

112TH CONGRESS  
2D SESSION

# S. 3286

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

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## IN THE SENATE OF THE UNITED STATES

JUNE 12, 2012

Mrs. McCASKILL (for herself, Mr. WEBB, Mr. LIEBERMAN, Ms. COLLINS, Mr. FRANKEN, Mr. BLUMENTHAL, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## 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. Agency reports and inspector general audits of certain information on overseas contingency operations.
- Sec. 105. 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, the Department of State, and the United States Agency for International Development.
- Sec. 113. Additional bases for suspension or debarment.

### 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 requirements for Department of Defense planning.
- 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. Risk assessment and mitigation for contractor performance of critical functions in support of overseas contingency operations.
- Sec. 203. Comptroller General of the United States review of use by the Department of Defense, the Department of State, and the United States Agency for International Development of urgent and compelling exception to competition.

Subtitle B—Enhancements of Contracting Process and Protections in Contracting

- Sec. 211. Uniform contract writing system requirements.
- Sec. 212. Database on prices of items and services under Federal contracts.
- Sec. 213. Prohibition of excessive pass-through contracts and charges in the acquisition of services.

Subtitle C—Contractor Accountability

- Sec. 221. Contractor consent to jurisdiction for certain civil actions under certain contracts for work overseas.
- Sec. 222. Information on corporate contractor performance and integrity through the Federal Awardee Performance and Integrity Information System.
- Sec. 223. Inclusion of data on contractor performance in past performance databases for executive agency source selection decisions.

Subtitle D—Preventing Trafficking in Government Contracting

- Sec. 231. Short title.
- Sec. 232. Definitions.
- Sec. 233. Contracting requirements.
- Sec. 234. Compliance plan and certification requirement.
- Sec. 235. Monitoring and investigation of trafficking in persons.
- Sec. 236. Notification to inspectors general and cooperation with Government.
- Sec. 237. Expansion of fraud in foreign labor contracting to include work outside the United States.
- Sec. 238. Improving Department of Defense accountability for reporting trafficking in persons claims and violations.
- Sec. 239. Rule of construction.

Subtitle E—Other Matters

- Sec. 251. Sustainability requirements for certain capital projects in connection with 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—**

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) FEDERAL ACQUISITION REGULATORY COUNCIL.—The term “Federal Acquisition Regulatory Council” means the Federal Acquisition Regulatory Council under section 1302(a) of title 41, United States Code.

(3) OVERSEAS CONTINGENCY OPERATION.—The term “overseas contingency operation” means a military operation outside the United States and its territories and possessions that is—

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

(B) a contingency operation, as that term is defined in subparagraph (B) of section 101(a)(13) of title 10, United States Code, but

1           only if such operation involves actual or poten-  
 2           tial hostilities against an enemy of the United  
 3           States or against an opposing military force.

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

11 **SEC. 101. RESPONSIBILITIES OF THE PRESIDENT REGARD-**  
 12 **ING FINANCING OF OVERSEAS CONTINGENCY**  
 13 **OPERATIONS.**

14       The President shall ensure that any request to Con-  
 15 gress for funds for or relating to an overseas contingency  
 16 operation includes the following:

17           (1) A specific statement of the requested funds,  
 18       broken out by—

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

21                   (B) amounts intended to be allocated to  
 22       each program, project, and activity to be funded  
 23       through the request.

24           (2) A specific proposal for means of financing  
 25       the amount requested, including an increase in spec-

1       ified revenues, a decrease in specified programs,  
 2       projects, or activities, borrowing by the Federal Gov-  
 3       ernment, or other appropriate means.

4   **SEC. 102. RESPONSIBILITIES OF THE DIRECTOR OF THE OF-**  
 5                   **FICE OF MANAGEMENT AND BUDGET RE-**  
 6                   **GARDING OVERSEAS CONTINGENCY OPER-**  
 7                   **ATIONS.**

8       (a) RESPONSIBILITIES REGARDING COSTS AND FI-  
 9       NANCING.—

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

18           (2) PARTICULAR RESPONSIBILITIES.—The re-  
 19       sponsibility of the Director under this subsection  
 20       shall include the responsibilities as follows:

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

1           (B) To identify and report to the President  
2           on means of financing the costs of the Federal  
3           Government in connection with overseas contin-  
4           gency operations, including an increase in speci-  
5           fied revenues, a decrease in specified programs,  
6           projects, or activities, borrowing by the Federal  
7           Government, or other appropriate means.

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

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

1 **SEC. 103. RESPONSIBILITIES OF INSPECTORS GENERAL**  
 2 **FOR OVERSEAS CONTINGENCY OPERATIONS.**

3 (a) IN GENERAL.—The Inspector General Act of  
 4 1978 (5 U.S.C. App.) is amended—

5 (1) by redesignating section 8L as section 8M;  
 6 and

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

9 **“SEC. 8L. SPECIAL PROVISIONS CONCERNING OVERSEAS**  
 10 **CONTINGENCY OPERATIONS.**

11 “(a) IN GENERAL.—Upon the commencement or des-  
 12 ignation of a military operation as an overseas contingency  
 13 operation that exceeds 30 days, the Inspectors General  
 14 specified in subsection (b) shall have the responsibilities  
 15 specified in this section.

16 “(b) INSPECTORS GENERAL.—The Inspectors Gen-  
 17 eral specified in this subsection are the Inspectors General  
 18 as follows:

19 “(1) The Inspector General of the Department  
 20 of Defense.

21 “(2) The Inspector General of the Department  
 22 of State.

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

25 “(c) STANDING COMMITTEE ON OVERSEAS CONTIN-  
 26 GENCY OPERATIONS.—(1) The Council of Inspectors Gen-



1 eral on Integrity and Efficiency (CIGIE) shall establish  
2 a standing committee on overseas contingency operations.  
3 The standing committee shall consist of the following:

4           “(A) A chair, who shall be the Lead Inspector  
5       General for an overseas contingency operation under  
6       subsection (d) if such an operation is underway, and  
7       shall be an Inspector General specified in subsection  
8       (b) selected by the Inspectors General specified in  
9       that subsection from among themselves if such an  
10      operation is not underway.

11           “(B) The other Inspectors General specified in  
12      subsection (b).

13           “(C) For the duration of any contingency oper-  
14      ation that exceeds 30 days, any other inspectors  
15      general determined by the chair, in coordination  
16      with the other Inspectors General specified in sub-  
17      section (b), to have actual or potential areas of re-  
18      sponsibility with respect to the contingency oper-  
19      ation.

20           “(2) The standing committee shall have such on-  
21      going responsibilities, including planning, coordination,  
22      and development of practices, to improve oversight of over-  
23      seas contingency operations as the chair considers appro-  
24      priate.

1       “(3)(A) For the duration of any contingency oper-  
2    ation that exceeds 30 days, the standing committee shall  
3    develop and update on an annual basis a joint-strategic  
4    plan for ongoing and planned oversight of the contingency  
5    operation by the Inspectors General specified in subsection  
6    (b) and designated pursuant to paragraph (1)(C), includ-  
7    ing the following:

8               “(i) Audit and available inspection plans.

9               “(ii) An overall assessment of such oversight,  
10   including projects or areas (whether departmental or  
11   government-wide) of concern or in need of further  
12   review.

13              “(iii) Such other matters as the Lead Inspector  
14   General for the contingency operation considers ap-  
15   propriate.

16       “(B) Each plan under this paragraph, and any up-  
17   date of such plan, shall be made available to the public.

18       “(d) LEAD INSPECTOR GENERAL FOR OVERSEAS  
19   CONTINGENCY OPERATIONS.—(1) There shall be a lead  
20   inspector general for each overseas contingency operation  
21   that exceeds 30 days (in this section referred to as the  
22   ‘Lead Inspector General’ for the contingency operation  
23   concerned).

24       “(2) The Lead Inspector General for a contingency  
25   operation shall be the Inspector General of the Depart-

1 ment of Defense, who shall assume such role not later  
2 than 30 days after the commencement or designation of  
3 the military operation concerned as a contingency oper-  
4 ation.

5 “(e) RESPONSIBILITIES OF LEAD INSPECTOR GEN-  
6 ERAL.—(1) The Lead Inspector General for an overseas  
7 contingency operation shall have the following responsibil-  
8 ities:

9 “(A) To conduct oversight, in full coordination  
10 with the other Inspectors General specified in sub-  
11 section (b), over all aspects of the contingency oper-  
12 ation and to ensure, either through joint or indi-  
13 vidual audits, inspections, and investigations, inde-  
14 pendent and effective oversight of all programs and  
15 operations of all departments and agencies in the  
16 contingency operation.

17 “(B) To appoint, from among the offices of the  
18 other Inspectors General specified in subsection (b),  
19 an Inspector General to act as Associate Inspector  
20 General for the overseas contingency operation who  
21 shall act in a coordinating role to assist the Lead In-  
22 spector General in the discharge of responsibilities  
23 under this subsection.

24 “(C)(i) If none of the Inspectors General speci-  
25 fied in subsection (b) has principal jurisdiction over

1 a matter with respect to the contingency operation,  
2 to exercise responsibility for discharging oversight  
3 responsibilities in accordance with this Act with re-  
4 spect to such matter.

5 “(ii) If more than one of the Inspectors General  
6 specified in subsection (b) has jurisdiction over a  
7 matter with respect to the contingency operation, to  
8 determine principal jurisdiction for discharging over-  
9 sight responsibilities in accordance with this Act  
10 with respect to such matter.

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

17 “(i) the status and results of audits, in-  
18 spections, and closed investigations, and of the  
19 number of referrals to the Department of Jus-  
20 tice; and

21 “(ii) updates and changes to overall plans  
22 for the review of the contingency operation by  
23 inspectors general, including plans for inspec-  
24 tions and audits.

1           “(E) To submit to Congress on a semi-annual  
2           basis, and to make available on an Internet website  
3           available to the public, a report on the contingency  
4           operation setting forth the information specified in  
5           paragraph (2).

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

11          “(2) The information specified in this paragraph with  
12          respect to an overseas contingency operation is as follows:

13               “(A) Obligations and expenditures of appro-  
14               priated funds.

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

22               “(C) Revenues attributable to or consisting of  
23               funds provided by foreign nations or international  
24               organizations to programs and projects for the con-  
25               tingency operation that are funded by any depart-

1       ment or agency of the United States Government,  
2       and any obligations or expenditures of such reve-  
3       nues.

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

10          “(E) Operating expenses of agencies or entities  
11       receiving amounts appropriated or otherwise made  
12       available for the contingency operation.

