

110TH CONGRESS  
1ST SESSION

# S. 674

To require accountability and enhanced congressional oversight for personnel performing private security functions under Federal contracts, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2007

Mr. OBAMA introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To require accountability and enhanced congressional oversight for personnel performing private security functions under Federal contracts, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Transparency and Accountability in Military and Secu-  
6 rity Contracting Act of 2007”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

- Sec. 3. Reports on Iraq and Afghanistan contracts.
- Sec. 4. Department of Defense report on strategy for and appropriateness of activities of contractors under Department of Defense contracts in Iraq, Afghanistan, and the global war on terror.
- Sec. 5. Requirements related to personnel performing private security functions under Federal contracts during contingency operations.
- Sec. 6. Improved coordination between the Armed Forces and contractors performing private security functions in contingency operations.
- Sec. 7. Legal status of contract personnel.
- Sec. 8. Federal Bureau of Investigation investigative unit for contingency operations.
- Sec. 9. Definitions.
- Sec. 10. Effective date.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) United States Government agencies, includ-  
4 ing the Department of Defense, the Department of  
5 State, the Department of the Interior, the United  
6 States Agency for International Development, and  
7 the intelligence community of the United States  
8 Government, are increasingly relying on private con-  
9 tractors to perform duties, including the provision of  
10 security and other traditionally military and govern-  
11 mental functions, in Iraq, Afghanistan, and other  
12 contingency operations.

13 (2) Estimates of the number of contract per-  
14 sonnel in Iraq, including private security contrac-  
15 tors, vary widely. The United States Central Com-  
16 mand estimated the number to be 100,000 in 2006,  
17 and the Government Accountability Office concluded  
18 in 2005 that “the Department of Defense (DOD)  
19 estimated at least 60 private security providers were

1 working in Iraq with perhaps as many as 25,000  
2 employees. In March 2006, the Director of the Pri-  
3 vate Security Company Association of Iraq estimated  
4 that approximately 181 private security companies  
5 were working in Iraq with just over 48,000 employ-  
6 ees”.

7 (3) The various functions carried out by these  
8 personnel have entailed great danger to these per-  
9 sonnel, but exact numbers of casualties are un-  
10 known. Estimates suggest that some 770 contractors  
11 have died, and thousands more have been wounded,  
12 in Iraq since 2003.

13 (4) The multinational character of private secu-  
14 rity contracting poses oversight and accountability  
15 challenges. In addition to Iraqi and United States  
16 security contractors working in Iraq, contractors  
17 also included citizens from Australia, Chile, Colom-  
18 bia, Croatia, Fiji, India, Nepal, New Zealand, Nica-  
19 ragua, Russia, Serbia, South Africa, Sri Lanka, and  
20 the United Kingdom, among other countries.

21 (5) In June 2006, the Government Account-  
22 ability Office reported that “private security pro-  
23 viders continue to enter the battle space without co-  
24 ordinating with the U.S. military, putting both the

1 military and security providers at a greater risk for  
2 injury”.

3 (6) According to published accounts and gov-  
4 ernment studies, the assignments being given private  
5 security contractors are often sensitive, including the  
6 protection of United States military bases, interroga-  
7 tion of detainees, maintenance and technical assist-  
8 ance to weapons systems, logistics and base oper-  
9 ations functions, escort of United States convoys,  
10 and protection of key United States Government  
11 personnel.

12 (7) A recent report by the Congressional Re-  
13 search Service found that “new [Department of De-  
14 fense] contracts have characteristics that make over-  
15 sight difficult”.

16 (8) Contractors are playing an expanded role in  
17 the national security operations of the United States  
18 and the manner in which the United States supports  
19 its troops in the field, especially in contingency oper-  
20 ations, and therefore contracting practices and poli-  
21 cies must be subject to improved and transparent  
22 oversight and management.

