

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1362
OFFERED BY MR. SKELTON OF MISSOURI**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Accountability in Contracting Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—IMPROVING THE QUALITY OF CONTRACTS

Sec. 101. Limitation on length of noncompetitive contracts.

Sec. 102. Minimizing sole-source contracts.

Sec. 103. Maximizing fixed-price procurement contracts.

TITLE II—INCREASING CONTRACT OVERSIGHT

Sec. 201. Public disclosure of justification and approval documents for non-competitive contracts.

Sec. 202. Disclosure of Government contractor audit findings.

Sec. 203. Study of acquisition workforce.

Sec. 204. Repeal of sunset of training fund.

TITLE III—PROMOTING INTEGRITY IN CONTRACTING

Sec. 301. Additional provisions relating to procurement officials.

1 **TITLE I—IMPROVING THE**
2 **QUALITY OF CONTRACTS**

3 **SEC. 101. LIMITATION ON LENGTH OF NONCOMPETITIVE**
4 **CONTRACTS.**

5 (a) REVISION OF FAR.—Not later than one year
6 after the date of the enactment of this Act, the Federal
7 Acquisition Regulation shall be revised to restrict the con-
8 tract period of any contract described in subsection (c)
9 to the minimum contract period necessary—

10 (1) to meet the urgent and compelling require-
11 ments of the work to be performed under the con-
12 tract; and

13 (2) to enter into another contract for the re-
14 quired goods or services through the use of competi-
15 tive procedures.

16 (b) CONTRACT PERIOD.—The regulations promul-
17 gated under subsection (a) shall require the contract pe-
18 riod to not exceed one year, unless the head of the execu-
19 tive agency concerned determines that the Government
20 would be seriously injured by the limitation on the con-
21 tract period.

22 (c) COVERED CONTRACTS.—This section applies to
23 any contract in an amount greater than \$1,000,000 en-
24 tered into by an executive agency using procedures other
25 than competitive procedures pursuant to the exception

1 provided in section 303(c)(2) of the Federal Property and
2 Administrative Services Act of 1949 (41 U.S.C. 253(c)(2))
3 or section 2304(c)(2) of title 10, United States Code.

4 (d) DEFINITIONS.—In this section:

5 (1) The term “executive agency” has the mean-
6 ing provided in section 4(1) of the Office of Federal
7 Procurement Policy Act (41 U.S.C. 403(1)).

8 (2) The term “head of the executive agency”
9 means the head of an executive agency except that,
10 in the case of the Department of Defense, the term
11 means—

12 (A) in the case of a military department,
13 the Secretary of the military department;

14 (B) in the case of a Defense Agency, the
15 head of the Defense Agency; and

16 (C) in the case of any part of the Depart-
17 ment of Defense other than a military depart-
18 ment or Defense Agency, the Under Secretary
19 of Defense for Acquisition, Technology, and Lo-
20 gistics.

21 **SEC. 102. MINIMIZING SOLE-SOURCE CONTRACTS.**

22 (a) PLANS REQUIRED.—Subject to subsection (c),
23 the head of each executive agency covered by title III of
24 the Federal Property and Administrative Services Act of
25 1949 (41 U.S.C. 251 et seq.) or, in the case of the Depart-

1 ment of Defense, the Under Secretary of Defense for Ac-
2 quisition, Technology, and Logistics, shall develop and im-
3 plement a plan to minimize, to the maximum extent prac-
4 ticable, the use of contracts entered into using procedures
5 other than competitive procedures by the agency or de-
6 partment concerned. The plan shall contain measurable
7 goals and shall be completed and submitted to the Com-
8 mittee on Oversight and Government Reform of the House
9 of Representatives, the Committee on Homeland Security
10 and Governmental Affairs of the Senate, and the Commit-
11 tees on Appropriations of the House of Representatives
12 and the Senate and, in the case of the Department of De-
13 fense and the Department of Energy, the Committees on
14 Armed Services of the Senate and the House of Represent-
15 atives, with a copy provided to the Comptroller General,
16 not later than 1 year after the date of the enactment of
17 this Act.