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

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

18           “(ii) a brief discussion of the scope of the  
19       contract, grant, agreement, or other funding  
20       mechanism;

21           “(iii) a discussion of how the department  
22       or agency of the United States Government in-  
23       volved in the contract, grant, agreement, or  
24       other funding mechanism identified, and solici-  
25       ted offers from, potential individuals or entities

1 to perform the contract, grant, agreement, or  
2 other funding mechanism, together with a list  
3 of the potential individuals or entities that were  
4 issued solicitations for the offers; and

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

9 “(3) The Lead Inspector General for an overseas con-  
10 tingency operation shall discharge the responsibilities for  
11 the contingency operation under this subsection in a man-  
12 ner consistent with the authorities and requirements of  
13 this Act generally and the authorities and requirements  
14 applicable to the Inspectors General specified in subsection  
15 (b) under this Act.

16 “(f) TEMPORARY EMPLOYMENT AUTHORITY.—(1)  
17 Each Inspector General specified in subsection (b) may  
18 employ, on a temporary basis using the authorities in sec-  
19 tion 3161 of title 5, United States Code (but without re-  
20 gard to subsections (a) and (b)(2) of such section), such  
21 auditors, inspectors, investigators, and other personnel as  
22 such Inspector General considers appropriate for purposes  
23 of assisting such Inspector General in discharging respon-  
24 sibilities under subsection (e) with respect to an overseas  
25 contingency operation.

1       “(2) The employment under this subsection of an an-  
2 nuitant described in section 9902(g) of title 5, United  
3 States Code, shall be governed by the provisions of such  
4 section as if the position to which employed was a position  
5 in the Department of Defense.

6       “(3) The employment under this subsection of an an-  
7 nuitant receiving an annuity under the Foreign Service  
8 Retirement and Disability System under chapter 8 of the  
9 Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.) shall  
10 be treated as employment in an elective position in the  
11 Government on a temporary basis under section 824(b)  
12 of the Foreign Service Act of 1980 (22 U.S.C. 4064(b))  
13 for which continued receipt of annuities may be elected  
14 as provided in such section.

15       “(4) The authority to employ personnel under this  
16 subsection for a contingency operation shall cease as pro-  
17 vided for in subsection (g).

18       “(g) SUNSET FOR PARTICULAR CONTINGENCY OPER-  
19 ATIONS.—The requirements and authorities of this section  
20 with respect to an overseas contingency operation shall  
21 cease at the earlier of—

22               “(1) the end of the first fiscal year after the  
23 commencement or designation of the contingency op-  
24 eration in which the total amount appropriated for



1 the contingency operation is less than \$250,000,000  
2 (in constant fiscal year 2012 dollars); or

3 “(2) the date that is 18 months after the date  
4 of the issuance by the Secretary of Defense of an  
5 order terminating the contingency operation.

6 “(h) CONSTRUCTION OF AUTHORITY.—Nothing in  
7 this Act shall be construed to limit the ability of the In-  
8 spectors General specified in subsection (b) to enter into  
9 agreements to conduct joint audits, inspections, or inves-  
10 tigation in the exercise of their oversight responsibilities  
11 in accordance with this Act with respect to overseas con-  
12 tingency operations.

13 “(i) OVERSEAS CONTINGENCY OPERATION DE-  
14 FINED.—In this section, the term ‘overseas contingency  
15 operation’ means a military operation outside the United  
16 States and its territories and possessions that is—

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

20 “(2) a contingency operation, as that term is  
21 defined in subparagraph (B) of section 101(a)(13)  
22 of title 10, United States Code, but only if such op-  
23 eration involves actual or potential hostilities against  
24 an enemy of the United States or against an oppos-  
25 ing military force.

1       “(j) AUTHORIZATION OF APPROPRIATIONS.—(1) For  
2 each fiscal year in which the authorities under this section  
3 are in effect for an overseas contingency operation, there  
4 is hereby authorized to be appropriated for each of the  
5 Department of Defense, the Department of State, and the  
6 United States Agency for International Development for  
7 each of the Inspectors General specified in subsection (b),  
8 respectively, for oversight of the contingency operation  
9 under the authorities in this section, sums in an amount  
10 equal to 0.5 percent of the amount authorized to be appro-  
11 priated for such fiscal year for such department or agency  
12 for the programs and activities of such department or  
13 agency for the contingency operation.

14       “(2) Amounts authorized to be appropriated by this  
15 subsection are in addition to any other amounts author-  
16 ized to be appropriated for the Inspectors General referred  
17 to in paragraph (1) by law.

18       “(3)(A) Amounts authorized to be appropriated by  
19 this subsection may be obligated and expended only for  
20 oversight directly related to overseas contingency oper-  
21 ations. Amounts authorized to be appropriated by this  
22 subsection to one Inspector General referred to in para-  
23 graph (1) may be made available to another Inspector  
24 General referred to in that paragraph, upon the joint  
25 agreement of such Inspectors General, based on personnel

1 needs, security requirements, or such other matters as  
 2 such Inspectors General consider appropriate.

3 “(4) Any amounts authorized to be appropriated by  
 4 this subsection to an Inspector General that are not ex-  
 5 pended shall be deposited in the General Fund of the  
 6 Treasury.”.

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

11 “(j) LEAD INSPECTORS GENERAL FOR OVERSEAS  
 12 CONTINGENCY OPERATIONS AS TEMPORARY ORGANIZA-  
 13 TION.—In addition to the meaning given that term in sub-  
 14 section (a), the term ‘temporary organization’ for purposes  
 15 of this subchapter shall, without regard to subsections (a)  
 16 and (b)(2) of this section, also include the Lead Inspector  
 17 General for an overseas contingency operation under sec-  
 18 tion 8L of the Inspector General Act of 1978 and the In-  
 19 spectors General and inspector general office personnel as-  
 20 sisting the Lead Inspector General in the discharge of re-  
 21 sponsibilities and authorities under subsection (e) of such  
 22 section 8L with respect to the contingency operation.”.

1 **SEC. 104. AGENCY REPORTS AND INSPECTOR GENERAL AU-**  
2 **DITS OF CERTAIN INFORMATION ON OVER-**  
3 **SEAS CONTINGENCY OPERATIONS.**

4 (a) AGENCY REPORTS.—Not later than 180 days  
5 after the commencement or designation of a military oper-  
6 ation as an overseas contingency operation and semi-annu-  
7 ally thereafter during the duration of the contingency op-  
8 eration, the Secretary of Defense, the Secretary of State,  
9 and the Administrator of the United States Agency for  
10 International Development shall each submit to the In-  
11 spector General of the department or agency concerned  
12 the information required by subsection (e)(2) of section  
13 8L of the Inspector General Act of 1978 (as amended by  
14 section 103 of this Act) on the contingency operation.

15 (b) INSPECTOR GENERAL AUDITS.—Not later than  
16 180 days after receipt of a report under subsection (a),  
17 each Inspector General referred to in that subsection  
18 shall—

19 (1) perform an audit on the quality of the infor-  
20 mation submitted in such report, including an as-  
21 sessment of the completeness and accuracy of the in-  
22 formation and the extent to which the information  
23 fully satisfies the requirements of such Inspector  
24 General in preparing the annual report described in  
25 subsection (e)(1)(E) of section 8L of the Inspector  
26 General Act of 1978 (as so amended); and

1           (2) submit to the appropriate committees of  
 2 Congress a report on the reliability, accuracy, and  
 3 completeness of the information, including any sig-  
 4 nificant problems in such information.

5 **SEC. 105. OVERSIGHT OF CONTRACTS AND CONTRACTING**  
 6 **ACTIVITIES FOR OVERSEAS CONTINGENCY**  
 7 **OPERATIONS IN RESPONSIBILITIES OF CHIEF**  
 8 **ACQUISITION OFFICERS OF FEDERAL AGEN-**  
 9 **CIES.**

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

12           (1) by redesignating subparagraphs (F) and  
 13 (G) as subparagraphs (G) and (H), respectively; and

14           (2) by inserting after subparagraph (E) the fol-  
 15 lowing new subparagraph (F):

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

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

23       “(d) OVERSEAS CONTINGENCY OPERATIONS DE-  
 24 FINED.—In this section, the term ‘overseas contingency

1 operations’ means military operations outside the United  
 2 States and its territories and possessions that are—

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

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

## 11 **Subtitle B—Multi-Agency Matters**

### 12 **SEC. 111. INCLUSION OF CONTRACTS FOR SUPPORT OF** 13 **OVERSEAS CONTINGENCY OPERATIONS IN** 14 **MANAGEMENT STRUCTURE OF DEPARTMENT** 15 **OF DEFENSE, DEPARTMENT OF STATE, AND** 16 **UNITED STATES AGENCY FOR INTER-** 17 **NATIONAL DEVELOPMENT FOR PROCURE-** 18 **MENT OF CONTRACT SERVICES.**

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

21 (1) in paragraph (2), by striking “other than  
 22 services” and all that follows and inserting “includ-  
 23 ing services in support of overseas contingency oper-  
 24 ations. The term does not include services relating

1 to research and development or military construc-  
 2 tion.”; and

3 (2) by adding at the end the following new  
 4 paragraph:

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

8 “(A) a contingency operation, as that term  
 9 is defined in subparagraph (A) of section  
 10 101(a)(13) of this title; or

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

17 (b) DEPARTMENT OF STATE.—

18 (1) IN GENERAL.—The Secretary of State shall  
 19 establish and implement a management structure for  
 20 the procurement of contract services for the Depart-  
 21 ment of State.

22 (2) ELEMENTS.—The management structure  
 23 required by this subsection shall include such ele-  
 24 ments of the management structure for the procure-  
 25 ment of contract services for the Department of De-

1 fense under section 2330 of title 10, United States  
2 Code (as amended by subsection (a)), as the Sec-  
3 retary of State considers appropriate for the pro-  
4 curement of contract services.

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

18 (c) USAID.—

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



1           (2) ELEMENTS.—The management structure  
2       required by this subsection shall include such ele-  
3       ments of the management structure for the procure-  
4       ment of contract services for the Department of De-  
5       fense under section 2330 of title 10, United States  
6       Code (as amended by subsection (a)), as the Admin-  
7       istrator considers appropriate for the procurement of  
8       contract services.

9           (3) DISCHARGE OF PRINCIPAL RESPONSIBIL-  
10      ITIES.—Any responsibility in the management struc-  
11      ture for the procurement of contract services for the  
12      United States Agency for International Development  
13      under this subsection that is derived from a respon-  
14      sibility discharged by the Under Secretary of De-  
15      fense for Acquisition, Technology, and Logistics  
16      under section 2330 of title 10, United States Code  
17      (as so amended), shall be discharged in the manage-  
18      ment structure under this subsection by the Director  
19      of Acquisition and Assistance of the United States  
20      Agency for International Development under section  
21      131(b) of this Act.

