

FEDERAL PROTECTIVE SERVICE GUARD CONTRACTING
REFORM ACT OF 2007

SEPTEMBER 14, 2007.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. OBERSTAR, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3068]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3068) to prohibit the award of contracts to provide guard services under the contract security guard program of the Federal Protective Service to a business concern that is owned, controlled, or operated by an individual who has been convicted of a felony, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Protective Service Guard Contracting Reform Act of 2007”.

SEC. 2. FEDERAL PROTECTIVE SERVICE CONTRACTS.

(a) **PROHIBITION ON AWARD OF CONTRACTS TO ANY BUSINESS CONCERN OWNED, CONTROLLED, OR OPERATED BY AN INDIVIDUAL CONVICTED OF A FELONY.**—The Secretary of Homeland Security may not award a contract for the provision of guard services under the contract security guard program of the Federal Protective Service to any business concern that is owned, controlled, or operated by an individual who has been convicted of a felony.

(b) **REGULATIONS.**—Not later than 6 months after the date of the enactment of this Act, the Secretary shall issue regulations to carry out this section.

(c) **IMPLEMENTATION.**—In this section, the term “Secretary” means the Secretary of Homeland Security acting through the Assistant Secretary of U.S. Immigration and Customs Enforcement.

PURPOSE OF THE LEGISLATION

H.R. 3068, as amended, prohibits the Secretary of Homeland Security from awarding contracts to provide guard services under the contract security guard program of the Federal Protective Service

(“FPS”) to a business concern that is owned, controlled, or operated by an individual who has been convicted of a felony.

BACKGROUND AND NEED FOR LEGISLATION

The bill directs the Secretary of Homeland Security, acting through the Assistant Secretary of United States Immigration and Customs Enforcement, to prohibit the award of contracts for guard services under the contract security program of the Federal Protective Service to any business that is owned, controlled, or operated by an individual who has been convicted of a felony. This legislation was developed based on the findings of two oversight hearings conducted by the Committee on Transportation and Infrastructure. On April 18, 2007, the Committee held a hearing entitled “Proposals to Downsize the Federal Protective Service and Effects on the Protection of Federal Buildings”. On June 21, 2007, the Committee held a hearing entitled “The Responsibility of the Department of Homeland Security and the Federal Protective Service to Ensure Contract Guards Protect Federal Employees and Their Workplaces”.

The first hearing focused on Department of Homeland Security (“DHS”) proposals to cut the presence of Federal Protective Service officers nationally. The hearing examined FPS’ core capabilities since being moved into DHS, its ability to deal with the threats in cities in which the DHS proposal indicated the city would lose FPS officer presence, and its new proposed core mission. The hearing also highlighted DHS’s increased reliance on contract security guards to protect and respond to threats to Federal buildings as the number of FPS officers is reduced.

The second hearing focused on the role that contract guard services play in assisting FPS officers in protecting Federal buildings. The hearing also highlighted a company, run by an individual convicted of fraud, which had not paid its security guards and, as a result, potentially created a security risk in Federal buildings.

SUMMARY OF THE LEGISLATION

Section 1. Short title

This Act may be cited as “Federal Protective Service Guard Contracting Reform Act of 2007”.

Section 2. Federal Protective Service contracts

Subsection (a) directs the Secretary of Homeland Security to prohibit the awarding of a contract for the provision of guard services under the contract security guard program of the Federal Protective Service to any business concern that is owned, controlled, or operated by an individual who has been convicted of a felony.

Subsection (b) directs the Secretary to promulgate regulations to enact the provisions of this bill not later than six months after the date of enactment of this Act.

Subsection (c) specifies that, in this section, the Secretary means the Assistant Secretary of U.S. Immigration and Customs Enforcement.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

On July 17, 2007, Delegate Norton introduced H.R. 3068, the “Federal Protective Service Guard Contracting Reform Act of 2007”.

On August 1, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management met in open session to consider H.R. 3068. The Subcommittee favorably recommended the bill to the Committee on Transportation and Infrastructure by voice vote.

On August 2, 2007, the Committee on Transportation and Infrastructure met in open session to consider H.R. 3068. An amendment to strike section 2(c) of the introduced bill was adopted by voice vote. The Committee on Transportation and Infrastructure ordered the bill, as amended, reported favorably to the House by voice vote.

RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken on the amendment offered to the bill or ordering H.R. 3068, as amended, reported. A motion to order H.R. 3068, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to bar convicted felons from being awarded a contract for guard services provided by the Federal Protective Service.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the

enclosed cost estimate for H.R. 3068, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 27, 2007.

Hon. JAMES L. OBERSTAR,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3068, the Federal Protective Service Guard Contracting Reform Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 3068—Federal Protective Service Guard Contracting Reform Act of 2007

H.R. 3068 would prevent convicted felons who own, operate, or control security firms from receiving contracts to provide guard services through the Federal Protective Service. The legislation would require the Department of Homeland Security to issue regulations to implement this requirement within six months of enactment.

CBO estimates that implementing this legislation would have no significant cost and would not affect direct spending or revenues. H.R. 3068 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa A. Gullo, Chief, State and Local Government Cost Estimates Unit.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3068, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 3068, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 3068 makes no changes in existing law.

