.**

4 (a) READINESS REPORTING SYSTEM.—Section
5 117(c) of title 10, United States Code, is amended by add-
6 ing at the end the following new paragraph:

7 “(8) Measure, on a quarterly basis, the capa-
8 bility of operational contract support to support cur-
9 rent and anticipated wartime missions of the armed
10 forces.”.

11 (b) CONTINGENCY PLANNING AND PREPAREDNESS
12 FUNCTIONS OF CJCS.—Section 153(a)(3) of such title is
13 amended by adding at the end the following new subpara-
14 graph:

15 “(E) In coordination with the Under Secretary
16 of Defense for Acquisition, Technology, and Logis-
17 tics, the Secretaries of the military departments, the
18 heads of the Defense Agencies, and the commanders
19 of the combatant commands, determining the oper-
20 ational contract support requirements of the armed
21 forces and recommending the resources required to
22 improve and enhance operational contract support
23 for the armed forces and planning for such oper-
24 ational contract support.”.

1 **SEC. 123. INCLUSION OF MATTERS RELATING TO CONTIN-**
 2 **GENCY OPERATIONS IN JOINT PROFES-**
 3 **SIONAL MILITARY EDUCATION.**

4 (a) IN GENERAL.—Section 2151(a) of title 10,
 5 United States Code, is amended by adding at the end the
 6 following new paragraph:

7 “(6) Contingency operations.”.

8 (b) CURRICULUM FOR THREE-PHASE APPROACH.—
 9 Section 2154 of such title is amended by adding at the
 10 end the following new subsection:

11 “(c) CURRICULUM RELATING TO CONTINGENCY OP-
 12 ERATIONS.—(1) The curriculum for each phase of joint
 13 professional military education implemented under this
 14 section shall include content appropriate for such phase
 15 on the following:

16 “(A) Requirements definition.

17 “(B) Contingency program management.

18 “(C) Contingency contracting.

19 “(D) The strategic impact of contracting costs
 20 on military missions.

21 “(2) In this subsection, the terms ‘requirements defi-
 22 nition’, ‘contingency program management’, and ‘contin-
 23 gency contracting’ have the meaning given those terms in
 24 section 2333(f) of this title.”.

1 **Subtitle D—Department of State**
 2 **and Related Agencies Matters**

3 **SEC. 131. REORGANIZATION OF ACQUISITION FUNCTIONS**
 4 **OF DEPARTMENT OF STATE AND UNITED**
 5 **STATES AGENCY FOR INTERNATIONAL DE-**
 6 **VELOPMENT.**

7 (a) OFFICE OF ACQUISITION AND LOGISTICS WITHIN
 8 DEPARTMENT OF STATE.—

9 (1) ESTABLISHMENT.—Title I of the State De-
 10 partment Basic Authorities Act of 1956 (22 U.S.C.
 11 2651a et seq.) is amended by adding at the end the
 12 following new section:

13 **“SEC. 63. OFFICE OF ACQUISITION AND LOGISTICS.**

14 “(a) ESTABLISHMENT.—There is established within
 15 the Department of State the Office of Acquisition and Lo-
 16 gistics.

17 “(b) DIRECTOR OF ACQUISITION AND LOGISTICS.—

18 “(1) IN GENERAL.—The head of the Office of
 19 Acquisition and Logistics shall be the Director of
 20 Acquisition and Logistics, who shall be appointed or
 21 designated by the Secretary in the manner provided
 22 in section 1702(a) of title 41, United States Code.

23 “(2) SUPERVISION.—The Director of the Office
 24 of Acquisition and Logistics shall report directly to
 25 the Secretary regarding the functions and activities

1 of the Office of Acquisition and Logistics. The Di-
2 rector shall also be subject to the supervision of the
3 Deputy Secretary of State for Management and Re-
4 sources regarding such functions and activities. The
5 Office shall be under the jurisdiction of the Under
6 Secretary of State for Management for administra-
7 tive purposes and to facilitate collaboration with
8 other offices and bureaus of the Department of
9 State.

10 “(3) CHIEF ACQUISITION OFFICER.—The Direc-
11 tor of the Office of Acquisition and Logistics shall
12 be the Chief Acquisition Officer of the Department
13 of State for purposes of section 1702 of title 41,
14 United States Code.

15 “(c) FUNCTIONS OF OFFICE.—The functions of the
16 Office of Acquisition and Logistics shall include principal
17 responsibility within the Department of State for the ac-
18 quisition, procurement, and logistics management activi-
19 ties of the Department, including, but not limited to, the
20 following:

21 “(1) The development and implementation of
22 Department policies regarding acquisition, procure-
23 ment, and logistics management.

24 “(2) The provision of advice to offices, bureaus,
25 and other elements of the Department on the acqui-

1 sition, procurement, and logistics management poli-
2 cies of the Department.

3 “(3) The direction, management, and oversight
4 of acquisition and procurement by the offices, bu-
5 reaus, and other elements of the Department, in-
6 cluding the regional procurement offices of the De-
7 partment.

8 “(4) The direction, management, and oversight
9 of the performance of contracting activities for De-
10 partment operations.

11 “(5) Such other matters relating to the acquisi-
12 tion, procurement, and logistics management activi-
13 ties of the Department as the Secretary considers
14 appropriate.

15 “(d) RESOURCES.—The Office of Acquisition and Lo-
16 gistics shall have such personnel and other resources as
17 the Secretary considers appropriate to discharge its func-
18 tions.”.

19 (2) TRANSFER OF CERTAIN FUNCTIONS, PER-
20 SONNEL, AND RESOURCES.—There is hereby trans-
21 ferred to the Office of Acquisition and Logistics of
22 the Department of State established by section 63 of
23 the State Department Basic Authorities Act of 1956
24 (as added by paragraph (1)) the following:

1 (A) The functions, personnel, and re-
2 sources of the Office of the Procurement Execu-
3 tive of the Bureau of Administration of the De-
4 partment of State as of the date of the enact-
5 ment of this Act.

