

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

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 (d) CERTAIN CONTRACTS EXCLUDED.—The fol-
4 lowing contracts shall not be included in the plans devel-
5 oped and implemented under subsection (a):

6 (1) Contracts entered into under section 8(a) of
7 the Small Business Act (15 U.S.C. 637(a)), in
8 amounts less than the amounts listed in paragraph
9 (1)(D)(i)(II) of that section.

10 (2) Contracts entered into under section 31 (15
11 U.S.C. 657a) of such Act, in amounts less than the
12 amounts listed in subsection (b)(2)(A)(ii) of that
13 section.

14 (3) Contracts entered into under section 36 of
15 such Act (15 U.S.C. 657f), in amounts less than the
16 amounts listed in subsection (a)(2) of that section.

17 **SEC. 103. MAXIMIZING FIXED-PRICE PROCUREMENT CON-**
18 **TRACTS.**

19 (a) PLANS REQUIRED.—Subject to subsection (c),
20 the head of each executive agency covered by title III of
21 the Federal Property and Administrative Services Act of
22 1949 (41 U.S.C. 251 et seq.) or, in the case of the Depart-
23 ment of Defense, the Under Secretary of Defense for Ac-
24 quisition, Technology, and Logistics, shall develop and im-
25 plement a plan to maximize, to the fullest extent prac-

1 ticable, the use of fixed-price type contracts for the pro-
2 curement of goods and services by the agency or depart-
3 ment concerned. The plan shall contain measurable goals
4 and shall be completed and submitted to the Committee
5 on Oversight and Government Reform of the House of
6 Representatives, the Committee on Homeland Security
7 and Governmental Affairs of the Senate, and the Commit-
8 tees on Appropriations of the House of Representatives
9 and the Senate and, in the case of the Department of De-
10 fense and the Department of Energy, the Committees on
11 Armed Services of the Senate and the House of Represent-
12 atives, with a copy provided to the Comptroller General,
13 not later than 1 year after the date of the enactment of
14 this Act.

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

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

1 **TITLE II—INCREASING**
2 **CONTRACT OVERSIGHT**

3 **SEC. 201. PUBLIC DISCLOSURE OF JUSTIFICATION AND AP-**
4 **PROVAL DOCUMENTS FOR NONCOMPETITIVE**
5 **CONTRACTS.**

6 (a) CIVILIAN AGENCY CONTRACTS.—

7 (1) IN GENERAL.—Section 303 of the Federal
8 Property and Administrative Services Act of 1949
9 (41 U.S.C. 253) is amended by adding at the end
10 the following new subsection:

11 “(j)(1)(A) Except as provided in subparagraph (B),
12 in the case of a procurement permitted by subsection (c),
13 the head of an executive agency shall make publicly avail-
14 able, within 14 days after the award of the contract, the
15 documents containing the justification and approval re-
16 quired by subsection (f)(1) with respect to the procure-
17 ment.

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

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

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

4 (2) CONFORMING AMENDMENT.—Section 303(f)
5 of such Act is amended—

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

7 (B) by redesignating paragraph (5) as
8 paragraph (4).

9 (b) DEFENSE AGENCY CONTRACTS.—

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

13 “(1)(1)(A) Except as provided in subparagraph (B),
14 in the case of a procurement permitted by subsection (c),
15 the head of an agency shall make publicly available, within
16 14 days after the award of the contract, the documents
17 containing the justification and approval required by sub-
18 section (f)(1) with respect to the procurement.

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

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

1 “(3) This subsection does not require the public avail-
2 ability of information that is exempt from public disclosure
3 under section 552(b) of title 5.”.

4 (2) CONFORMING AMENDMENT.—Section
5 2304(f) of such title is amended—

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

7 (B) by redesignating paragraphs (5) and
8 (6) as paragraphs (4) and (5), respectively.

9 **SEC. 202. DISCLOSURE OF GOVERNMENT CONTRACTOR**
10 **AUDIT FINDINGS.**

11 (a) QUARTERLY REPORT TO CONGRESS.—

12 (1) The head of each Federal agency or depart-
13 ment or, in the case of the Department of Defense,
14 the Under Secretary of Defense for Acquisition,
15 Technology, and Logistics, shall submit to the chair-
16 man and ranking member of each committee speci-
17 fied in paragraph (2) on a quarterly basis a report
18 that includes the following:

19 (A) A list of completed audits performed
20 by such agency or department issued during the
21 applicable quarter that describe contractor costs
22 in excess of \$10,000,000 that have been identi-
23 fied as unjustified, unsupported, questioned, or
24 unreasonable under any contract, task or deliv-
25 ery order, or subcontract.

1 (B) The specific amounts of costs identi-
2 fied as unjustified, unsupported, questioned, or
3 unreasonable and the percentage of their total
4 value of the contract, task or delivery order, or
5 subcontract.

6 (C) A list of completed audits performed
7 by such agency or department issued during the
8 applicable quarter that identify material defi-
9 ciencies in the performance of any contractor or
10 in any business system of any contractor under
11 any contract, task or delivery order, or sub-
12 contract.