22      (d) CONTRACT SERVICES DEFINED.—In this section  
23      the term “contract services” includes all services acquired  
24      from private sector entities by or for an agency, including

1 services in support of activities of the agency in connection  
2 with overseas contingency operations.

3 (e) REPORTS TO CONGRESS.—

4 (1) REPORTS REQUIRED.—Not later than one  
5 year after the date of the enactment of this Act, the  
6 Secretary of Defense, the Secretary of State, and  
7 the Administrator of the United States Agency for  
8 International Development shall each submit to the  
9 appropriate committees of Congress a report on the  
10 implementation by the department or agency con-  
11 cerned of this section and the amendments made by  
12 this section, as applicable.

13 (2) ELEMENTS FOR DEPARTMENT OF STATE  
14 AND USAID.—The report of the Secretary of State  
15 and the Administrator of the United States Agency  
16 for International Development under this subsection  
17 shall each set forth the following:

18 (A) A comprehensive description of the  
19 management structure established and imple-  
20 mented by the department or agency, as the  
21 case may be, under this section.

22 (B) An identification of any elements of  
23 the management structure of the Department  
24 of Defense under section 2330 of title 10,  
25 United States Code (as amended by subsection

(a)), that are not included in the management structure of the department or agency, as the case may be, and a justification for the omission of such elements.

(C) An identification of any elements of the management structure of the department or agency, as the case may be, that are not included in the management structure of the Department of Defense, and a justification for the inclusion of such elements.

**SEC. 112. REQUIREMENTS AND LIMITATIONS FOR SUSPENSION AND DEBARMENT OFFICIALS OF THE DEPARTMENT OF DEFENSE, THE DEPARTMENT OF STATE, AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the head of the covered agency concerned shall ensure the following:

(1) There shall be not less than one suspension and debarment official—

(A) in the case of the Department of Defense, for each of the Department of the Army, the Department of the Navy, the Department of

1 the Air Force, and the Defense Logistics Agen-  
2 cy;

3 (B) for the Department of State; and

4 (C) for the United States Agency for Inter-  
5 national Development.

6 (2) A suspension and debarment official under  
7 paragraph (1) may not report to or be subject to the  
8 supervision of the acquisition office or the Inspector  
9 General of—

10 (A) in the case of the Department of De-  
11 fense, either the Department of Defense or the  
12 military department or Defense Agency con-  
13 cerned; and

14 (B) in the case of any other covered agen-  
15 cy, the acquisition office or the Inspector Gen-  
16 eral of such agency.

17 (3) The duties of a suspension and debarment  
18 official under paragraph (1) may include only the  
19 following:

20 (A) The direction, management, and over-  
21 sight of suspension and debarment activities.

22 (B) The direction, management, and over-  
23 sight of fraud remedies activities.

24 (C) Membership and participation in the  
25 Interagency Committee on Debarment and Sus-

1 pension in accordance with Executive Order No.  
2 12549 and section 873 of the Duncan Hunter  
3 National Defense Authorization Act for Fiscal  
4 Year 2009 (as amended by this section).

5 (4) Each suspension and debarment official  
6 under paragraph (1) shall have a staff and resources  
7 adequate for the discharge of the suspension and de-  
8 barment responsibilities of such official.

9 (5) Each suspension and debarment official  
10 under paragraph (1) shall document the basis for  
11 any final decision taken pursuant to a formal refer-  
12 ral in accordance with the policies established under  
13 paragraph (6), including, but not limited to, the fol-  
14 lowing:

15 (A) Any final decision to suspend or debar  
16 any person or entity.

17 (B) Any final decision not to suspend or  
18 debar any person or entity.

19 (C) Any final decision declining to pursue  
20 suspension or debarment of any person or enti-  
21 ty.

22 (D) Any administrative agreement entered  
23 with any person or persons in lieu of suspension  
24 or debarment of such person or entity.

1           (6) Each suspension and debarment official  
 2           under paragraph (1) shall, in consultation with the  
 3           General Counsel of the covered agency concerned,  
 4           establish in writing policies for the consideration of  
 5           the following:

6                   (A) Formal referrals of suspension and de-  
 7                   barment matters.

8                   (B) Suspension and debarment matters  
 9                   that are not formally referred.

10          (b) COVERED AGENCY DEFINED.—In subsection (a),  
 11          the term “covered agency” means the following:

12                   (1) The Department of Defense.

13                   (2) The Department of State.

14                   (3) The United States Agency for International  
 15          Development.

16          (c) DUTIES OF INTERAGENCY COMMITTEE ON DE-  
 17          BARMENT AND SUSPENSION.—Section 873 of the Duncan  
 18          Hunter National Defense Authorization Act for Fiscal  
 19          Year 2009 (31 U.S.C. 6101 note) is amended—

20                   (1) in subsection (a)—

21                           (A) in paragraph (1), by inserting “, in-  
 22                           cluding with respect to contracts in connection  
 23                           with contingency operations” before the semi-  
 24                           colon; and

25                           (B) in paragraph (7)—

1 (i) in subparagraph (B), by striking  
2 “and” at the end;

3 (ii) in subparagraph (C), by striking  
4 the period at the end and inserting “;  
5 and”; and

6 (iii) by adding at the end the fol-  
7 lowing new subparagraph:

8 “(D) a summary of suspensions,  
9 debarments, and administrative agreements  
10 during the previous year.”; and

11 (2) by striking subsection (b) and inserting the  
12 following new subsections:

13 “(b) DATE OF SUBMITTAL OF ANNUAL REPORTS.—  
14 The annual report required by subsection (a)(7) shall be  
15 submitted not later than 120 days after the end of the  
16 first fiscal year ending after the date of the enactment  
17 of the Comprehensive Contingency Contracting Reform  
18 Act of 2012, and annually thereafter.

19 “(c) DEFINITIONS.—In this section:

20 “(1) The term ‘contingency operation’ has the  
21 meaning given that term in section 101(a)(13) of  
22 title 10, United States Code.

23 “(2) The term ‘Interagency Committee on De-  
24 barment and Suspension’ means the committee con-

1       stituted under sections 4 and 5 of Executive Order  
2       No. 12549.”.

3   **SEC. 113. ADDITIONAL BASES FOR SUSPENSION OR DEBAR-**  
4                   **MENT.**

5       (a) IN GENERAL.—Not later than 180 days after the  
6   date of the enactment of this Act, the Federal Acquisition  
7   Regulatory Council shall revise the Federal Acquisition  
8   Regulation to provide for the automatic referral of a per-  
9   son described in subsection (b) to the appropriate suspen-  
10   sion and debarment official for a determination whether  
11   or not the person should be suspended or debarred.

12       (b) COVERED PERSONS.—A person described in this  
13   subsection is any person as follows:

14           (1) A person who has been charged with a Fed-  
15       eral criminal offense relating to the award or per-  
16       formance of a contract of a covered agency.

17           (2) A person who has been alleged, in a civil or  
18       criminal proceeding brought by the United States, to  
19       have engaged in fraudulent actions in connection  
20       with the award or performance of a contract of a  
21       covered agency.

22           (3) A person who has been determined by the  
23       head of a contracting agency of a covered agency to  
24       have failed to pay or refund amounts due or owed



1 to the Federal Government in connection with the  
 2 performance of a contract of the covered agency.

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

5 (1) The Department of Defense.

6 (2) The Department of State.

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

## 9 **Subtitle C—Department of Defense** 10 **Matters**

### 11 **SEC. 121. RESPONSIBILITY WITHIN DEPARTMENT OF DE-** 12 **FENSE FOR CONTRACT SUPPORT FOR OVER-** 13 **SEAS CONTINGENCY OPERATIONS.**

14 (a) RESPONSIBILITY.—

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

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

24 (A) specify the officials, offices, and com-  
 25 ponents of the Department within the chain of

1 authority and responsibility described in para-  
2 graph (1);

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

5 (i) requirements for policy, planning,  
6 and execution of contract support for over-  
7 seas contingency operations, including, at a  
8 minimum, requirements in connection  
9 with—

10 (I) coordination of functions, au-  
11 thorities, and responsibilities related  
12 to operational contract support for  
13 overseas contingency operations;

14 (II) assessments of total force  
15 data in support of Department force  
16 planning scenarios, including the ap-  
17 propriateness of and necessity for the  
18 use of contractors for identified func-  
19 tions;

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

1 (IV) determinations of policy re-  
2 garding the use of contractors by  
3 function, and identification of the  
4 training exercises that will be required  
5 for contract support (including an as-  
6 sessment whether or not such exer-  
7 cises will include contractors); and

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

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

1 (C) ensure that the chain of authority and  
2 responsibility described in paragraph (1) is ap-  
3 propriately aligned with, and appropriately inte-  
4 grated into, the structure of the Department  
5 for the conduct of overseas contingency oper-  
6 ations, including the military departments, the  
7 Joint Staff, and the commanders of the unified  
8 combatant commands.

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

14 (1) The regulations.

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

22 (3) A comprehensive description of the manner  
23 in which the regulations will meet the requirements  
24 in subsection (a)(2)(C).

1       (c) COMPTROLLER GENERAL REPORT.—Not later  
2 than 18 months after the date of the enactment of this  
3 Act, the Comptroller General of the United States shall  
4 submit to the appropriate committees of Congress a report  
5 on the regulations prescribed under subsection (a). The  
6 report shall set forth an assessment by the Comptroller  
7 General of the extent to which the regulations will further  
8 the achievement by the Department of Defense of efficient  
9 and effective policy, planning, and execution of contract  
10 support for overseas contingency operations.

11       (d) ANNUAL REPORTS ON CONTRACT SUPPORT FOR  
12 OVERSEAS CONTINGENCY OPERATIONS INVOLVING COM-  
13 BAT OPERATIONS.—

14           (1) IN GENERAL.—Not later than one year  
15 after the commencement or designation of a contin-  
16 gency operation outside the United States that in-  
17 cludes combat operations, and annually thereafter  
18 until the termination of the operation, the Secretary  
19 of Defense shall, except as provided in paragraph  
20 (2), submit to the appropriate committees of Con-  
21 gress a report on contract support for the operation.

22           (2) EXCEPTION.—If the total annual amount of  
23 obligations for contracts for support of a contin-  
24 gency operation otherwise described by paragraph  
25 (1) do not exceed \$250,000,000 in an annual report-

1       ing period otherwise covered by that paragraph, no  
2       report shall be required on the operation under that  
3       paragraph for that annual reporting period.