6 (B) The functions, personnel, and re-
7 sources of the Office of the Logistics Manage-
8 ment of the Bureau of Administration of the
9 Department of State as of the date of the en-
10 actment of this Act.

11 (3) ADMINISTRATION.—The Under Secretary of
12 State for Management shall administer the func-
13 tions, personnel, and resources transferred under
14 paragraph (2) as part of the Office of Acquisition
15 and Logistics of the Department of State (as so es-
16 tablished).

17 (b) OFFICE OF ACQUISITION AND ASSISTANCE WITH-
18 IN USAID.—

19 (1) ESTABLISHMENT.—There is established
20 within the United States Agency for International
21 Development the Office of Acquisition and Assist-
22 ance.

23 (2) DIRECTOR.—

24 (A) IN GENERAL.—The head of the Office
25 of Acquisition and Assistance shall be the Di-

1 rector of Acquisition and Assistance, who shall
2 be appointed or designated by the Adminis-
3 trator of the United States Agency for Inter-
4 national Development in the manner provided
5 for appointments or designations of chief acqui-
6 sition officers under section 1702(a) of title 41,
7 United States Code.

8 (B) SUPERVISION.—The Director of Ac-
9 quisition and Assistance shall report directly to
10 the Administrator of the United States Agency
11 for International Development regarding the
12 functions and activities of the Office of Acquisi-
13 tion and Assistance.

14 (C) CHIEF ACQUISITION OFFICER.—The
15 Director of Acquisition and Assistance shall be
16 the Chief Acquisition Officer of the United
17 States Agency for International Development,
18 and shall discharge for the Agency the func-
19 tions specified of a chief acquisition officer in
20 section 1702(b) of title 41, United States Code.

21 (3) FUNCTION OF OFFICE.—The Office of Ac-
22 quisition and Assistance shall be the element of the
23 United States Agency for International Development
24 principally responsible for the direction, manage-
25 ment, and oversight of the acquisition and procure-

1 ment activities of the Agency for International De-
2 velopment.

3 (4) RESOURCES.—The Office of Acquisition
4 and Assistance shall have the personnel and re-
5 sources as follows:

6 (A) The personnel and resources of the Of-
7 fice of Acquisition and Assistance of the Bu-
8 reau for Management of the United States
9 Agency for International Development as of the
10 date of the enactment of this Act, which per-
11 sonnel and resources the Administrator shall
12 transfer to the Office of Acquisition and Assist-
13 ance established by this subsection.

14 (B) Such other personnel and resources as
15 the Administrator considers appropriate for the
16 discharge of the functions of the Office of Ac-
17 quisition and Assistance.

18 (c) ANNUAL REPORTS ON CONTRACT SUPPORT FOR
19 OVERSEAS CONTINGENCY OPERATIONS.—

20 (1) IN GENERAL.—Upon the commencement or
21 designation of a military operation as an overseas
22 contingency operation that exceeds 30 days, and an-
23 nually thereafter until the termination of the oper-
24 ation, the Secretary of State and the Administrator
25 of the United States Agency for International Devel-

1 opment shall each submit to the appropriate commit-
2 tees of Congress a report on contract support, if
3 any, of such agency for the operation.

4 (2) DISCHARGE.—The Secretary of State shall
5 submit the reports required by paragraph (1)
6 through the Director of Acquisition and Logistics of
7 the Department of State under section 63 of the
8 State Department Basic Authorities Act of 1956 (as
9 added by subsection (a)). The Administrator of the
10 United States Agency for International Development
11 shall submit the reports required by paragraph (1)
12 through the Director of Acquisition and Assistance
13 of the United States Agency for International Devel-
14 opment under subsection (b).

15 (3) ELEMENTS.—Each report of an agency
16 under paragraph (1) regarding an operation shall set
17 forth the following:

18 (A) A description and assessment of the
19 policy, planning, management, and oversight of
20 the agency with respect to contract support for
21 the operation.

22 (B) With respect to contracts entered into
23 in connection with the operation:

24 (i) The total number of contracts en-
25 tered into as of the date of such report.

1 (ii) The total number of such con-
2 tracts that are active as of such date.

3 (iii) The total value of contracts en-
4 tered into as of such date.

5 (iv) The total value of such contracts
6 that are active as of such date.

7 (v) An identification of the extent to
8 which the contracts entered into as of such
9 date were entered into using competitive
10 procedures.

11 (vi) The total number of contractor
12 personnel working under contracts entered
13 into as of the end of each calendar quarter
14 during the one-year period ending on such
15 date.

16 (vii) The total number of contractor
17 personnel performing security functions
18 under contracts entered into as of the end
19 of each calendar quarter during the one-
20 year period ending on such date.

21 (viii) The total number of contractor
22 personnel killed or wounded under any
23 contracts entered into.

1 (C) The sources of information and data
2 used to prepare the portion of such report re-
3 quired by subparagraph (B).

4 (D) A description of any known limitations
5 of the information or data reported under sub-
6 paragraph (B), including known limitations in
7 methodology or data sources.

8 (E) Any plans for strengthening collection,
9 coordination, and sharing of information on
10 contracts entered into in connection with the
11 operation.

12 (4) ESTIMATES.—In determining the total
13 number of contractor personnel working under con-
14 tracts for purposes of paragraph (3)(B)(vi), the Sec-
15 retary or the Administrator may use estimates for
16 any category of contractor personnel for which the
17 commander determines it is not feasible to provide
18 an actual count. Each report under paragraph (2)
19 shall fully disclose the extent to which such an esti-
20 mate is used in lieu of an actual count.