23 **SEC. 3. REPORTS ON IRAQ AND AFGHANISTAN CONTRACTS.**

24 (a) **REPORTS REQUIRED.**—Not later than 90 days  
25 after the date of the enactment of this Act, the Secretary

1 of Defense, the Secretary of State, the Secretary of the  
2 Interior, the Administrator of the United States Agency  
3 for International Development, and the Director of Na-  
4 tional Intelligence shall each submit to Congress a report  
5 that contains the information, current as of the date of  
6 the enactment of this Act, as follows:

7           (1) The number of persons performing work in  
8       Iraq and Afghanistan under contracts (and sub-  
9       contracts at any tier) entered into by departments  
10      and agencies of the United States Government, in-  
11      cluding the Department of Defense, the Department  
12      of State, the Department of the Interior, the United  
13      States Agency for International Development. and  
14      the elements of the intelligence community, respec-  
15      tively.

16           (2) The companies awarded such contracts and  
17      subcontracts.

18           (3) The total cost of such contracts.

19           (4) The total number of persons who have been  
20      killed or wounded in performing work under such  
21      contracts.

22           (5) A description of the military equipment and  
23      safety equipment provided for the protection of con-  
24      tractors under such contracts, and an assessment of  
25      the adequacy of such equipment.

1           (6) The policies and procedures through which  
2 the departments and agencies of the United States  
3 Government instruct and inform contractors under  
4 such contracts of the applicability of law to their ac-  
5 tivities under such contracts, including the laws of  
6 the United States, Iraq, and Afghanistan, and other  
7 applicable laws.

8           (7) The policies and procedures through which  
9 the departments and agencies of the United States  
10 Government monitor contractors under such con-  
11 tracts on their adherence to applicable law, including  
12 the laws of the United States, Iraq, and Afghani-  
13 stan.

14           (8) The laws, if any, determined to have been  
15 broken in the performance of such contracts, includ-  
16 ing laws of the United States, Iraq, and Afghani-  
17 stan, and other applicable laws.

18           (9) A description of the disciplinary actions  
19 that have been taken against persons performing  
20 work under such contracts by the contractor con-  
21 cerned, the United States Government, or the Gov-  
22 ernment of Iraq or the Government of Afghanistan.

23           (b) ELEMENTS OF THE INTELLIGENCE COMMUNITY  
24 DEFINED.—In this section, the term “elements of the in-  
25 telligence community” means the elements of the intel-

1 ligence community specified in or designated under section  
2 3(4) of the National Security Act of 1947 (50 U.S.C.  
3 401a(4)).

4 **SEC. 4. DEPARTMENT OF DEFENSE REPORT ON STRATEGY**  
5 **FOR AND APPROPRIATENESS OF ACTIVITIES**  
6 **OF CONTRACTORS UNDER DEPARTMENT OF**  
7 **DEFENSE CONTRACTS IN IRAQ, AFGHANI-**  
8 **STAN, AND THE GLOBAL WAR ON TERROR.**

9 (a) REPORT REQUIRED.—Not later than 180 days  
10 after the date of the enactment of this Act, the Secretary  
11 of Defense shall submit to Congress a report setting forth  
12 the strategy of the Department of Defense for the use of,  
13 and a description of the activities being carried out by,  
14 contractors and subcontractors in support of Department  
15 missions in Iraq, Afghanistan, and the Global War on Ter-  
16 ror, including its strategy for ensuring that such contracts  
17 do not—

18 (1) have private companies and their employees  
19 performing inherently governmental functions, emer-  
20 gency essential activities, or mission critical activi-  
21 ties;

22 (2) place contractors in supervisory roles over  
23 United States Government personnel; or

24 (3) threaten the safety of contractor personnel  
25 or United States Government personnel.

1 (b) EMERGENCY ESSENTIAL ACTIVITIES OR MISSION  
2 CRITICAL ACTIVITIES DEFINED.—In this section, the  
3 term “emergency essential activities or mission critical ac-  
4 tivities” means any activities as follows:

5 (1) Activities for which continued performance  
6 is considered essential to support combat systems  
7 and operational activities.

8 (2) Activities whose delay, absence, or failure of  
9 performance would significantly affect the broader  
10 success or failure of a military operation.