4           (3) ELEMENTS.—

5               (A) IN GENERAL.—Each report under  
6       paragraph (1) regarding an operation shall set  
7       forth the following:

8                   (i) A description and assessment of  
9                   the policy, planning, management, and  
10                  oversight of the Department of Defense  
11                  with respect to contract support for the op-  
12                  eration.

13                  (ii) With respect to contracts entered  
14                  into in connection with the operation:

15                       (I) The total number of contracts  
16                       entered into as of the date of such re-  
17                       port.

18                       (II) The total number of such  
19                       contracts that are active as of such  
20                       date.

21                       (III) The total value of contracts  
22                       entered into as of such date.

23                       (IV) The total value of such con-  
24                       tracts that are active as of such date.

1 (V) An identification of the ex-  
2 tent to which the contracts entered  
3 into as of such date were entered into  
4 using competitive procedures.

5 (VI) The total number of con-  
6 tractor personnel working under con-  
7 tracts entered into as of the end of  
8 each calendar quarter during the one-  
9 year period ending on such date.

10 (VII) The total number of con-  
11 tractor personnel performing security  
12 functions under contracts entered into  
13 as of the end of each calendar quarter  
14 during the one-year period ending on  
15 such date.

16 (VIII) The total number of con-  
17 tractor personnel killed or wounded  
18 under any contracts entered into.

19 (iii) The sources of information and  
20 data used to prepare the portion of such  
21 report required by clause (ii).

22 (iv) A description of any known limi-  
23 tations of the information or data reported  
24 under clause (ii), including known limita-  
25 tions in methodology or data sources.

1 (v) Any plans for strengthening collec-  
2 tion, coordination, and sharing of informa-  
3 tion on contracts entered into in connec-  
4 tion with the operation.

5 (B) ESTIMATES.—In determining the total  
6 number of contractor personnel working under  
7 contracts for purposes of subparagraph  
8 (A)(ii)(VI), the Secretary may use estimates for  
9 any category of contractor personnel for which  
10 the Secretary determines it is not feasible to  
11 provide an actual count. Each report under  
12 paragraph (1) shall fully disclose the extent to  
13 which such an estimate is used in lieu of an ac-  
14 tual count.

15 (4) PROHIBITION ON PREPARATION BY CON-  
16 TRACTOR PERSONNEL.—A report under paragraph  
17 (1) may not be prepared by contractor personnel.

18 (5) USE OF EXISTING REPORTS FOR CERTAIN  
19 CONTINGENCY OPERATIONS.—The requirement to  
20 submit reports under paragraph (1) on a contin-  
21 gency operation in Iraq or Afghanistan may be met  
22 by the submittal of the reports required by section  
23 863 of the National Defense Authorization Act for  
24 Fiscal Year 2008 (10 U.S.C. 2302 note).



1 **SEC. 122. INCLUSION OF CONTRACT SUPPORT IN CERTAIN**  
2 **REQUIREMENTS FOR DEPARTMENT OF DE-**  
3 **FENSE PLANNING.**

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

7 “(8) Measure, on an annual 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.”.

## **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 DE- VELOPMENT.**

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

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

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

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

“(b) DIRECTOR OF ACQUISITION AND LOGISTICS.—

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

“(2) SUPERVISION.—The Director of the Office  
of Acquisition and Logistics shall report directly to  
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, as if the United States  
8 Agency for International Development were an  
9 executive agency to which such section 1702(a)  
10 applied.

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

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

24 (3) FUNCTION OF OFFICE.—The Office of Ac-  
25 quisition and Assistance shall be the element of the

1 United States Agency for International Development  
2 principally responsible for the direction, manage-  
3 ment, and oversight of the acquisition and procure-  
4 ment activities of the Agency for International De-  
5 velopment.

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

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

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

21 (c) ANNUAL REPORTS ON CONTRACT SUPPORT FOR  
22 OVERSEAS CONTINGENCY OPERATIONS.—

23 (1) IN GENERAL.—Not later than one year  
24 after the commencement or designation of a contin-  
25 gency operation outside the United States that in-



1 includes combat operations, and annually thereafter  
2 until the termination of the operation, the Secretary  
3 of State and the Administrator of the United States  
4 Agency for International Development shall, except  
5 as provided in paragraph (2), each submit to the ap-  
6 propriate committees of Congress a report on con-  
7 tract support for the operation for the Department  
8 of State or the United States Agency for Inter-  
9 national Development, as the case may be.

10 (2) EXCEPTION.—If the total annual amount  
11 appropriated for an overseas contingency operation  
12 otherwise described by paragraph (1) does not ex-  
13 ceed \$250,000,000 in an annual reporting period  
14 otherwise covered by that paragraph, no report shall  
15 be required on the operation under that paragraph  
16 for that annual reporting period.

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

20 (A) A description and assessment of the  
21 policy, planning, management, and oversight of  
22 the agency with respect to contract support for  
23 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          (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) READINESS REPORTING.—

18               (1) REPORTING SYSTEM REQUIRED.—As part  
19          of the planning of the Department of State and the  
20          United States Agency for International Development  
21          for the discharge of the programs and activities of  
22          the Department and Agency, the Secretary of State  
23          and the Administrator of the United States Agency  
24          for International Development shall each establish a  
25          reporting system on the readiness of the Department

1 and the Agency, respectively, to manage and oversee  
2 non-governmental employees of the Department and  
3 the Agency supporting the Department and the  
4 Agency in the discharge of their programs and ac-  
5 tivities.

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

8 (A) Measure, on a quarterly basis, the ca-  
9 pability of contract support of the Department  
10 and the Agency to support current and antici-  
11 pated programs and activities of the Depart-  
12 ment and the Agency.

13 (B) Measure, on such frequency as the  
14 Secretary and the Administrator shall each  
15 specify, such other matters with respect to con-  
16 tract support of the Department and the Agen-  
17 cy, respectively, as the Secretary and the Ad-  
18 ministrator consider appropriate for the report-  
19 ing system.

20 (3) REPOSITORIES OF POLICIES AND RELATED  
21 DOCUMENTS.—Not later than 270 days after the  
22 date of the enactment of this Act, the Secretary and  
23 the Administrator shall each develop and maintain a  
24 repository of the policies, guidance, programs, and  
25 initiatives of the Department or Agency, respec-

tively, on acquisition and assistance in connection with overseas contingency operations, including those developed through Embassies or Missions. The purpose of each repository is to serve as a source of ready information on such policies, guidance, programs, and initiatives for use in current and future overseas contingency operations.

(4) REPORTS.—Not later than one year after the date of the enactment of this Act, and annually throughout the duration of any overseas contingency operation, the Secretary and the Administrator shall each submit to the appropriate committees of Congress a report on the status of efforts of the Department and the Agency, respectively, to develop and maintain information in accordance with the requirements of this subsection.

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

(a) PROFESSIONAL EDUCATION REQUIRED.—The Secretary of State shall develop and administer for Department of State personnel specified in subsection (b) a course of professional education on acquisition by the De-

1 partment of State for Department of State support for,  
 2 and participation in, overseas contingency operations of  
 3 the Department of Defense.

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

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

11 (2) Personnel of the Department designated by  
 12 the Director of Acquisition and Logistics, including  
 13 contracting officers and other contracting personnel.

14 (3) Such other personnel of the Department as  
 15 the Secretary of State shall designate for purposes  
 16 of this section.

17 (c) ELEMENTS.—

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

21 (A) Contingency contracting.

22 (B) Contingency program management.

23 (C) The strategic impact of contracting  
 24 costs on the mission and activities of the De-  
 25 partment of State.



1 (D) Such other matters relating to acquisi-  
2 tion by the Department of State for Depart-  
3 ment of State support for, or participation in,  
4 overseas contingency operations of the Depart-  
5 ment of Defense as the Secretary of State con-  
6 siders appropriate.

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

14 (d) DEFINITIONS.—In this section:

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

21 (2) The term “contingency program manage-  
22 ment” means the process of planning, organizing,  
23 staffing, controlling, and leading specific acquisition  
24 programs and activities of the Department of State  
25 for Department of State support for, and participa-

tion in, overseas contingency operations of the Department of Defense.

## **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.**

(a) LIMITATION ON CONTRACT PERIODS.—Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation to provide that, commencing 180 days after the date of the commencement or designation of a military operation as an overseas contingency operation, the contract period of contracts entered into by a covered agency in connection with such contingency operation shall be limited to the contract periods specified in subsection (b), except as provided in subsection (c).

(b) CONTRACT PERIODS.—The contract periods specified in this subsection are as follows:

1           (1) Three years in the case of competitively bid  
2       contracts.

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

7       (c) WAIVER.—The amendment of the Federal Acqui-  
8       sition Regulation required by subsection (a) shall provide  
9       that the head of a covered agency may waive the applica-  
10      bility of the limitations in subsection (b) to a contract if—

11           (1) the contracting officer certifies in writing as  
12       part of a justification and approval (J&A) that the  
13       agency has concluded, on the basis of market re-  
14       search conducted for purposes of the justification  
15       and approval, that—

16           (A) the period of performance for the con-  
17       tract in excess of the limitations in subsection  
18       (b) will be in the best interest of the United  
19       States; and

20           (B) the offeror has submitted information  
21       in a bid or proposal sufficient to show that rep-  
22       resentations by the offeror about the offeror's  
23       ability to timely, sufficiently, and cost-effec-  
24       tively perform the contract, if awarded, are rea-  
25       sonable;

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

4           (3) the head of the agency determines in writ-  
5           ing based on the information obtained pursuant to  
6           paragraphs (1) and (2) that the waiver is in the best  
7           interests of the United States.

8           (d) COVERED AGENCY DEFINED.—In this section,  
9           the term “covered agency” means the following:

10           (1) The Department of Defense.

11           (2) The Department of State.

12           (3) The United States Agency for International  
13           Development.

14   **SEC. 202. RISK ASSESSMENT AND MITIGATION FOR CON-**  
15                   **TRACTOR PERFORMANCE OF CRITICAL**  
16                   **FUNCTIONS IN SUPPORT OF OVERSEAS CON-**  
17                   **TINGENCY OPERATIONS.**

18           (a) COMPREHENSIVE RISK ASSESSMENT AND MITI-  
19           GATION PLAN REQUIRED.—

20           (1) IN GENERAL.—Subject to paragraphs (2)  
21           and (3), not later than six months after the com-  
22           mencement or designation of an overseas contin-  
23           gency operation that includes or is expected to in-  
24           clude combat operations, the head of each covered  
25           agency shall perform a comprehensive risk assess-

1       ment and develop a risk mitigation plan for oper-  
2       ational and political risks associated with contractor  
3       performance of critical functions in support of the  
4       operation for such covered agency.