21 (5) PROHIBITION ON PREPARATION BY CON-
22 TRACTOR PERSONNEL.—A report under this sub-
23 section may not be prepared by contractor personnel.

1 **SEC. 132. INCLUSION OF CONTRACT SUPPORT IN CERTAIN**
2 **DEPARTMENT OF STATE PLANNING ACTIVITIES.**
3 **TIES.**

4 (a) QDDR.—Title I of the State Department Basic
5 Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as
6 amended by section 131(a) of this Act, is further amended
7 by adding at the end the following new section:

8 **“SEC. 64. QUADRENNIAL DIPLOMACY AND DEVELOPMENT**
9 **REVIEW.**

10 “(a) REVIEW REQUIRED.—The Secretary shall, every
11 four years during a year following a year evenly divisible
12 by four, conduct a comprehensive examination (to be
13 known as the ‘quadrennial diplomacy and development re-
14 view’) of the diplomatic and overseas development strategy
15 of the United States with a view toward determining and
16 expressing the diplomatic and overseas development strat-
17 egy of the United States for the next 20 years.

18 “(b) ELEMENTS.—Each quadrennial diplomacy and
19 development review shall include the following:

20 “(1) The matters included in the quadrennial
21 diplomacy and development review conducted by the
22 Department of State in 2010, as modified from time
23 to time by the Secretary.

24 “(2) With respect to contract support of the
25 diplomatic and overseas development strategy of the
26 United States, the following:

1 “(A) The assumptions used in the review
2 on the roles and responsibilities that would be
3 discharged by contractors.

4 “(B) The contract support required to sup-
5 port the programs and activities of the Depart-
6 ment.

7 “(C) The appropriate ratio of Department
8 personnel to contractor personnel in the dis-
9 charge of the programs and activities of the De-
10 partment.

11 “(3) Such other matters as the Secretary con-
12 siders appropriate.

13 “(c) PROHIBITION ON PERFORMANCE BY CON-
14 TRACTOR PERSONNEL.—A quadrennial diplomacy and de-
15 velopment review under this section may not be performed
16 by contractor personnel.”.

17 (b) CONTRACTOR READINESS REPORTING.—

18 (1) REPORTING SYSTEM REQUIRED.—As part
19 of the planning of the Department of State for the
20 discharge of the programs and activities of the De-
21 partment, the Secretary of State shall establish a re-
22 porting system on the readiness of the contractors of
23 the Department to support the Department in the
24 discharge of its programs and activities.

1 (2) ELEMENTS.—The reporting system required
2 by this subsection shall do the following:

3 (A) Measure, on a quarterly basis, the ca-
4 pability of contract support of the Department
5 to support current and anticipated programs
6 and activities of the Department.

7 (B) Measure, on such frequency as the
8 Secretary shall specify, such other matters with
9 respect to contract support of the Department
10 as the Secretary considers appropriate for the
11 reporting system.

12 **SEC. 133. PROFESSIONAL EDUCATION FOR DEPARTMENT**
13 **OF STATE PERSONNEL ON ACQUISITION FOR**
14 **DEPARTMENT OF STATE SUPPORT AND PAR-**
15 **TICIPATION IN DEPARTMENT OF DEFENSE**
16 **OVERSEAS CONTINGENCY OPERATIONS.**

17 (a) PROFESSIONAL EDUCATION REQUIRED.—The
18 Secretary of State shall develop and administer for De-
19 partment of State personnel specified in subsection (b) a
20 course of professional education on acquisition by the De-
21 partment of State for Department of State support for,
22 and participation in, overseas contingency operations of
23 the Department of Defense.

1 (b) COVERED DEPARTMENT OF STATE PER-
 2 SONNEL.—The Department of State personnel specified in
 3 this subsection are as follows:

4 (1) The Director of Acquisition and Logistics of
 5 the Department of State under section 63 of the
 6 State Department Basic Authorities Act of 1956 (as
 7 added by section 131(a) of this Act).

8 (2) Personnel of the Department designated by
 9 the Director of Acquisition and Logistics, including
 10 contracting officers and other contracting personnel.

11 (3) Such other personnel of the Department as
 12 the Secretary of State shall designate for purposes
 13 of this section.

14 (c) ELEMENTS.—

15 (1) CURRICULUM CONTENT.—The course of
 16 professional education under this section shall in-
 17 clude appropriate content on the following:

18 (A) Contingency contracting.

19 (B) Contingency program management.

20 (C) The strategic impact of contracting
 21 costs on the mission and activities of the De-
 22 partment of State.

23 (D) Such other matters relating to acquisi-
 24 tion by the Department of State for Depart-
 25 ment of State support for, or participation in,

1 overseas contingency operations of the Depart-
2 ment of Defense as the Secretary of State con-
3 siders appropriate.

4 (2) PHASED APPROACH.—The course of profes-
5 sional education may be broken into two or more
6 phases of professional education with curriculum or
7 modules of education suitable for the Department of
8 State personnel specified in subsection (b) at dif-
9 ferent phases of professional advancement within the
10 Department.

11 (d) DEFINITIONS.—In this section:

12 (1) The term “contingency contracting” means
13 all stages of the process of acquiring property or
14 services by the Department of State for Department
15 of State support for, and participation in, overseas
16 contingency operations of the Department of De-
17 fense.

18 (2) The term “contingency program manage-
19 ment” means the process of planning, organizing,
20 staffing, controlling, and leading specific acquisition
21 programs and activities of the Department of State
22 for Department of State support for, and participa-
23 tion in, overseas contingency operations of the De-
24 partment of Defense.