11 **SEC. 5. REQUIREMENTS RELATED TO PERSONNEL PER-**  
12 **FORMING PRIVATE SECURITY FUNCTIONS**  
13 **UNDER FEDERAL CONTRACTS DURING CON-**  
14 **TINGENCY OPERATIONS.**

15 (a) ACCOUNTABILITY FOR PERSONNEL PERFORMING  
16 PRIVATE SECURITY FUNCTIONS UNDER FEDERAL CON-  
17 TRACTS DURING CONTINGENCY OPERATIONS.—

18 (1) PROVISION OF CERTAIN INFORMATION  
19 ABOUT PERSONNEL PERFORMING PRIVATE SECURITY  
20 FUNCTIONS.—Each covered contract shall require  
21 the contractor to provide to the contracting officer  
22 for the contract, not later than 5 days after the  
23 award of the contract, the following information re-  
24 garding private security functions to be performed  
25 under the contract:

1           (A) The approximate number of persons to  
2           be used to perform the private security func-  
3           tions.

4           (B) A description of the process used to  
5           hire such persons, including the method by  
6           which and the extent to which background  
7           checks regarding such persons are conducted.

8           (C) A description of how such persons are  
9           trained to carry out tasks specified under the  
10          contract relating to such functions.

11          (D) A description of each category of activ-  
12          ity relating to such functions required by the  
13          contract.

14          (2) UPDATES OF INFORMATION.—The informa-  
15          tion provided under paragraph (1) shall be updated  
16          by the contractor during contract performance as  
17          necessary.

18          (3) SAFEGUARDING INFORMATION.—The head  
19          of each agency awarding a covered contract shall  
20          take such actions as are necessary to protect any in-  
21          formation provided under paragraph (1) that is a  
22          trade secret, or commercial or financial information,  
23          from disclosure to persons outside the Government.

24          (4) ACCOUNTING.—Each covered contract shall  
25          include the following requirements:

1           (A) Upon award of the contract, the con-  
2           tractor shall provide to the contracting officer  
3           cost estimates of salary, benefits, insurance,  
4           materials, logistics, travel, administrative costs,  
5           and other costs of carrying out private security  
6           functions under the contract.

7           (B) Before contract closeout (other than  
8           closeout of a firm, fixed price contract), the  
9           contractor shall provide to the contracting offi-  
10          cer a report on the actual costs of carrying out  
11          private security functions under the contract, in  
12          the same categories as provided under subpara-  
13          graph (A).

14          (5) QUARTERLY REPORTS ON STAFFING.—Each  
15          covered contract shall require the contractor to sub-  
16          mit to the contracting officer on a quarterly basis a  
17          report on the number of personnel performing pri-  
18          vate security functions under such contract during  
19          the preceding 90 days and on the location or loca-  
20          tions in which such personnel performed such func-  
21          tions.

22          (6) OVERSIGHT.—Before a covered contract is  
23          awarded, the head of the agency awarding the con-  
24          tract shall ensure that sufficient resources are avail-  
25          able to enable contracting officers of the agency to

1 perform oversight of the performance of private se-  
2 curity functions under the contract, including over-  
3 sight inspections of facilities and operations.

4 (7) WAIVER AUTHORITY.—

5 (A) WAIVER.—The head of the agency  
6 awarding a covered contract may waive a re-  
7 quirement of this subsection with respect to a  
8 contract in an emergency or exceptional situa-  
9 tion, as determined by the head of the agency.  
10 Any such waiver shall be limited to the require-  
11 ments that are impossible or impracticable to  
12 implement because of the emergency or excep-  
13 tional situation.

14 (B) REPORT.—Commencing 180 days  
15 after the date of the enactment of this Act, and  
16 continuing every 90 days thereafter, each head  
17 of an agency who has, during the preceding 90  
18 days, waived a requirement under this sub-  
19 section with respect to a covered contract shall  
20 submit to the committees of Congress referred  
21 to in subparagraph (C) a report that—

22 (i) describes each such waiver by the  
23 head of the agency, including the contract  
24 involved and the emergency or exceptional  
25 situation that justified such waiver; and

1           (ii) contains a plan for bringing each  
2           such contract into compliance with the  
3           waived requirements as soon as possible or  
4           an explanation of why such waiver needs to  
5           be permanent.

6           (C) COMMITTEES OF CONGRESS.—The  
7           committees of Congress referred to in this sub-  
8           paragraph are the following:

9           (i) The Committees on Appropria-  
10          tions, Armed Services, Oversight and Gov-  
11          ernment Reform, and Foreign Affairs of  
12          the House of Representatives.

13          (ii) The Committees on Appropria-  
14          tions, Armed Services, Homeland Security  
15          and Governmental Affairs, and Foreign  
16          Relations of the Senate.