18 (b) **COMPTROLLER GENERAL REVIEW.**—The Comp-
19 troller General shall review the plans provided under sub-
20 section (a) and submit a report to Congress on the plans
21 not later than 18 months after the date of the enactment
22 of this Act.

23 (c) **REQUIREMENT LIMITED TO CERTAIN AGEN-**
24 **CIES.**—The requirement of subsection (a) shall apply only
25 to those agencies that awarded contracts in a total amount

1 of at least \$1,000,000,000 in the fiscal year preceding the
2 fiscal year in which the report is submitted.

3 **SEC. 103. MAXIMIZING FIXED-PRICE PROCUREMENT CON-**
4 **TRACTS.**

5 (a) PLANS REQUIRED.—Subject to subsection (c),
6 the head of each executive agency covered by title III of
7 the Federal Property and Administrative Services Act of
8 1949 (41 U.S.C. 251 et seq.) or, in the case of the Depart-
9 ment of Defense, the Under Secretary of Defense for Ac-
10 quisition, Technology, and Logistics, shall develop and im-
11 plement a plan to maximize, to the fullest extent prac-
12 ticable, the use of fixed-price type contracts for the pro-
13 curement of goods and services by the agency or depart-
14 ment concerned. The plan shall contain measurable goals
15 and shall be completed and submitted to the Committee
16 on Oversight and Government Reform of the House of
17 Representatives, the Committee on Homeland Security
18 and Governmental Affairs of the Senate, and the Commit-
19 tees on Appropriations of the House of Representatives
20 and the Senate and, in the case of the Department of De-
21 fense and the Department of Energy, the Committees on
22 Armed Services of the Senate and the House of Represent-
23 atives, with a copy provided to the Comptroller General,
24 not later than 1 year after the date of the enactment of
25 this Act.

1 (b) COMPTROLLER GENERAL REVIEW.—The Comp-
2 troller General shall review the plans provided under sub-
3 section (a) and submit a report to Congress on the plans
4 not later than 18 months after the date of the enactment
5 of this Act.

6 (c) REQUIREMENT LIMITED TO CERTAIN AGEN-
7 CIES.—The requirement of subsection (a) shall apply only
8 to those agencies that awarded contracts in a total amount
9 of at least \$1,000,000,000 in the fiscal year preceding the
10 fiscal year in which the report is submitted.

11 **TITLE II—INCREASING** 12 **CONTRACT OVERSIGHT**

13 **SEC. 201. PUBLIC DISCLOSURE OF JUSTIFICATION AND AP-** 14 **PROVAL DOCUMENTS FOR NONCOMPETITIVE** 15 **CONTRACTS.**

16 (a) CIVILIAN AGENCY CONTRACTS.—

17 (1) IN GENERAL.—Section 303 of the Federal
18 Property and Administrative Services Act of 1949
19 (41 U.S.C. 253) is amended by adding at the end
20 the following new subsection:

21 “(j)(1)(A) Except as provided in subparagraph (B),
22 in the case of a procurement permitted by subsection (c),
23 the head of an executive agency shall make publicly avail-
24 able, within 14 days after the award of the contract, the
25 documents containing the justification and approval re-

1 quired by subsection (f)(1) with respect to the procure-
2 ment.

3 “(B) In the case of a procurement permitted by sub-
4 section (c)(2), subparagraph (A) shall be applied by sub-
5 stituting ‘30 days’ for ‘14 days’.

6 “(2) The documents shall be made available on the
7 website of the agency and through the Federal Procure-
8 ment Data System.

9 “(3) This subsection does not require the public avail-
10 ability of information that is exempt from public disclosure
11 under section 552(b) of title 5, United States Code.”.

12 (2) CONFORMING AMENDMENT.—Section 303(f)
13 of such Act is amended—

14 (A) by striking paragraph (4); and

15 (B) by redesignating paragraph (5) as
16 paragraph (4).