1 **TITLE II—TRANSPARENCY, SUS-**
 2 **TAINABILITY, AND ACCOUNT-**
 3 **ABILITY IN CONTRACTS FOR**
 4 **OVERSEAS CONTINGENCY OP-**
 5 **ERATIONS**

6 **Subtitle A—Limitations in**
 7 **Contracting**

8 **SEC. 201. LIMITATIONS APPLICABLE TO CERTAIN CON-**
 9 **TRACTS IN CONNECTION WITH OVERSEAS**
 10 **CONTINGENCY OPERATIONS.**

11 (a) **LIMITATION ON CONTRACT PERIODS.—**

12 (1) **IN GENERAL.**—Not later than 90 days after
 13 the date of the enactment of this Act, the Federal
 14 Acquisition Regulatory Council shall amend the Fed-
 15 eral Acquisition Regulation to provide that, com-
 16 mencing 180 days after the date of the commence-
 17 ment or designation of a military operation as an
 18 overseas contingency operation, the contract period
 19 of contracts entered into by a covered agency in con-
 20 nection with such contingency operation shall be lim-
 21 ited to the contract periods specified in paragraph
 22 (2), except as provided in paragraph (3).

23 (2) **CONTRACT PERIODS.**—The contract periods
 24 specified in this paragraph are as follows:

1 (A) Three years in the case of competi-
2 tively bid contracts.

3 (B) One year in the case of non-competi-
4 tively bid contracts and competitively bid con-
5 tracts for which only one offer was received by
6 the covered agency.

7 (3) WAIVER.—The amendment of the Federal
8 Acquisition Regulation required by this subsection
9 shall provide that the head of a covered agency may
10 waive the applicability of the limitations in para-
11 graph (2) to a contract if—

12 (A) the contracting officer certifies in writ-
13 ing as part of a justification and approval
14 (J&A) that the agency has concluded, on the
15 basis of market research conducted for purposes
16 of the justification and approval, that—

17 (i) the period of performance for the
18 contract in excess of the limitations in
19 paragraph (2) will be in the best interest
20 of the United States; and

21 (ii) the offeror has submitted informa-
22 tion in a bid or proposal sufficient to show
23 that representations by the offeror about
24 the offeror's ability to timely, sufficiently,

1 and cost-effectively perform the contract, if
2 awarded, are reasonable;

3 (B) the contracting officer conducts the
4 cost analysis required by section 15.404–1 of
5 the Federal Acquisition Regulation; and

6 (C) the head of the agency determines in
7 writing based on the information obtained pur-
8 suant to subparagraphs (A) and (B) that the
9 waiver is in the best interests of the United
10 States.

11 (b) LIMITATION ON SUBCONTRACTING TIERS FOR
12 SERVICE CONTRACTS.—

13 (1) IN GENERAL.—Not later than 90 days after
14 the date of the enactment of this Act, the Federal
15 Acquisition Regulatory Council shall amend the Fed-
16 eral Acquisition Regulation to provide that, com-
17 mencing 180 days after the date of the commence-
18 ment or designation of a military operation as an
19 overseas contingency operation, any contract for
20 services entered into by a covered agency in connec-
21 tion with such contingency operation may only have
22 a single tier of subcontractors, except as provided in
23 paragraph (2).

24 (2) WAIVER.—The amendment of the Federal
25 Acquisition Regulation required by this subsection

1 shall provide that the head of a covered agency may
2 waive the applicability of the limitation in paragraph
3 (1) to a contract if—

4 (A) the contracting officer includes in the
5 contract a provision for liquidated damages (in
6 an amount specified by the contracting officer
7 in the contract) in favor of the United States
8 in the event a subcontractor under the contract
9 at any tier is determined by the contracting of-
10 ficer to have acted in the performance of the
11 contract in a manner that is illegal or unethical
12 or harms the strategic political or military goals
13 of the United States;

14 (B) the contracting officer certifies in writ-
15 ing a justification and approval that the agency
16 has concluded, on the basis of market research
17 conducted for purposes of the justification and
18 approval, that, if the contract is performed in
19 component parts, no combination of contractors
20 within the market exist that could perform the
21 contract either by prime contractor alone or
22 through the use of subcontractors only at a sin-
23 gle tier; and

24 (C) the head of the agency determines in
25 writing based on the information obtained pur-

1 suant to subparagraphs (A) and (B) that the
 2 waiver is in the best interests of the United
 3 States.

4 (c) COVERED AGENCY DEFINED.—In this section,
 5 the term “covered agency” means the following:

6 (1) The Department of Defense.

7 (2) The Department of State.

8 (3) The United States Agency for International
 9 Development.

10 **SEC. 202. PERFORMANCE OF CERTAIN SECURITY FUNC-**
 11 **TIONS IN OVERSEAS AREAS OF OVERSEAS**
 12 **CONTINGENCY OPERATIONS.**

13 (a) ANNUAL REVIEW OF PERFORMANCE OF FUNC-
 14 TIONS.—

15 (1) IN GENERAL.—Not later than one year
 16 after the commencement or designation of a military
 17 operation as an overseas contingency operation, and
 18 annually thereafter until the termination of the oper-
 19 ation, the Secretary of Defense and the Secretary of
 20 State shall each conduct a review of the performance
 21 of covered security functions for the Department of
 22 Defense and the Department of State, as the case
 23 may be, in the overseas areas of the operation. Each
 24 review shall incorporate the results of the most re-

1 cent risk analysis conducted with respect to the op-
2 eration concerned under subsection (b).

3 (2) SUBMITTAL TO CONGRESS.—Each review
4 conducted under this subsection shall be submitted
5 to the appropriate committees of Congress not later
6 than 30 days after the completion of such review.