5           (2) EXCEPTIONS.—Except as provided in para-  
6       graph (3), a risk assessment and risk mitigation  
7       plan shall not be required under paragraph (1) for  
8       an overseas contingency operation if both—

9           (A) the operation is not expected to con-  
10       tinue for more than one year; and

11          (B) the total annual amount of obligations  
12       by the United States Government for contracts  
13       for support of or in connection with the oper-  
14       ation is not expected to exceed, \$250,000,000  
15       in any fiscal year.

16          (3) TERMINATION OF EXCEPTIONS.—Notwith-  
17       standing paragraph (2), the head of a covered agen-  
18       cy shall perform a risk assessment and develop a  
19       risk mitigation plan under paragraph (1) for an  
20       overseas contingency operation with regard to which  
21       a risk assessment and risk mitigation plan has not  
22       previously been performed under paragraph (1) not  
23       later than 60 days after the first date on which ei-  
24       ther of the following occurs:

1 (A) The operation has continued for more  
2 than one year.

3 (B) The total amount of obligations by the  
4 United States Government for contracts for  
5 support of or in connection with the operation  
6 has exceeded \$250,000,000 in a fiscal year.

7 (b) COMPREHENSIVE RISK ASSESSMENTS.—A com-  
8 prehensive risk assessment for an overseas contingency op-  
9 eration under subsection (a) shall consider, at a minimum,  
10 risks relating to the following:

11 (1) The goals and objectives of the operation  
12 (such as risks from behavior that injures innocent  
13 members of the local population or outrages their  
14 sensibilities).

15 (2) The continuity of the operation (such as  
16 risks from contractors walking off the job or being  
17 unable to perform when there is no timely back-up  
18 available).

19 (3) The safety of military and civilian personnel  
20 of the United States if the presence or performance  
21 of contractor personnel creates unsafe conditions or  
22 invites attack.

23 (4) The managerial control of the Government  
24 over the operation (such as risks from over-reliance  
25 on contractors to monitor other contractors with in-

1       adequate means for Government personnel to mon-  
2       itor their work).

3           (5) The critical organic or core capabilities of  
4       the Government, including critical knowledge or in-  
5       stitutional memory of key operations areas and sub-  
6       ject-matter expertise.

7           (6) The ability of the Government to control  
8       costs, avoid organizational or personal conflicts of  
9       interest, and minimize waste, fraud, and abuse.

10       (c) RISK MITIGATION PLANS.—A risk mitigation  
11      plan for an overseas contingency operation under sub-  
12      section (a) shall include, at a minimum, the following:

13           (1) For each high risk area identified in the  
14       comprehensive risk assessment for the operation per-  
15       formed under subsection (a)—

16           (A) specific actions to mitigate or reduce  
17       such risk, including, but not limited to, the de-  
18       velopment of alternative capabilities to reduce  
19       reliance on contractor performance of critical  
20       functions;

21           (B) measurable milestones for the imple-  
22       mentation of planned risk mitigation or risk re-  
23       duction measures; and

1 (C) a process for monitoring, measuring,  
2 and documenting progress in mitigating or re-  
3 ducing risk.

4 (2) A continuing process for identifying and ad-  
5 dressing new and changed risks arising in the course  
6 of the operation, including the periodic reassessment  
7 of risks and the development of appropriate risk  
8 mitigation or reduction plans for any new or  
9 changed high risk area identified.

10 (d) REPORTS TO CONGRESS.—

11 (1) IN GENERAL.—Not later than 30 days after  
12 the completion of a comprehensive risk assessment  
13 and risk mitigation plan under subsection (a), the  
14 head of the covered agency concerned shall submit  
15 to the appropriate committees of Congress a report  
16 setting forth a summary description of the assess-  
17 ment and plan, including a description of the risks  
18 identified through the assessment and the actions to  
19 be taken to address such risks.

20 (2) FORM.—Each report shall be submitted in  
21 unclassified form, but may include a classified  
22 annex.

23 (e) CRITICAL FUNCTIONS.—For purposes of this sec-  
24 tion, critical functions include, at a minimum, the fol-  
25 lowing:



1           (1) Private security functions, as that term is  
2       defined in section 864(a)(5) of the National Defense  
3       Authorization Act for Fiscal Year 2008 (10 U.S.C.  
4       2302 note).

5           (2) Training and advising government per-  
6       sonnel, including military and security personnel, of  
7       a host nation.

8           (3) Conducting intelligence or information oper-  
9       ations.

10          (4) Any other functions that are closely associ-  
11       ated with inherently governmental functions, includ-  
12       ing the functions set forth in section 7.503(d) of the  
13       Federal Acquisition Regulation.

14       (f) COVERED AGENCY DEFINED.—In this section,  
15   the term “covered agency” means the following:

16           (1) The Department of Defense.

17           (2) The Department of State.

18           (3) The United States Agency for International  
19       Development.

1 **SEC. 203. COMPTROLLER GENERAL OF THE UNITED**  
2 **STATES REVIEW OF USE BY THE DEPART-**  
3 **MENT OF DEFENSE, THE DEPARTMENT OF**  
4 **STATE, AND THE UNITED STATES AGENCY**  
5 **FOR INTERNATIONAL DEVELOPMENT OF UR-**  
6 **GENT AND COMPELLING EXCEPTION TO COM-**  
7 **PETITION.**

8 (a) REVIEW REQUIRED.—The Comptroller General  
9 of the United States shall review each of the following:

10 (1) The use by the Department of Defense of  
11 the unusual and compelling urgency exception to full  
12 and open competition provided in section 2304(c)(2)  
13 of title 10, United States Code.

14 (2) The use by each of the Department of State  
15 and the United States Agency for International De-  
16 velopment of the unusual and compelling urgency ex-  
17 ception to full and open competition provided in sec-  
18 tion 3304(a)(2) of title 41, United States Code.

19 (b) MATTERS TO BE REVIEWED.—The review of the  
20 use of an unusual and compelling urgency exception re-  
21 quired by subsection (a) shall include a review of the fol-  
22 lowing:

23 (1) The pattern of use of the exception by ac-  
24 quisition organizations within the Department of  
25 Defense, the Department of State, and the United  
26 States Agency for International Development in

1       order to determine which organizations are com-  
2       monly using the exception and the frequency of such  
3       use.

4           (2) The range of items or services being ac-  
5       quired through the use of the exception.

6           (3) The process for reviewing and approving  
7       justifications involving the exception.

8           (4) Whether the justifications for use of the ex-  
9       ception typically meet the relevant requirements of  
10      the Federal Acquisition Regulation applicable to the  
11      use of the exception.

12          (5) The extent to which the exception is used  
13      to solicit bids or proposals from only one source and  
14      the extent to which such sole-source procurements  
15      are appropriately documented and justified.

16          (6) The compliance of the Department of De-  
17      fense, the Department of State, and the United  
18      States Agency for International Development with  
19      the requirements of section 2304(d)(3) of title 10,  
20      United States Code, or section 3304(c)(1)(B) of title  
21      41, United States Code, as applicable, that limit the  
22      duration of contracts awarded pursuant to the ex-  
23      ception and require approval for any such contract  
24      in excess of one year.

1 (c) REPORT.—Not later than one year after the date  
 2 of the enactment of this Act, the Comptroller General shall  
 3 submit to the appropriate committees of Congress a report  
 4 on the review required by subsection (a), including a dis-  
 5 cussion of each of the matters specified in subsection (b).  
 6 The report shall include any recommendations relating to  
 7 the matters reviewed that the Comptroller General con-  
 8 siders appropriate.

9 **Subtitle B—Enhancements of Con-**  
 10 **tracting Process and Protec-**  
 11 **tions in Contracting**

12 **SEC. 211. UNIFORM CONTRACT WRITING SYSTEM REQUIRE-**  
 13 **MENTS.**

14 (a) UNIFORM STANDARDS AND CONTROLS RE-  
 15 QUIRED.—Not later than 180 days after the date of the  
 16 enactment of this Act, the officials specified in subsection  
 17 (b) shall—

18 (1) establish uniform data standards, internal  
 19 control requirements, independent verification and  
 20 validation requirements, and business process rules  
 21 for processing procurement requests, contracts, re-  
 22 ceipts, and invoices by the Department of Defense or  
 23 other executive agencies, as applicable;

24 (2) establish and maintain one or more ap-  
 25 proved electronic contract writing systems that con-

1 form with the standards, requirements, and rules es-  
2 tablished pursuant to paragraph (1); and

3 (3) require the use of electronic contract writ-  
4 ing systems approved in accordance with paragraph  
5 (2) for all contracts entered into by the Department  
6 of Defense or other executive agencies, as applicable.

7 (b) COVERED OFFICIALS.—The officials specified in  
8 this subsection are the following:

9 (1) The Secretary of Defense, with respect to  
10 the Department of Defense and the military depart-  
11 ments.

12 (2) The Administrator of the Office of Federal  
13 Procurement Policy, with respect to the executive  
14 agencies other than the Department of Defense and  
15 the military departments.

16 (c) PHASE-IN OF IMPLEMENTATION OF REQUIRE-  
17 MENT FOR APPROVED SYSTEMS.—The officials specified  
18 in subsection (b) may phase in the implementation of the  
19 requirement to use approved electronic contract writing  
20 systems in accordance with subsection (a)(3) over a period  
21 of up to five years beginning with the date of the enact-  
22 ment of this Act.

23 (d) REPORTS.—Not later than 180 days after the  
24 date of the enactment of this Act, the officials specified  
25 in subsection (b) shall each submit to the appropriate com-

1 mittees of Congress a report on the implementation of the  
 2 requirements of this section. Each report shall, at a min-  
 3 imum—

4 (1) describe the standards, requirements, and  
 5 rules established pursuant to subsection (a)(1);

6 (2) identify the electronic contract writing sys-  
 7 tems approved pursuant to subsection (a)(2) and, if  
 8 multiple systems are approved, explain why the use  
 9 of such multiple systems is the most efficient and ef-  
 10 fective approach to meet the contract writing needs  
 11 of the Federal Government; and

12 (3) provide the schedule for phasing in the use  
 13 of approved electronic contract writing systems in  
 14 accordance with subsections (a)(3) and (b).

15 (e) EXECUTIVE AGENCIES DEFINED.—In this sec-  
 16 tion, the term “executive agencies” has the meaning given  
 17 that term in section 133 of title 41, United States Code.