13 (2) The report described in paragraph (1) shall
14 be submitted to—

15 (A) the Committee on Oversight and Gov-
16 ernment Reform of the House of Representa-
17 tives;

18 (B) the Committee on Homeland Security
19 and Governmental Affairs of the Senate;

20 (C) the Committees on Appropriations of
21 the House of Representatives and the Senate;

22 (D) in the case of reports from the Depart-
23 ment of Defense or the Department of Energy,
24 the Committees on Armed Services of the Sen-
25 ate and the House of Representatives; and

1 (E) the committees of primary jurisdiction
2 over the agency or department submitting the
3 report.

4 (3) Paragraph (1) shall not apply to an agency
5 or department with respect to a calendar quarter if
6 no audits described in paragraph (1) were issued
7 during that quarter.

8 (b) SUBMISSION OF INDIVIDUAL AUDITS.—

9 (1) The head of each Federal agency or depart-
10 ment shall provide, within 14 days after a request in
11 writing by the chairman or ranking member of any
12 committee listed in paragraph (2), a full and
13 unredacted copy of any audit described in subsection
14 (a)(1). Such copy shall include an identification of
15 information in the audit exempt from public disclo-
16 sure under section 552(b) of title 5, United States
17 Code.

18 (2) The committees listed in this paragraph are
19 the following:

20 (A) The Committee on Oversight and Gov-
21 ernment Reform of the House of Representa-
22 tives.

23 (B) The Committee on Homeland Security
24 and Governmental Affairs of the Senate.

1 (C) The Committees on Appropriations of
2 the House of Representatives and the Senate.

3 (D) In the case of the Department of De-
4 fense or the Department of Energy, the Com-
5 mittees on Armed Services of the Senate and
6 House of Representatives.

7 (E) The committees of primary jurisdiction
8 over the agency or department to which the re-
9 quest is made.

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

11 (a) **REQUIREMENT FOR STUDY.**—The Administrator
12 for Federal Procurement Policy shall conduct a study of
13 the composition, scope, and functions of the Government-
14 wide acquisition workforce and develop a comprehensive
15 definition of, and method of measuring the size of, such
16 workforce.

17 (b) **REPORT.**—Not later than 1 year after the date
18 of the enactment of this Act, the Administrator shall sub-
19 mit to the relevant congressional committees a report on
20 the results of the study required by subsection (a), with
21 such findings and recommendations as the Administrator
22 determines appropriate.

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

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

5 **TITLE III—PROMOTING**
6 **INTEGRITY IN CONTRACTING**

7 **SEC. 301. ADDITIONAL PROVISIONS RELATING TO PRO-**
8 **CUREMENT OFFICIALS.**

9 (a) **ELIMINATION OF LOOPHOLES THAT ALLOW**
10 **FORMER FEDERAL OFFICIALS TO ACCEPT COMPENSA-**
11 **TION FROM CONTRACTORS OR RELATED ENTITIES.**—Sec-
12 tion 27(d) of the Office of Federal Procurement Policy
13 Act (41 U.S.C. 423(d)) is amended—

14 (1) in paragraph (1)—

15 (A) by striking “or consultant” and insert-
16 ing “consultant, lawyer, or lobbyist”; and

17 (B) in subparagraph (C), by striking
18 “Federal agency—” and inserting “Federal
19 agency or participated personally and substan-
20 tially at a senior personnel level in—”

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

23 “(2) Paragraph (1) shall not prohibit a former offi-
24 cial of a Federal agency from accepting compensation
25 from any division or affiliate of a contractor that does not
26 produce the same or similar products or services as the

1 entity of the contractor that is responsible for the contract
2 referred to in subparagraph (A), (B), or (C) of such para-
3 graph if the agency's designated ethics officer determines
4 that the former official's acceptance of compensation
5 would not damage public confidence in the integrity of the
6 procurement process.”.

7 (b) REQUIREMENT FOR FEDERAL PROCUREMENT
8 OFFICERS TO DISCLOSE JOB OFFERS MADE ON BEHALF
9 OF RELATIVES.—Section 27(c)(1) of such Act (41 U.S.C.
10 423(c)(1)) is amended by inserting after “that official”
11 the following: “or for a relative of that official (as defined
12 in section 3110 of title 5, United States Code)”.

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

17 “(i) PROHIBITION ON INVOLVEMENT BY CERTAIN
18 FORMER CONTRACTOR EMPLOYEES IN PROCURE-
19 MENTS.—An employee of the Federal Government who is
20 a former employee of a contractor with the Federal Gov-
21 ernment shall not be personally and substantially involved
22 with any award of a contract to the employee's former em-
23 ployer, or in the administration of such contract at a sen-
24 ior personnel level, for the one-year period beginning on
25 the date on which the employee leaves the employment of

1 the contractor unless the employee has received a waiver
2 from the agency's designated ethics officer. In determining
3 whether to issue a waiver, the designated ethics officer
4 shall take into account the agency's need for the involve-
5 ment of the employee and the impact a waiver would have
6 on public confidence in the integrity of the procurement
7 process.”.

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

11 “(j) REGULATIONS.—The Administrator, in consulta-
12 tion with the Director of the Office of Government Ethics,
13 shall—

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

16 “(2) monitor and investigate individual and
17 agency compliance with this section.”.

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act.