7 (b) RISK ANALYSES OF PERFORMANCE OF FUNC-
8 TIONS BY CONTRACTOR PERSONNEL.—

9 (1) IN GENERAL.—Not later than six months
10 after the commencement or designation of a military
11 operation as an overseas contingency operation, and
12 annually thereafter until the termination of the oper-
13 ation, the commander of the combatant command
14 having principal responsibility for the conduct of the
15 operation shall determine, in consultation with the
16 Secretary of Defense or the Secretary of State (as
17 applicable), whether the performance by contractor
18 personnel of any covered security functions for the
19 Department of Defense or the Department of State
20 in overseas areas of the operation after the date of
21 such determination is appropriate and necessary.

22 (2) DETERMINATION THROUGH RISK ANAL-
23 YSIS.—Each determination under this subsection
24 shall be made using a risk analysis meeting the re-

1 requirements of Department of Defense Instruction
2 1100.22, or a successor instruction.

3 (3) INFORMATION ON IDENTIFIED FUNC-
4 TIONS.—If the performance of any covered security
5 function by contractor personnel is determined under
6 this subsection to be appropriate and necessary, the
7 review incorporating the risk analysis submitted
8 under subsection (a)(2) shall set forth the security
9 functions or functions concerned and the reasons for
10 the determination.

11 (4) PROHIBITION ON PERFORMANCE OF RISK
12 ANALYSES BY CONTRACTOR PERSONNEL.—A risk
13 analysis under this subsection may not be performed
14 by contractor personnel.

15 (c) INCORPORATION INTO POLICIES AND PLANNING
16 ON OCOs.—The results of the reviews required by sub-
17 section (a) shall be incorporated into the policies and plan-
18 ning of the Department of Defense and the Department
19 of State for the conduct of overseas contingency oper-
20 ations.

21 (d) TEMPORARY EMPLOYMENT AUTHORITY.—

22 (1) IN GENERAL.—If the performance by con-
23 tractor personnel of any covered security functions
24 for the Department of Defense or the Department of
25 State in overseas areas of an overseas contingency

1 operation is terminated, either as a whole or in part,
 2 as a result of a determination under subsection (b),
 3 the Secretary of Defense or the Secretary of State
 4 (as applicable) may, using the authority in section
 5 3161 of title 5, United States Code (as amended by
 6 subsection (e)), appoint to positions of employment
 7 in the Department of Defense or the Department of
 8 State, as the case may be, such personnel described
 9 in paragraph (2) as are necessary for the perform-
 10 ance of such functions for the Department of De-
 11 fense or the Department of State, as the case may
 12 be, in the overseas areas of the operation.

13 (2) COVERED PERSONNEL.—The personnel de-
 14 scribed in this paragraph are the following:

15 (A) In the case of the Department of
 16 State, diplomatic security personnel.

17 (B) Law enforcement personnel of the
 18 United States Government.

19 (e) CONFORMING AMENDMENT.—Section 3161 of
 20 title 5, United States Code (as amended by section 103(b)
 21 of this Act), is further amended by adding at the end the
 22 following new subsection:

23 “(k) SECURITY FUNCTIONS FOR OVERSEAS CONTIN-
 24 GENCY OPERATIONS.—(1) In addition to the meaning
 25 given that term in subsection (a), the term ‘temporary or-

ganization’ for purposes of this subchapter means the Department of Defense and the Department of State for purposes of the performance of security functions in overseas areas of an overseas contingency operation pursuant to section 202(d) of the Comprehensive Contingency Contracting Reform Act of 2012.

“(2) A department specified in paragraph (1) may be treated as a temporary organization under that paragraph for purposes of an overseas contingency operation only during the duration of the operation.”.

(f) DEFINITIONS.—In this section:

(1) The term “contractor personnel” means any person performing work under contract for the Department of Defense or the Department of State, including individuals and subcontractors at any tier, in an overseas area of an overseas contingency operation.

(2) The term “covered security functions” means the following:

(A) Mobile security functions.

(B) Personal security functions.

(C) Static security functions.

(3) The term “mobile security functions” includes the protection of convoys.

1 (4) The term “personal security functions” in-
 2 cludes the provision of security escorts and personal
 3 security details.

4 (5) The term “static security functions” in-
 5 cludes the protection of fixed or static sites such as
 6 housing areas, reconstruction work sites, and Gov-
 7 ernment buildings and facilities.

8 **SEC. 203. JUSTIFICATION AND APPROVAL FOR SOLE-**
 9 **SOURCE CONTRACTS OF UNUSUAL AND COM-**
 10 **PELLING URGENCY EXCEPTION TO CON-**
 11 **TRACT AWARD THROUGH COMPETITIVE PRO-**
 12 **CEDURES.**

13 (a) DEPARTMENT OF DEFENSE AND RELATED
 14 AGENCIES.—Section 2304(c)(2) of title 10, United States
 15 Code, is amended by inserting before the semicolon at the
 16 end the following: “, except that in any case in which the
 17 agency solicits a bid or proposal from only one source, the
 18 head of an agency may only use the authority in this para-
 19 graph if the contracting officer certifies in writing a jus-
 20 tification and approval (J&A) of the reasons necessary for
 21 using this authority to solicit a bid or proposal from only
 22 one source, and such certifications are compiled and sub-
 23 mitted annually in a report to the Committee on Armed
 24 Services, the Committee on Foreign Relations, the Com-
 25 mittee on Homeland Security and Governmental Affairs,

1 and the Committee on Appropriations of the Senate and
2 the Committee on Armed Services, the Committee on For-
3 eign Affairs, the Committee on Oversight and Government
4 Reform, and the Committee on Appropriations of the
5 House of Representatives”.