18 **SEC. 212. DATABASE ON PRICES OF ITEMS AND SERVICES**

19 **UNDER FEDERAL CONTRACTS.**

20 (a) DATABASE REQUIRED.—

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

1 **“§ 3312. Database on prices of items and services**  
2 **under Federal contracts**

3 “(a) DATABASE REQUIRED.—The Administrator  
4 shall establish and maintain a database of information on  
5 the prices charged the Federal Government for items and  
6 services under contracts with the Federal Government.  
7 The information in the database shall be designed to assist  
8 Federal acquisition officials in the following:

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

12 “(2) Conducting pricing or cost analyses for  
13 items and services under offers for contracts with  
14 the Federal Government, or otherwise conducting  
15 determinations of the reasonableness of prices for  
16 items and services under such offers.

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

21 (2) CLERICAL AMENDMENT.—The table of sec-  
22 tions at the beginning of chapter 33 of such title is  
23 amended by adding at the end the following new  
24 item:

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

1 (b) USE OF ELEMENTS OF DEPARTMENT OF DE-  
 2 FENSE PILOT PROJECT.—In establishing the database re-  
 3 quired by section 3312 of title 41, United States Code (as  
 4 added by subsection (a)), the Administrator of Federal  
 5 Procurement Policy shall use and incorporate appropriate  
 6 elements of the pilot project on pricing of the Department  
 7 of Defense being carried out by the Director of Defense  
 8 Pricing.

9 **SEC. 213. PROHIBITION OF EXCESSIVE PASS-THROUGH**  
 10 **CONTRACTS AND CHARGES IN THE ACQUISI-**  
 11 **TION OF SERVICES.**

12 (a) IN GENERAL.—Not later than 90 days after the  
 13 date of the enactment of this Act, the Federal Acquisition  
 14 Regulatory Council shall revise the Federal Acquisition  
 15 Regulation to—

16 (1) prohibit the award of a covered contract or  
 17 task order unless the contractor agrees that at least  
 18 50 percent of the direct labor cost of services to be  
 19 performed under the contract or task order will be  
 20 expended for employees of the contractor or of a  
 21 subcontractor that is specifically identified and au-  
 22 thorized to perform such work in the contract or  
 23 task order;

24 (2) provide that the contracting officer for a  
 25 covered contract or task order may authorize reli-



1       ance upon a subcontractor or subcontractors to meet  
 2       the requirement in paragraph (1) only upon a writ-  
 3       ten determination that such reliance is in the best  
 4       interest of the executive agency concerned, after tak-  
 5       ing into account the added cost for overhead (includ-  
 6       ing general and administrative costs) and profit that  
 7       may be incurred as a result of the pass-through;

8               (3) require the contracting officer for a covered  
 9       contract or task order for which more than 70 per-  
 10      cent of the direct labor cost of services to be per-  
 11      formed will be expended for persons other than em-  
 12      ployees of the contractor to ensure that amounts  
 13      paid to the contractor for overhead (including gen-  
 14      eral and administrative costs) and profit are reason-  
 15      able in relation to the cost of direct labor provided  
 16      by employees of the contractor and any other costs  
 17      directly attributable to the management of the sub-  
 18      contract by employees of the contractor; and

19              (4) include such exceptions to the requirements  
 20      in paragraphs (1) through (3) as the Council con-  
 21      siders appropriate in the interest of the United  
 22      States.

23      (b) COVERED CONTRACT OR TASK ORDER DE-  
 24      FINED.—In this section, the term “covered contract or  
 25      task order” means a contract or task order for the per-

1 performance of services (other than construction) with a value  
2 in excess of the simplified acquisition threshold that is en-  
3 tered into for or on behalf of an executive agency, except  
4 that such term does not include any contract or task order  
5 that provides a firm, fixed price for each task to be per-  
6 formed and is—

7 (1) awarded on the basis of adequate price com-  
8 petition; or

9 (2) for the acquisition of commercial services as  
10 defined in paragraphs (5) and (6) of section 103 of  
11 title 41, United States Code.

12 (c) EFFECTIVE DATE.—The requirements of this sec-  
13 tion shall apply to—

14 (1) covered contracts that are awarded on or  
15 after the date that is 90 days after the date of the  
16 enactment of this Act; and

17 (2) covered task orders that are awarded on or  
18 after the date that is 90 days after the date of the  
19 enactment of this Act under contracts that are  
20 awarded before, on, or after such date.

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

1 (e) CONFORMING REPEAL.—Section 852 of the John  
 2 Warner National Defense Authorization Act for Fiscal  
 3 Year 2007 (120 Stat. 2340) is repealed.

## 4 **Subtitle C—Contractor** 5 **Accountability**

### 6 **SEC. 221. CONTRACTOR CONSENT TO JURISDICTION FOR** 7 **CERTAIN CIVIL ACTIONS UNDER CERTAIN** 8 **CONTRACTS FOR WORK OVERSEAS.**

9 (a) CONSENT TO JURISDICTION.—The Federal Ac-  
 10 quisition Regulatory Council shall amend the Federal Ac-  
 11 quisition Regulation to require that any covered contract  
 12 provides that—

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

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

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

1 (B) personal jurisdiction cannot be estab-  
2 lished in another Federal court;

3 (3) consent to personal jurisdiction under para-  
4 graph (2) shall not operate to deprive or terminate  
5 personal jurisdiction of the contractor in any court  
6 that otherwise has personal jurisdiction under an-  
7 other provision of law or to limit any cause of action  
8 or remedy under any other provision of law;

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

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

17 (6) the substantive law of the State (including  
18 the District of Columbia) in which the covered civil  
19 action is brought shall be the law applicable to a  
20 covered civil action if—

21 (A) the substantive law otherwise applica-  
22 ble to the covered civil action would be the law  
23 of the location where the events giving rise to  
24 the cause action occurred; and

1 (B) the location is designated as a haz-  
2 arduous duty zone by the Secretary of Defense.

3 (b) APPLICABILITY.—The amendment to the Federal  
4 Acquisition Regulation made under subsection (a) shall  
5 apply with respect to any covered contract that is entered  
6 into on or after the effective date of the amendment under  
7 subsection (a).

8 (c) DEFINITIONS.—In this section:

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

18 (2) The term “covered civil action” means the  
19 following:

20 (A) A civil action alleging a rape or sexual  
21 assault of or serious bodily injury to a member  
22 of the Armed Forces of the United States, a ci-  
23 vilian employee of the United States, or an em-  
24 ployee of a company performing work arising  
25 out of the performance of a covered contract for

1 the United States who is a citizen or national  
2 of the United States.

3 (B) A civil action alleging the wrongful  
4 death of a member of the Armed Forces of the  
5 United States, a civilian employee of the United  
6 States, or an employee of a company per-  
7 forming work arising out of the performance of  
8 a covered contract for the United States who is  
9 a citizen or national of the United States  
10 brought by a family member of the deceased.

11 (3) The term “covered contract”—

12 (A) means a contract—

13 (i) for work to be performed outside  
14 the United States that is awarded or en-  
15 tered into by the United States (including  
16 any executive department, agency, or inde-  
17 pendent establishment thereof); and

18 (ii) with a value of not less than  
19 \$5,000,000; and

20 (B) includes any subcontract or subordi-  
21 nate contract under a contract described in sub-  
22 paragraph (A).

23 (4) The term “rape” means conduct that would  
24 violate section 920(a) of title 10, United States Code  
25 (article 120(a) of the Uniform Code of Military Jus-

1       tice), if the conduct was committed by a person sub-  
2       ject to chapter 47 of title 10, United States Code  
3       (the Uniform Code of Military Justice).

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

7           (6) The term “sexual assault” means conduct  
8       that would violate section 920 (c), (h), or (m) of title  
9       10, United States Code (article 120 (c), (h), or (m)  
10      of the Uniform Code of Military Justice), if the con-  
11      duct was committed by a person subject to chapter  
12      47 of title 10, United States Code (the Uniform  
13      Code of Military Justice).

14          (7) The term “United States”, in a geographic  
15      sense—

16           (A) means the several States and the Dis-  
17      trict of Columbia; and

18           (B) does not include any military installa-  
19      tion or facility located outside the area de-  
20      scribed in subparagraph (A).

1 **SEC. 222. INFORMATION ON CORPORATE CONTRACTOR**  
2 **PERFORMANCE AND INTEGRITY THROUGH**  
3 **THE FEDERAL AWARDEE PERFORMANCE AND**  
4 **INTEGRITY INFORMATION SYSTEM.**

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

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

14 “(3) INFORMATION ON CORPORATIONS.—The  
15 information on a corporation in the database shall,  
16 to the extent practicable, include information on any  
17 parent, subsidiary, or successor entities to the cor-  
18 poration in manner designed to give the acquisition  
19 officials using the database a comprehensive under-  
20 standing of the performance and integrity of the cor-  
21 poration in carrying out Federal contracts and  
22 grants.”.



1 **SEC. 223. INCLUSION OF DATA ON CONTRACTOR PERFORM-**  
2 **ANCE IN PAST PERFORMANCE DATABASES**  
3 **FOR EXECUTIVE AGENCY SOURCE SELEC-**  
4 **TION DECISIONS.**

5 (a) STRATEGY REQUIRED.—

6 (1) IN GENERAL.—Not later than 180 days  
7 after the date of the enactment of this Act, the Fed-  
8 eral Acquisition Regulatory Council shall develop a  
9 strategy for ensuring that timely, accurate, and com-  
10 plete information on contractor performance is in-  
11 cluded in past performance databases used by execu-  
12 tive agencies for making source selection decisions.

13 (2) CONSULTATION WITH USDATL.—In devel-  
14 oping the strategy required by this subsection, the  
15 Federal Acquisition Regulatory Council shall consult  
16 with the Under Secretary of Defense for Acquisition,  
17 Technology, and Logistics to ensure that the strat-  
18 egy is, to the extent practicable, consistent with the  
19 strategy developed by the Under Secretary pursuant  
20 to section 806 of the National Defense Authorization  
21 Act for Fiscal Year 2012 (Public Law 112–81; 125  
22 Stat. 1487; 10 U.S.C. 2302 note).

23 (b) ELEMENTS.—The strategy required by subsection

24 (a) shall, at a minimum—

1           (1) establish standards for the timeliness and  
2           completeness of past performance submissions for  
3           purposes of databases described in subsection (a);

4           (2) assign responsibility and management ac-  
5           countability for the completeness of past perform-  
6           ance submissions for such purposes; and

7           (3) ensure that past performance submissions  
8           for such purposes are consistent with award fee eval-  
9           uations in cases where such evaluations have been  
10          conducted.