17 (b) DEFENSE AGENCY CONTRACTS.—

18 (1) IN GENERAL.—Section 2304 of title 10,
19 United States Code, is amended by adding at the
20 end the following new subsection:

21 “(1)(1)(A) Except as provided in subparagraph (B),
22 in the case of a procurement permitted by subsection (c),
23 the head of an agency shall make publicly available, within
24 14 days after the award of the contract, the documents

1 containing the justification and approval required by sub-
2 section (f)(1) with respect to the procurement.

3 “(B) In the case of a procurement permitted by sub-
4 section (c)(2), subparagraph (A) shall be applied by sub-
5 stituting ‘30 days’ for ‘14 days’.

6 “(2) The documents shall be made available on the
7 website of the agency and through the Federal Procure-
8 ment Data System.

9 “(3) This subsection does not require the public avail-
10 ability of information that is exempt from public disclosure
11 under section 552(b) of title 5, United States Code.”.

12 (2) CONFORMING AMENDMENT.—Section
13 2304(f) of such title is amended—

14 (A) by striking paragraph (4); and

15 (B) by redesignating paragraphs (5) and
16 (6) as paragraphs (4) and (5), respectively.

17 **SEC. 202. DISCLOSURE OF GOVERNMENT CONTRACTOR**
18 **AUDIT FINDINGS.**

19 (a) QUARTERLY REPORT TO CONGRESS.—

20 (1) The head of each Federal agency or depart-
21 ment or, in the case of the Department of Defense,
22 the Under Secretary of Defense for Acquisition,
23 Technology, and Logistics, shall submit to the chair-
24 man and ranking member of each committee speci-

1 fied in paragraph (2) on a quarterly basis a report
2 that includes the following:

3 (A) A list of completed audits performed
4 by such agency or department issued during the
5 applicable quarter that describe contractor costs
6 in excess of \$10,000,000 that have been identi-
7 fied as unjustified, unsupported, questioned, or
8 unreasonable under any contract, task or deliv-
9 ery order, or subcontract.

10 (B) The specific amounts of costs identi-
11 fied as unjustified, unsupported, questioned, or
12 unreasonable and the percentage of their total
13 value of the contract, task or delivery order, or
14 subcontract.

15 (C) A list of completed audits performed
16 by such agency or department issued during the
17 applicable quarter that identify material defi-
18 ciencies in the performance of any contractor or
19 in any business system of any contractor under
20 any contract, task or delivery order, or sub-
21 contract.

22 (2) The report described in paragraph (1) shall
23 be submitted to—

1 (A) the Committee on Oversight and Gov-
2 ernment Reform of the House of Representa-
3 tives;

4 (B) the Committee on Homeland Security
5 and Governmental Affairs of the Senate;

6 (C) the Committees on Appropriations of
7 the House of Representatives and the Senate;

8 (D) in the case of reports from the Depart-
9 ment of Defense or the Department of Energy,
10 the Committees on Armed Services of the Sen-
11 ate and the House of Representatives; and

12 (E) the committees of primary jurisdiction
13 over the agency or department submitting the
14 report.

15 (3) Paragraph (1) shall not apply to an agency
16 or department with respect to a calendar quarter if
17 no audits described in paragraph (1) were issued
18 during that quarter.

19 (b) SUBMISSION OF INDIVIDUAL AUDITS.—

20 (1) The head of each Federal agency or depart-
21 ment shall provide, within 14 days after a request in
22 writing by the chairman or ranking member of any
23 committee listed in paragraph (2), a full and
24 unredacted copy of any audit described in subsection
25 (a)(1). Such copy shall include an identification of

1 information in the audit exempt from public disclo-
2 sure under section 552(b) of title 5, United States
3 Code.

4 (2) The committees listed in this paragraph are
5 the following:

6 (A) The Committee on Oversight and Gov-
7 ernment Reform of the House of Representa-
8 tives.

9 (B) The Committee on Homeland Security
10 and Governmental Affairs of the Senate.

11 (C) The Committees on Appropriations of
12 the House of Representatives and the Senate.

13 (D) In the case of the Department of De-
14 fense or the Department of Energy, the Com-
15 mittees on Armed Services of the Senate and
16 House of Representatives.

17 (E) The committees of primary jurisdiction
18 over the agency or department to which the re-
19 quest is made.