6 (b) OTHER EXECUTIVE AGENCIES.—Section
7 3304(a)(2) of title 41, United States Code, is amended
8 by inserting before the semicolon at the end the following:
9 “, except that in any case in which the agency solicits a
10 bid or proposal from only one source, the head of an agen-
11 cy may only use the authority in this paragraph if the
12 contracting officer certifies in writing, a justification and
13 approval (J&A) of the reasons necessary for using this au-
14 thority to solicit a bid or proposal from only one source,
15 and such certifications are compiled and submitted annu-
16 ally in a report to the Committee on Armed Services, the
17 Committee on Foreign Relations, the Committee on
18 Homeland Security and Governmental Affairs, and the
19 Committee on Appropriations of the Senate and the Com-
20 mittee on Armed Services, the Committee on Foreign Af-
21 fairs, the Committee on Oversight and Government Re-
22 form, and the Committee on Appropriations of the House
23 of Representatives”.

Subtitle B—Enhancements of Contracting Process

SEC. 211. UNIFORM CONTRACT WRITING SYSTEM REQUIRE- MENTS FOR FEDERAL AGENCIES.

(a) EXECUTIVE AGENCIES OTHER THAN DEPARTMENT OF DEFENSE.—The Administrator of General Services shall establish and maintain a single contract writing system to apply uniformly to all executive agencies, other than the Department of Defense and the military departments.

(b) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall establish and maintain a single contract writing system to apply uniformly to the Department of Defense and all agencies and components of the Department, including the military departments.

(c) USE.—

(1) USE REQUIRED.—Subject to paragraph (2), upon the establishment of the contract writing system applicable to the executive agency concerned under subsection (a), the executive agency shall use such contract writing system for all contracts entered into by the executive agency.

(2) EXCEPTION.—An executive agency may use a contract writing system other than the contract writing system otherwise applicable to the executive

1 agency under subsection (a) if the Director of the
 2 Office of Management and Budget determines, using
 3 a business case analysis conducted for that purpose,
 4 that the use of such alternative contract writing sys-
 5 tem by the executive agency will result in cost sav-
 6 ings to the Federal Government.

7 (d) EXECUTIVE AGENCY DEFINED.—In this section,
 8 the term “executive agency” has the meaning given that
 9 term in section 133 of title 41, United States Code.

10 **SEC. 212. DATABASE ON PRICES OF ITEMS AND SERVICES**
 11 **UNDER FEDERAL CONTRACTS.**

12 (a) DATABASE REQUIRED.—

13 (1) IN GENERAL.—Chapter 33 of title 41,
 14 United States Code, is amended by adding at the
 15 end the following new section:

16 **“§ 3312. Database on prices of items and services**
 17 **under Federal contracts**

18 “(a) DATABASE REQUIRED.—The Administrator
 19 shall establish and maintain a database of information on
 20 the prices charged the Federal Government for items and
 21 services under contracts with the Federal Government.
 22 The information in the database shall be designed to assist
 23 Federal acquisition officials in the following:

1 “(1) Monitoring developments in the prices of
2 items and services charged the Federal Government
3 under contracts with the Federal Government.

4 “(2) Conducting pricing or cost analyses for
5 items and services under offers for contracts with
6 the Federal Government, or otherwise conducting
7 determinations of the reasonableness of prices for
8 items and services under such offers.

9 “(b) USE.—The database under subsection (a) shall
10 be available to executive agencies in the evaluation of of-
11 fers for contracts with the Federal Government for items
12 and services.”.

13 (2) CLERICAL AMENDMENT.—The table of sec-
14 tions at the beginning of chapter 33 of such title is
15 amended by adding at the end the following new
16 item:

“3312. Database on prices of items and services under Federal contracts.”.

17 (b) USE OF ELEMENTS OF DEPARTMENT OF DE-
18 FENSE PILOT PROJECT.—In establishing the database re-
19 quired by section 3312 of title 41, United States Code (as
20 added by subsection (a)), the Administrator of Federal
21 Procurement Policy shall use and incorporate appropriate
22 elements of the pilot project on pricing of the Department
23 of Defense being carried out by the Director of Defense
24 Pricing.

Subtitle C—Contractor Accountability

SEC. 221. CONTRACTOR CONSENT TO JURISDICTION FOR CERTAIN CIVIL ACTIONS UNDER CERTAIN CONTRACTS FOR WORK OVERSEAS.

(a) CONSENT TO JURISDICTION.—The Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation to require that any covered contract provides that—

(1) the contractor consents to personal jurisdiction over the contractor with respect to any covered civil action, including a covered civil action against one or more employees of the contractor for which the contractor may be liable under theories of vicarious liability;

(2) the contractor consents to personal jurisdiction in the United States District Court for the District of Columbia for a covered civil action in which—

(A) the events giving rise to the cause of action occurred outside the United States; and

(B) personal jurisdiction cannot be established in another Federal court;

(3) consent to personal jurisdiction under paragraph (2) shall not operate to deprive or terminate

1 personal jurisdiction of the contractor in any court
 2 that otherwise has personal jurisdiction under an-
 3 other provision of law or to limit any cause of action
 4 or remedy under any other provision of law;

5 (4) if the covered contract was awarded to a
 6 contractor that does not maintain an office in the
 7 United States, the contractor shall designate an
 8 agent located in the United States for service of
 9 process in any covered civil action;

10 (5) except as provided in paragraph (6), any
 11 covered civil action shall be analyzed in accordance
 12 with the laws of the United States; and

13 (6) the substantive law of the State (including
 14 the District of Columbia) in which the covered civil
 15 action is brought shall be the law applicable to a
 16 covered civil action if—

17 (A) the substantive law otherwise applica-
 18 ble to the covered civil action would be the law
 19 of the location where the events giving rise to
 20 the cause action occurred; and

21 (B) the location is designated as a haz-
 22 ardous duty zone by the Secretary of Defense.