11         (c) CONTRACTOR COMMENTS.—Not later than 180  
12         days after the date of the enactment of this Act, the Fed-  
13         eral Acquisition Regulatory Council shall revise the Fed-  
14         eral Acquisition Regulation to require the following:

15                 (1) That affected contractors are provided, in a  
16                 timely manner, information on contractor perform-  
17                 ance to be included in past performance databases  
18                 in accordance with subsection (a).

19                 (2) That such contractors are afforded up to 14  
20                 calendar days, from the date of delivery of the infor-  
21                 mation provided in accordance with paragraph (1),  
22                 to submit comments, rebuttals, or additional infor-  
23                 mation pertaining to past performance for inclusion  
24                 in such databases.

1           (3) That agency evaluations of contractor past  
2           performance, including any information submitted  
3           under paragraph (2), are included in the relevant  
4           past performance database not later than the date  
5           that is 14 days after the date of delivery of the in-  
6           formation provided in accordance with paragraph  
7           (1).

8           (d) CONSTRUCTION.—Nothing in this section shall be  
9           construed to prohibit a contractor from submitting com-  
10          ments, rebuttals, or additional information pertaining to  
11          past performance after the period described in subsection  
12          (c)(2) has elapsed or to prohibit a contractor from chal-  
13          lenging a past performance evaluation in accordance with  
14          applicable laws, regulations, or procedures.

15          (e) COMPTROLLER GENERAL REPORT.—Not later  
16          than 18 months after the date of the enactment of this  
17          Act, the Comptroller General of the United States shall  
18          submit to the appropriate committees of Congress a report  
19          on the actions taken by the Federal Acquisition Regu-  
20          latory Council pursuant to this section, including an as-  
21          sessment of the following:

22                (1) The extent to which the strategy required  
23                by subsection (a) is consistent with the strategy de-  
24                veloped by the Under Secretary of Defense for Ac-

1       quisition, Technology, and Logistics as described in  
2       subsection (a)(2).

3               (2) The extent to which the actions of the Fed-  
4       eral Acquisition Regulatory Council pursuant to this  
5       section have otherwise achieved the objectives of this  
6       section.

7       (f) 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, except  
10      that the term excludes the Department of Defense and  
11      the military departments.

## 12       **Subtitle D—Preventing Trafficking** 13       **in Government Contracting**

### 14       **SEC. 231. SHORT TITLE.**

15       This subtitle may be cited as the “End Trafficking  
16      in Government Contracting Act of 2012”.

### 17       **SEC. 232. DEFINITIONS.**

18       In this subtitle:

19               (1) EXECUTIVE AGENCY.—The term “executive  
20       agency” has the meaning given the term in section  
21       133 of title 41, United States Code.

22               (2) SUBCONTRACTOR.—The term “subcon-  
23       tractor” means a recipient of a contract at any tier  
24       under a grant, contract, or cooperative agreement.

1           (3) SUBGRANTEE.—The term “subgrantee”  
2       means a recipient of a grant at any tier under a  
3       grant or cooperative agreement.

4           (4) UNITED STATES.—The term “United  
5       States” has the meaning provided in section 103(12)  
6       of the Trafficking Victims Protection Act of 2000  
7       (22 U.S.C. 7102(12)).

8   **SEC. 233. CONTRACTING REQUIREMENTS.**

9       Section 106(g) of the Trafficking Victims Protection  
10   Act of 2000 (22 U.S.C. 7104(g)) is amended by striking  
11   “if the grantee or any subgrantee,” and all that follows  
12   through the end and inserting the following: “or take any  
13   of the other remedial actions authorized under section  
14   235(c) of the End Trafficking in Government Contracting  
15   Act of 2012, if the grantee or any subgrantee, or the con-  
16   tractor or any subcontractor, engages in, or uses labor re-  
17   cruiters, brokers, or other agents who engage in—

18                   “(i) severe forms of trafficking in per-  
19                   sons;

20                   “(ii) the procurement of a commercial  
21                   sex act during the period of time that the  
22                   grant, contract, or cooperative agreement  
23                   is in effect;

1           “(iii) the use of forced labor in the  
2 performance of the grant, contract, or co-  
3 operative agreement, or

4           “(iv) acts that directly support or ad-  
5 vance trafficking in persons, including the  
6 following acts:

7               “(I) Destroying, concealing, re-  
8 moving, or confiscating an employee’s  
9 immigration documents without the  
10 employee’s consent.

11           “(II) Failing to repatriate an em-  
12 ployee upon the end of employment,  
13 unless—

14               “(aa) exempted from the  
15 duty to repatriate by the Federal  
16 department or agency providing  
17 or entering into the grant, con-  
18 tract, or cooperative agreement;  
19 or

20               “(bb) the employee is a vic-  
21 tim of human trafficking seeking  
22 victim services or legal redress in  
23 the country of employment or a  
24 witness in a human trafficking  
25 enforcement action.

1                   “(III) Soliciting a person for the  
2                   purpose of employment, or offering  
3                   employment, by means of materially  
4                   false or fraudulent pretenses, rep-  
5                   resentations, or promises regarding  
6                   that employment.

7                   “(IV) Charging recruited employ-  
8                   ees exorbitant placement fees, includ-  
9                   ing fees equal to or greater than the  
10                  employee’s monthly salary, or recruit-  
11                  ment fees that violate the laws of the  
12                  country from which an employee is re-  
13                  cruited.

14                  “(V) Providing inhumane living  
15                  conditions.”.

16 **SEC. 234. COMPLIANCE PLAN AND CERTIFICATION RE-**  
17 **QUIREMENT.**

18           (a) REQUIREMENT.—The head of an executive agen-  
19 cy may not provide or enter into a grant, contract, or coop-  
20 erative agreement valued at \$1,000,000 or more if per-  
21 formance will predominantly be conducted overseas, unless  
22 a duly designated representative of the recipient of such  
23 grant, contract, or cooperative agreement certifies to the  
24 contracting or grant officer prior to receiving an award

1 and on an annual basis thereafter, after having conducted  
2 due diligence, that—

3 (1) the recipient has implemented a plan to pre-  
4 vent the activities described in section 106(g) of the  
5 Trafficking Victims Protection Act of 2000 (22  
6 U.S.C. 7104(g)), as amended by section 233 of this  
7 Act, and is in compliance with that plan;

8 (2) the recipient has implemented procedures to  
9 prevent any activities described in such section  
10 106(g) and to monitor, detect, and terminate any  
11 subcontractor, subgrantee, or employee of the recipi-  
12 ent found to be engaged in any activities described  
13 in such section; and

14 (3) to the best of the representative's knowl-  
15 edge, neither the recipient, nor any subcontractor or  
16 subgrantee of the recipient or any agent of the re-  
17 cipient or of such a subcontractor or subgrantee, is  
18 engaged in any of the activities described in such  
19 section.

20 (b) LIMITATION.—Any plan or procedures imple-  
21 mented pursuant to subsection (a) shall be appropriate to  
22 the size and complexity of the grant, contract, or coopera-  
23 tive agreement and to the nature and scope of its activi-  
24 ties, including the number of non-United States citizens  
25 expected to be employed.



1 (c) DISCLOSURE.—The recipient shall provide a copy  
 2 of the plan to the contracting or grant officer upon re-  
 3 quest, and as appropriate, shall post the useful and rel-  
 4 evant contents of the plan or related materials on its  
 5 website and at the workplace.

6 (d) PERFORMANCE PREDOMINATELY OVERSEAS.—  
 7 For purposes of subsection (a), a grant, contract, or coop-  
 8 erative agreement shall be considered to be performed pre-  
 9 dominantly overseas if the estimated value of the services  
 10 required to be performed under the grant, contract, or co-  
 11 operative agreement outside the United States exceeds  
 12 \$500,000.

13 **SEC. 235. MONITORING AND INVESTIGATION OF TRAF-**  
 14 **FICKING IN PERSONS.**

15 (a) INVESTIGATION.—If the contracting or grant offi-  
 16 cer of an executive agency for a grant, contract, or cooper-  
 17 ative agreement receives credible evidence that a recipient  
 18 of the grant, contract, or cooperative agreement; any sub-  
 19 grantee or subcontractor of the recipient; or any agent of  
 20 the recipient or of such a subgrantee or subcontractor, has  
 21 engaged in an activity described in section 106(g) of the  
 22 Trafficking Victims Protection Act of 2000 (22 U.S.C.  
 23 7104(g)), as amended by section 233 of this Act, including  
 24 a report from a contracting officer representative, an in-  
 25 spector general, an auditor, an alleged victim or victim's

1 representative, or any other credible source, the con-  
2 tracting or grant officer shall, before exercising any option  
3 to renew such grant, contract, or cooperative agreement,  
4 request that the agency's Office of Inspector General im-  
5 mediately initiate an investigation of the allegation or alle-  
6 gations contained in the report. If the agency's Office of  
7 Inspector General is unable to conduct a timely investiga-  
8 tion, the suspension and debarment office or another in-  
9 vestigative unit of the agency shall conduct the investiga-  
10 tion.

11 (b) REPORT.—Upon completion of an investigation  
12 under subsection (a), the office or unit that conducted the  
13 investigation shall submit to the contracting or grant offi-  
14 cer and, if such investigation was not conducted by the  
15 agency's Office of Inspector General, to the agency's Of-  
16 fice of Inspector General, a report on the investigation,  
17 including conclusions about whether credible evidence ex-  
18 ists that the recipient of a grant, contract, or cooperative  
19 agreement; any subcontractor or subgrantee of the recipi-  
20 ent; or any agent of the recipient or of such a subcon-  
21 tractor or subgrantee, engaged in any of the activities de-  
22 scribed in such section 106(g).

23 (c) REMEDIAL ACTIONS.—

24 (1) IN GENERAL.—If a contracting or grant of-  
25 ficial determines that a recipient of a grant, con-

1       tract, or cooperative agreement, or any subcon-  
2       tractor or subgrantee of the recipient, has engaged  
3       in any of the activities described in such section  
4       106(g), the contracting or grant officer shall con-  
5       sider taking one or more of the following remedial  
6       actions:

7               (A) Requiring the recipient to remove an  
8       employee from the performance of work under  
9       the grant, contract, or cooperative agreement.

10              (B) Requiring the recipient to terminate a  
11       subcontract or subgrant.

12              (C) Suspending payments under the grant,  
13       contract, or cooperative agreement.

14              (D) Withholding award fees, consistent  
15       with the award fee plan, for the performance  
16       period in which the agency determined the con-  
17       tractor or subcontractor engaged in any of the  
18       activities described in such section 106(g).