20 **SEC. 203. STUDY OF ACQUISITION WORKFORCE.**

21 (a) **REQUIREMENT FOR STUDY.**—The Administrator
22 for Federal Procurement Policy shall conduct a study of
23 the composition, scope, and functions of the Government-
24 wide acquisition workforce and develop a comprehensive

1 definition of, and method of measuring the size of, such
2 workforce.

3 (b) REPORT.—Not later than 1 year after the date
4 of the enactment of this Act, the Administrator shall sub-
5 mit to the relevant congressional committees a report on
6 the results of the study required by subsection (a), with
7 such findings and recommendations as the Administrator
8 determines appropriate.

9 **SEC. 204. REPEAL OF SUNSET OF TRAINING FUND.**

10 Subparagraph (H) of section 37(h)(3) of the Office
11 of Federal Procurement Policy Act (41 U.S.C. 433(h)(3))
12 is repealed.

13 **TITLE III—PROMOTING**
14 **INTEGRITY IN CONTRACTING**

15 **SEC. 301. ADDITIONAL PROVISIONS RELATING TO PRO-**
16 **CUREMENT OFFICIALS.**

17 (a) ELIMINATION OF LOOPHOLES THAT ALLOW
18 FORMER FEDERAL OFFICIALS TO ACCEPT COMPENSA-
19 TION FROM CONTRACTORS OR RELATED ENTITIES.—Sec-
20 tion 27(d) of the Office of Federal Procurement Policy
21 Act (41 U.S.C. 423(d)) is amended—

22 (1) in paragraph (1) by striking “or consult-
23 ant” and inserting “consultant, lawyer, or lobbyist”;
24 and

1 (2) by amending paragraph (2) to read as fol-
2 lows:

3 “(2) Paragraph (1) shall not prohibit a former offi-
4 cial of a Federal agency from accepting compensation
5 from any division or affiliate of a contractor that does not
6 produce the same or similar products or services as the
7 entity of the contractor that is responsible for the contract
8 referred to in subparagraph (A), (B), or (C) of such para-
9 graph if the agency’s designated ethics officer determines
10 that the former official’s acceptance of compensation
11 would not damage public confidence in the integrity of the
12 procurement process.”.

13 (b) REQUIREMENT FOR FEDERAL PROCUREMENT
14 OFFICERS TO DISCLOSE JOB OFFERS MADE ON BEHALF
15 OF RELATIVES.—Section 27(c)(1) of such Act (41 U.S.C.
16 423(c)(1)) is amended by inserting after “that official”
17 the following: “or for a relative of that official (as defined
18 in section 3110 of title 5, United States Code)”.

19 (c) REQUIREMENT ON AWARD OF GOVERNMENT
20 CONTRACTS TO FORMER EMPLOYERS.—Section 27 of
21 such Act (41 U.S.C. 423) is amended by adding at the
22 end the following new subsection:

23 “(i) PROHIBITION ON INVOLVEMENT BY CERTAIN
24 FORMER CONTRACTOR EMPLOYEES IN PROCURE-
25 MENTS.—An employee of the Federal Government who is

1 a former employee of a contractor with the Federal Gov-
2 ernment shall not be personally and substantially involved
3 with any award of a contract to the employee's former em-
4 ployer for the one-year period beginning on the date on
5 which the employee leaves the employment of the con-
6 tractor unless the employee has received a waiver from the
7 agency's designated ethics officer. In determining whether
8 to issue a waiver, the designated ethics officer shall take
9 into account the agency's need for the involvement of the
10 employee and the impact a waiver would have on public
11 confidence in the integrity of the procurement process.”.

12 (d) REGULATIONS.—Section 27 of such Act (41
13 U.S.C. 423) is further amended by adding at the end the
14 following new subsection:

15 “(j) REGULATIONS.—The Administrator, in consulta-
16 tion with the Director of the Office of Government Ethics,
17 shall—

18 “(1) promulgate regulations to carry out and
19 ensure the enforcement of this section; and

20 “(2) monitor and investigate individual and
21 agency compliance with this section.”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date of the enactment
24 of this Act.