

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> 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 solici-  
22 ted 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 nuitants 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 annuitants 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 annuitant  
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 tigation 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  
16  
17          (4) Each official shall have a staff and resources adequate for the discharge of the suspension  
18          and debarment activities of such official.

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

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

1 ganization’ for purposes of this subchapter means the De-  
2 partment of Defense and the Department of State for pur-  
3 poses of the performance of security functions in overseas  
4 areas of an overseas contingency operation pursuant to  
5 section 202(d) of the Comprehensive Contingency Con-  
6 tracting Reform Act of 2012.

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

11 (f) DEFINITIONS.—In this section:

12 (1) The term “contractor personnel” means any  
13 person performing work under contract for the De-  
14 partment of Defense or the Department of State, in-  
15 cluding individuals and subcontractors at any tier, in  
16 an overseas area of an overseas contingency oper-  
17 ation.

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

20 (A) Mobile security functions.

21 (B) Personal security functions.

22 (C) Static security functions.

23 (3) The term “mobile security functions” in-  
24 cludes 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”.

1           **Subtitle B—Enhancements of**  
2                           **Contracting Process**

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

5           (a) EXECUTIVE AGENCIES OTHER THAN DEPART-  
6   MENT OF DEFENSE.—The Administrator of General Serv-  
7   ices shall establish and maintain a single contract writing  
8   system to apply uniformly to all executive agencies, other  
9   than the Department of Defense and the military depart-  
10   ments.

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

16          (c) USE.—

17               (1) USE REQUIRED.—Subject to paragraph (2),  
18   upon the establishment of the contract writing sys-  
19   tem applicable to the executive agency concerned  
20   under subsection (a), the executive agency shall use  
21   such contract writing system for all contracts en-  
22   tered into by the executive agency.

23               (2) EXCEPTION.—An executive agency may use  
24   a contract writing system other than the contract  
25   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.

1                   **Subtitle C—Contractor**  
2                   **Accountability**

3 **SEC. 221. CONTRACTOR CONSENT TO JURISDICTION FOR**  
4                   **CERTAIN CIVIL ACTIONS UNDER CERTAIN**  
5                   **CONTRACTS FOR WORK OVERSEAS.**

6           (a) **CONSENT TO JURISDICTION.**—The Federal Ac-  
7 quisition Regulatory Council shall amend the Federal Ac-  
8 quisition Regulation to require that any covered contract  
9 provides that—

10           (1) the contractor consents to personal jurisdic-  
11 tion over the contractor with respect to any covered  
12 civil action, including a covered civil action against  
13 one or more employees of the contractor for which  
14 the contractor may be liable under theories of vicari-  
15 ous liability;

16           (2) the contractor consents to personal jurisdic-  
17 tion in the United States District Court for the Dis-  
18 trict of Columbia for a covered civil action in  
19 which—

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

22           (B) personal jurisdiction cannot be estab-  
23 lished in another Federal court;

24           (3) consent to personal jurisdiction under para-  
25 graph (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-

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

4           (B) require, prior to contract award and  
5           annually thereafter during the term of the con-  
6           tract, a certification by the contractor to the  
7           covered agency that—

8                   (i) neither the contractor nor any sub-  
9                   contractor, labor recruiter, broker, or em-  
10                  ployee under the contract is engaged in  
11                  any activities covered by subparagraph (A);  
12                  and

13                   (ii) the contractor has in place proce-  
14                  dures—

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

17                           (II) to monitor, detect and termi-  
18                           nate any subcontractor, labor re-  
19                           cruiter, broker, or employee subse-  
20                           quently found to be engaged in any  
21                           activities described in subparagraph  
22                           (A) during the course of the contract.

23           (2) DEFINITIONS.—In this subsection:

24                   (A) COVERED AGENCY.—The term “cov-  
25                  ered 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.

1           (2) Contractor performance evaluations shall be  
2 entered into the Past Performance Information Re-  
3 trieval System (PPIRS) under section 42.1503 of  
4 the Federal Acquisition Regulation using the Con-  
5 tractor Performance Assessment Reporting System.

## 6           **Subtitle D—Other Matters**

### 7   **SEC. 231. SUSTAINABILITY REQUIREMENTS FOR CERTAIN** 8           **CAPITAL PROJECTS FUNDED BY THE DE-** 9           **PARTMENT OF DEFENSE FOR OVERSEAS** 10          **CONTINGENCY OPERATIONS.**

#### 11          (a) CERTIFICATION ON SUSTAINABILITY REQUIRED 12 BEFORE COMMENCEMENT OF PROJECTS.—

13           (1) IN GENERAL.—Commencing 60 days after  
14 the date of the enactment of this Act, a capital  
15 project described in subsection (b) may not be com-  
16 menced unless the Secretary of Defense, in consulta-  
17 tion with the United States commander of military  
18 operations in the country in which the project will  
19 be carried out, certifies to the appropriate commit-  
20 tees of Congress that the country has the capability  
21 (in both financial and human resources) to effec-  
22 tively maintain and utilize the project.

23           (2) CONSIDERATIONS.—In making a certifi-  
24 cation under paragraph (1) with respect to a capital  
25 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-

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

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

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

13          (d) DEFINITIONS.—In this section:

14           (1) The term “capital project” has the meaning  
15           given the term in section 308 of the Aid, Trade, and  
16           Competitiveness Act of 1992 (title III of Public Law  
17           102–549; 22 U.S.C. 2421e; 106 Stat. 3660).

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

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

22           (B) Amounts in the Afghanistan Security  
23           Forces Funds.

24           (C) Amounts available for the Com-  
25           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.

○