19              (E) Declining to exercise available options  
20       under the contract.

21              (F) Terminating the contract for default  
22       or cause, in accordance with the termination  
23       clause for the contract.

24              (G) Referring the matter to the agency  
25       suspension and debarment official.

1           (H) Referring the matter to the Depart-  
2           ment of Justice for prosecution under any ap-  
3           plicable law.

4           (2) SAVINGS CLAUSE.—Nothing in this sub-  
5           section shall be construed as limiting the scope of  
6           applicable remedies available to the Federal Govern-  
7           ment.

8           (3) MITIGATING FACTOR.—Where applicable,  
9           the contracting or grant official may consider wheth-  
10          er the contractor or grantee had a plan in place  
11          under section 4, and was in compliance with that  
12          plan at the time of the violation, as a mitigating fac-  
13          tor in determining which remedies, if any, should  
14          apply.

15          (d) INCLUSION OF REPORT CONCLUSIONS IN  
16          FAPIIS.—The contracting or grant officer shall ensure  
17          that relevant findings contained in the report under sub-  
18          section (b) are included in the Federal Awardee Perform-  
19          ance and Integrity Information System (FAPIIS). These  
20          findings shall be considered relevant past performance  
21          data for the purpose of awarding future contracts, grants,  
22          or cooperative agreements.

1 **SEC. 236. NOTIFICATION TO INSPECTORS GENERAL AND**  
2 **COOPERATION WITH GOVERNMENT.**

3 The head of an executive agency making or awarding  
4 a grant, contract, or cooperative agreement shall require  
5 that the recipient of the grant, contract, or cooperative  
6 agreement—

7 (1) immediately inform the Inspector General of  
8 the executive agency of any information it receives  
9 from any source that alleges credible evidence that  
10 the recipient; any subcontractor or subgrantee of the  
11 recipient; or any agent of the recipient or of such a  
12 subcontractor or subgrantee, has engaged in conduct  
13 described in section 106(g) of the Trafficking in Vic-  
14 tims Protection Act of 2000 (22 U.S.C. 7104(g)), as  
15 amended by section 233 of this Act; and

16 (2) fully cooperate with any Federal agencies  
17 responsible for audits, investigations, or corrective  
18 actions relating to trafficking in persons.

19 **SEC. 237. EXPANSION OF FRAUD IN FOREIGN LABOR CON-**  
20 **TRACTING TO INCLUDE WORK OUTSIDE THE**  
21 **UNITED STATES.**

22 Section 1351 of title 18, United States Code, is  
23 amended—

24 (1) by striking “Whoever knowingly” and in-  
25 serting “(a) WORK INSIDE THE UNITED STATES.—  
26 Whoever knowingly”; and

1           (2) by adding at the end the following new sub-  
2           section:

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

16   **SEC. 238. IMPROVING DEPARTMENT OF DEFENSE AC-**  
17                   **COUNTABILITY FOR REPORTING TRAF-**  
18                   **FICKING IN PERSONS CLAIMS AND VIOLA-**  
19                   **TIONS.**

20          Section 105(d)(7)(H) of the Trafficking Victims Pro-  
21          tection Act of 2000 (22 U.S.C. 7103(d)(7)(H)) is amend-  
22          ed—

23               (1) in clause (ii), by striking “and” at the end;  
24               (2) by redesignating clause (iii) as clause (iv);

1           (3) by inserting after clause (ii) the following  
2       new clause:

3                       “(iii) all known trafficking in persons  
4                       cases reported to the Under Secretary of  
5                       Defense for Personnel and Readiness;”;

6           (4) in clause (iv), as redesignated by paragraph  
7       (2), by inserting “and” at the end after the semi-  
8       colon; and

9           (5) by adding at the end the following new  
10      clause:

11                       “(v) all trafficking in persons activi-  
12                       ties of contractors reported to the Under  
13                       Secretary of Defense for Acquisition, Tech-  
14                       nology, and Logistics;”.

15   **SEC. 239. RULE OF CONSTRUCTION.**

16       Excluding section 237 of this Act, nothing in this  
17   subtitle shall be construed to supersede, enlarge, or dimin-  
18   ish the common law or statutory liabilities of any grantee,  
19   subgrantee, contractor, subcontractor, or other party cov-  
20   ered by section 106(g) of the Trafficking Victims Protec-  
21   tion Act of 2000 (22 U.S.C. 7104(g)), as amended by sec-  
22   tion 233 of this Act.

## **Subtitle E—Other Matters**

### **SEC. 251. SUSTAINABILITY REQUIREMENTS FOR CERTAIN CAPITAL PROJECTS IN CONNECTION WITH OVERSEAS CONTINGENCY OPERATIONS.**

(a) LIMITATION.—

(1) IN GENERAL.—Commencing 60 days after the date of the enactment of this Act—

(A) amounts authorized to be appropriated for the Department of Defense may not be obligated or expended for a capital project described in subsection (b) unless the Secretary of Defense, in consultation with the United States commander of military operations in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project;

(B) amounts authorized to be appropriated for the Department of State may not be obligated or expended for a capital project described in subsection (b) unless the Secretary of State, in consultation with the Chief of Mission in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project; and



1 (C) amounts authorized to be appropriated  
2 for the United States Agency for International  
3 Development may not be obligated or expended  
4 for a capital project described in subsection (b)  
5 unless the Administrator of the United States  
6 Agency for International Development, in con-  
7 sultation with the Mission Director and the  
8 Chief of Mission in the country in which the  
9 project will be carried out, completes an assess-  
10 ment on the necessity and sustainability of the  
11 project.

12 (2) ELEMENTS.—Each assessment on a capital  
13 project under this subsection shall include, but not  
14 be limited to, the following:

15 (A) An estimate of the total cost of the  
16 completed project to the United States.

17 (B) An estimate of the financial and other  
18 requirements necessary for the host government  
19 to sustain the project on an annual basis after  
20 completion of the project.

21 (C) An assessment whether the host gov-  
22 ernment has the capacity (in both financial and  
23 human resources) to maintain and use the  
24 project after completion.

1 (D) An assessment whether the host gov-  
2 ernment has requested or expressed its need for  
3 the project, and an explanation of the decision  
4 to proceed with the project absent such request  
5 or need.

6 (b) COVERED CAPITAL PROJECTS.—

7 (1) IN GENERAL.—Except as provided in para-  
8 graph (2), a capital project described in this sub-  
9 section is any capital project overseas for an over-  
10 seas contingency operation for the benefit of a host  
11 country and funded by the Department of Defense,  
12 the Department of State, or the United States Agen-  
13 cy for International Development, as applicable, if  
14 the capital project—

15 (A) in the case of a project that directly  
16 supports building the capacity of indigenous se-  
17 curity forces in the host country, has an esti-  
18 mated value in excess of \$10,000,000; or

19 (B) in the case of any other project, has  
20 an estimated value in excess of \$2,000,000.

21 (2) EXCLUSION.—A capital project described in  
22 this subsection does not include any project for mili-  
23 tary construction (as that term is defined in section  
24 114(b) of title 10, United States Code) or a military

1 family housing project under section 2821 of such  
2 title.

3 (c) TERMINATION OF UNSUSTAINABLE PROJECTS IN  
4 PROGRESS.—

5 (1) IN GENERAL.—Effective 180 days after the  
6 date of the enactment of this Act, the Secretary of  
7 Defense, the Secretary of State, or the Adminis-  
8 trator of the United States Agency for International  
9 Development, as applicable, shall terminate each  
10 capital project described in subsection (b) that is in  
11 progress, but not completed, as of such effective date  
12 if such Secretary or the Administrator, as the case  
13 may be—

14 (A) determines that the country does not  
15 have the capacity (in both financial and human  
16 resources) to effectively maintain and use the  
17 project; or

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

21 (2) REPORTS.—The Secretary of Defense, the  
22 Secretary of State, and the Administrator of the  
23 United States Agency for International Develop-  
24 ment, as applicable, shall include in the first report  
25 submitted under subsection (e) after the effective

1       date specified in paragraph (1) a description of each  
2       capital project terminated under this subsection.

3       (d) WAIVER.—The Secretary of Defense, the Sec-  
4       retary of State, or the Administrator of the United States  
5       Agency for International Development, as applicable, may  
6       waive the limitation in subsection (a) in order to initiate  
7       a capital project, or may waive the termination require-  
8       ment in subsection (c) with respect to a capital project,  
9       if such Secretary or the Administrator, as the case may  
10      be, determines that the project is in the national security,  
11      diplomatic, or humanitarian interests of the United  
12      States. In the first report submitted under subsection (e)  
13      after any waiver under this subsection, such Secretary or  
14      the Administrator shall include a detailed justification of  
15      such waiver. Not later than 180 days after issuing a waiv-  
16      er under this subsection, such Secretary or the Adminis-  
17      trator shall submit to Congress the assessment described  
18      in subsection (a) with respect to the capital project con-  
19      cerned.

20      (e) QUARTERLY REPORTS.—

21           (1) IN GENERAL.—Not later than 30 days after  
22      the end of each fiscal-year quarter the Secretary of  
23      Defense, the Secretary of State, and the Adminis-  
24      trator of the United States Agency for International  
25      Development shall each submit to the appropriate

1 committees of Congress a report setting forth each  
2 assessment conducted under subsection (a) by such  
3 Secretary or the Administrator, as the case may be,  
4 during such fiscal-year quarter.

5 (2) ADDITIONAL ELEMENTS.—Each report  
6 under paragraph (1) shall include, for each capital  
7 project covered by such report, an evaluation (other  
8 than by amount of funds expended) of the effective-  
9 ness of such project, including, at a minimum, the  
10 following:

11 (A) The stated goals of the project.

12 (B) The actions taken to assess and verify  
13 whether the project has met the stated goals of  
14 the project or is on track to meet such goals  
15 when completed.

16 (C) The current and anticipated effects of  
17 the project on levels of violence in the country  
18 in which the project is being carried out.

19 (D) The current and anticipated levels of  
20 corruption or fraud in connection with the  
21 project, and the current and anticipated risks of  
22 corruption or fraud in connection with the  
23 project.

1                   (E) The current and anticipated levels of  
2                   involvement of local governments, communities,  
3                   and individuals in the project.

4                   (3) FORM.—Each report shall be submitted in  
5                   unclassified form, but may include a classified  
6                   annex.

7                   (f) CAPITAL PROJECT DEFINED.—In this section,  
8                   the term “capital project” has the meaning given that  
9                   term in section 308 of the Aid, Trade, and Competitive-  
10                  ness Act of 1992 (22 U.S.C. 2421e).