23 (b) APPLICABILITY.—The amendment to the Federal
 24 Acquisition Regulation made under subsection (a) shall
 25 apply with respect to any covered contract that is entered

1 into on or after the effective date of the amendment under
2 subsection (a).

3 (c) DEFINITIONS.—In this section:

4 (1) The term “contractor”, with respect to a
5 covered contract, includes the contractor under the
6 contract, any subcontractor under the contract, any
7 subordinate contractor under the contract, any sub-
8 sidiary, parent company, or successor entity of the
9 contractor formed to act as a successor in interest
10 of the contractor, and any employee thereof per-
11 forming work under or in connection with the con-
12 tract.

13 (2) The term “covered civil action” means the
14 following:

15 (A) A civil action alleging a rape or sexual
16 assault of or serious bodily injury to a member
17 of the Armed Forces of the United States, a ci-
18 vilian employee of the United States, or an em-
19 ployee of a company performing work arising
20 out of the performance of a covered contract for
21 the United States who is a citizen or national
22 of the United States.

23 (B) A civil action alleging the wrongful
24 death of a member of the Armed Forces of the
25 United States, a civilian employee of the United

1 States, or an employee of a company per-
2 forming work arising out of the performance of
3 a covered contract for the United States who is
4 a citizen or national of the United States
5 brought by a family member of the deceased.

6 (3) The term “covered contract”—

7 (A) means a contract—

8 (i) for work to be performed outside
9 the United States that is awarded or en-
10 tered into by the United States (including
11 any executive department, agency, or inde-
12 pendent establishment thereof); and

13 (ii) with a value of not less than
14 \$5,000,000; and

15 (B) includes any subcontract or subordi-
16 nate contract under a contract described in sub-
17 paragraph (A).

18 (4) The term “rape” means conduct that would
19 violate section 920(a) of title 10, United States Code
20 (article 120(a) of the Uniform Code of Military Jus-
21 tice), if the conduct was committed by a person sub-
22 ject to chapter 47 of title 10, United States Code
23 (the Uniform Code of Military Justice).

1 (5) The term “serious bodily injury” has the
2 meaning given that term in section 1365 of title 18,
3 United States Code.

4 (6) The term “sexual assault” means conduct
5 that would violate section 920 (c), (h), or (m) of title
6 10, United States Code (article 120 (c), (h), or (m)
7 of the Uniform Code of Military Justice), if the con-
8 duct was committed by a person subject to chapter
9 47 of title 10, United States Code (the Uniform
10 Code of Military Justice).

11 (7) The term “United States”, in a geographic
12 sense—

13 (A) means the several States and the Dis-
14 trict of Columbia; and

15 (B) does not include any military installa-
16 tion or facility located outside the area de-
17 scribed in subparagraph (A).

18 **SEC. 222. COMBATING TRAFFICKING IN PERSONS.**

19 (a) FRAUD IN FOREIGN LABOR CONTRACTING.—Sec-
20 tion 1351 of title 18, United States Code, is amended—

21 (1) by inserting “(a) WORK INSIDE THE
22 UNITED STATES.—” before “Whoever knowingly”;
23 and

24 (2) by adding at the end the following:

1 “(b) WORK OUTSIDE THE UNITED STATES.—Who-
2 ever knowingly and with intent to defraud recruits, solie-
3 its, or hires a person outside the United States, or causes
4 another person to recruit, solicit, or hire a person outside
5 the United States, or attempts to do so, for purposes of
6 work performed on a United States Government contract
7 performed outside the United States or on a United States
8 Government military installation or mission or other prop-
9 erty or premises owned or controlled by the United States
10 Government by means of materially false or fraudulent
11 pretenses, representations, or promises regarding that em-
12 ployment shall be fined under this title, imprisoned for not
13 more than 5 years, or both.”.

14 (b) TERMINATION PROVISIONS FOR CERTAIN CON-
15 TRACTS.—

16 (1) IN GENERAL.—Not later than 90 days after
17 the date of the enactment of this Act, the Federal
18 Acquisition Regulatory Council shall amend the Fed-
19 eral Acquisition Regulation to provide that any cov-
20 ered contract entered into by a covered agency
21 shall—

22 (A) include provisions authorizing termi-
23 nation of the contract if the prime contractor,
24 any subcontractor at any tier under the prime
25 contractor, or any labor recruiter or broker em-

1 employed by the prime or subcontractor at any tier
2 engages in severe forms of trafficking in per-
3 sons, the procurement of commercial sex acts,
4 or the use of forced labor in the performance of
5 the contract, including—

6 (i) destroying, concealing, removing,
7 or confiscating an employee's immigration
8 documents without the employee's consent;

9 (ii) failing to repatriate an employee
10 upon the end of employment, unless the
11 employee is a victim of human trafficking
12 seeking victim services or legal redress in
13 the country of employment or a witness in
14 a human trafficking enforcement action;

15 (iii) misrepresenting the location or
16 occupation of employment to prospective
17 employees;

18 (iv) charging recruited employees ex-
19 orbitant placement fees, including, but not
20 limited to, fees that violate the laws of the
21 country from which an employee is re-
22 cruited, or fees equal to or greater than
23 the employee's monthly salary; and

24 (v) any other activities that support or
25 promote trafficking in persons, the pro-

curement of commercial sex acts, or the use of forced labor in the performance of the contract; and

(B) require, prior to contract award and annually thereafter during the term of the contract, a certification by the contractor to the covered agency that—

(i) neither the contractor nor any subcontractor, labor recruiter, broker, or employee under the contract is engaged in any activities covered by subparagraph (A); and

(ii) the contractor has in place procedures—

(I) to prevent activities described in subparagraph (A); and

(II) to monitor, detect and terminate any subcontractor, labor recruiter, broker, or employee subsequently found to be engaged in any activities described in subparagraph (A) during the course of the contract.

(2) DEFINITIONS.—In this subsection:

(A) COVERED AGENCY.—The term “covered agency” means the following:

- 1 (i) The Department of Defense.
- 2 (ii) The Department of State.
- 3 (iii) The United States Agency for
- 4 International Development.

5 (B) COVERED CONTRACT.—The term “cov-
6 ered contract”—

7 (i) means a contract with a value of
8 not less than \$1,000,000 for work to be
9 performed outside the United States that
10 is awarded or entered into by a covered
11 agency; and

12 (ii) includes any subcontract or subor-
13 dinate contract under a contract described
14 in clause (i).

15 **SEC. 223. INFORMATION ON CORPORATE CONTRACTOR**
16 **PERFORMANCE AND INTEGRITY THROUGH**
17 **THE FEDERAL AWARDEE PERFORMANCE AND**
18 **INTEGRITY INFORMATION SYSTEM.**

19 (a) INCLUSION OF CORPORATIONS AMONG COVERED
20 PERSONS.—Subsection (b) of section 872 of the Duncan
21 Hunter National Defense Authorization Act for Fiscal
22 Year 2009 (Public Law 110–417; 122 Stat. 4555) is
23 amended by inserting “(including a corporation)” after
24 “Any person” both places it appears.

1 (b) INFORMATION ON CORPORATIONS.—Subsection
 2 (d) of such section is amended by adding at the end the
 3 following new paragraph:

4 “(3) INFORMATION ON CORPORATIONS.—The
 5 information on a corporation in the database shall,
 6 to the extent practicable, include information on any
 7 parent, subsidiary, or successor entities to the cor-
 8 poration in manner designed to give the acquisition
 9 officials using the database a comprehensive under-
 10 standing of the performance and integrity of the cor-
 11 poration in carrying out Federal contracts and
 12 grants.”.

13 **SEC. 224. CONTRACTOR PERFORMANCE EVALUATIONS AND**
 14 **THE PAST PERFORMANCE INFORMATION RE-**
 15 **TRIEVAL SYSTEM.**

16 Not later than 90 days after the date of the enact-
 17 ment of this Act, the Federal Acquisition Regulatory
 18 Council shall amend the Federal Acquisition Regulation
 19 as follows:

20 (1) The requirements under section 42.1503(b)
 21 of the Federal Acquisition Regulation to submit
 22 agency evaluations of contractor performance to a
 23 contractor, to permit a contractor response to eval-
 24 uations, and to retain such response in performance
 25 evaluations shall be terminated.

(2) Contractor performance evaluations shall be entered into the Past Performance Information Retrieval System (PPIRS) under section 42.1503 of the Federal Acquisition Regulation using the Contractor Performance Assessment Reporting System.

Subtitle D—Other Matters

SEC. 231. SUSTAINABILITY REQUIREMENTS FOR CERTAIN CAPITAL PROJECTS FUNDED BY THE DE- PARTMENT OF DEFENSE FOR OVERSEAS CONTINGENCY OPERATIONS.

(a) CERTIFICATION ON SUSTAINABILITY REQUIRED BEFORE COMMENCEMENT OF PROJECTS.—

(1) IN GENERAL.—Commencing 60 days after the date of the enactment of this Act, a capital project described in subsection (b) may not be commenced unless the Secretary of Defense, in consultation with the United States commander of military operations in the country in which the project will be carried out, certifies to the appropriate committees of Congress that the country has the capability (in both financial and human resources) to effectively maintain and utilize the project.

(2) CONSIDERATIONS.—In making a certification under paragraph (1) with respect to a capital project, the Secretary shall take into account the

1 status of the maintenance and utilization of capital
2 projects, if any, in the country in which the project
3 is to be carried out that were previously financed or
4 assisted by the United States.

5 (b) COVERED CAPITAL PROJECTS.—A capital project
6 described in this subsection is any capital project overseas
7 for an overseas contingency operation that is for the ben-
8 efit of the host country, is funded by the Department of
9 Defense using covered funds, and has an estimated value
10 in excess of \$1,000,000, other than a project for military
11 construction (as that term is defined in section 114(b) of
12 title 10, United States Code) or a military family housing
13 project under section 2821 of such title.

14 (c) TERMINATION OF UNSUSTAINABLE PROJECTS IN
15 PROGRESS.—

16 (1) IN GENERAL.—Effective 180 days after the
17 date of the enactment of this Act, the Secretary of
18 Defense shall terminate each capital project de-
19 scribed in subsection (b) that is in progress, but not
20 completed, as of the date of the enactment of this
21 Act if the Secretary—

22 (A) determines, in consultation with the
23 United States commander of military operations
24 in the country in which the project is being car-
25 ried out, that the country does not have the ca-

pability (in both financial and human resources)
to effectively maintain and utilize the project;
or

(B) has not made any determination on
the matters described in subparagraph (A) with
respect to the project.

(2) WAIVER.—The Secretary may waive the re-
quirement for termination of a project under para-
graph (1) if the Secretary submits to the appro-
priate committees of Congress a written certification
that the project is vital to a military or security ob-
jective of the United States.

(d) DEFINITIONS.—In this section:

(1) The term “capital project” has the meaning
given the term in section 308 of the Aid, Trade, and
Competitiveness Act of 1992 (title III of Public Law
102–549; 22 U.S.C. 2421e; 106 Stat. 3660).

(2) The term “covered funds” means the fol-
lowing:

(A) Amounts in the Afghanistan Infra-
structure Fund.

(B) Amounts in the Afghanistan Security
Forces Funds.

(C) Amounts available for the Com-
manders’ Emergency Response Program.

1 (D) Any other funds authorized to be ap-
2 propriated for the Department of Defense that
3 are made available for a capital project.

○