17       (b) REPORTS REQUIRED.—

18           (1) IN GENERAL.—During a contingency oper-  
19          ation, the head of each agency with any covered con-  
20          tracts in effect shall submit to Congress reports on  
21          such contracts in accordance with this subsection.

22           (2) MATTERS COVERED.—Each report required  
23          by paragraph (1) shall include the following informa-  
24          tion:

1 (A) Total number of covered contracts  
2 awarded by the agency with respect to the con-  
3 tingency operation.

4 (B) The total number of contracting offi-  
5 cers overseeing the covered contracts reported  
6 under subparagraph (A).

7 (C) The most current information available  
8 under subsection (a)(5) with respect to each  
9 covered contract.

10 (D) The number of covered contracts  
11 awarded since the last report.

12 (E) The total number of contract per-  
13 sonnel working on the covered contracts re-  
14 ported under subparagraph (D).

15 (F) The total value of awards for covered  
16 contracts reported under subparagraph (D).

17 (G) A detailed catalogue of activities per-  
18 formed under covered contracts reported under  
19 subparagraph (D).

20 (3) DEADLINES.—The head of an agency shall  
21 submit an initial report as required by paragraph  
22 (1) within 90 days after first awarding a covered  
23 contract, and shall issue additional reports there-  
24 after every 90 days.

1           (4) COMMITTEES.—The report required by  
2 paragraph (1) shall be submitted to the Committees  
3 on Appropriations and Armed Services of the House  
4 of Representatives and the Senate.

5           (5) FORM.—The report required by paragraph  
6 (1) shall be submitted in unclassified form, but may  
7 include a classified annex.

8 **SEC. 6. IMPROVED COORDINATION BETWEEN THE ARMED**  
9                           **FORCES AND CONTRACTORS PERFORMING**  
10                           **PRIVATE SECURITY FUNCTIONS IN CONTIN-**  
11                           **GENCY OPERATIONS.**

12           (a) RULES OF ENGAGEMENT.—

13           (1) REQUIREMENT TO ISSUE.—Not later than  
14 15 days after the date on which a contingency oper-  
15 ation is initiated, the Chairman of the Joint Chiefs  
16 of Staff shall issue rules of engagement regarding  
17 the circumstances under which force may be used by  
18 contract personnel performing private security func-  
19 tions within the area covered by the contingency op-  
20 eration and the types of force authorized. Each cov-  
21 ered contract shall require contract personnel to ad-  
22 here to the rules of engagement issued under this  
23 subsection.

24           (2) NOTIFICATION.—The commander of the  
25 combatant command whose area of responsibility in-

1 includes the theater of operations of a contingency op-  
2 eration shall communicate the rules of engagement  
3 for the contingency operation to contract personnel  
4 in accordance with subsection (c).

5 (3) EXCEPTIONS AND SPECIAL RULES.—As ap-  
6 propriate, the Chairman of the Joint Chiefs of Staff  
7 may provide exceptions or special rules in the rules  
8 of engagement for specific contractors.

9 (b) HIRING, TRAINING, AND EQUIPMENT STAND-  
10 ARDS RELATING TO PRIVATE SECURITY CONTRACTORS.—

11 (1) REGULATIONS.—Not later than 30 days  
12 after the date on which a contingency operation is  
13 initiated, the head of each agency awarding a cov-  
14 ered contract shall prescribe in regulations minimum  
15 standards (appropriate for the agency) for contract  
16 personnel performing private security functions with-  
17 in the area covered by the contingency operation, in-  
18 cluding minimum training and certification stand-  
19 ards. The standards may vary based on the duties  
20 of personnel, but must address criminal records, se-  
21 curity clearance requirements, and other issues that  
22 the head of the agency determines may lead to secu-  
23 rity or performance concerns.

24 (2) GUIDANCE FOR EQUIPMENT.—The head of  
25 each agency awarding a covered contract shall issue

1 guidance (appropriate for the agency) on equipment  
2 used for private security functions under covered  
3 contracts with the agency, including appropriate uni-  
4 forms and levels of body armor and equipment  
5 armor, and a recommended list of re-armors and  
6 weapons and armor manufacturers for complying  
7 with such guidelines.

8 (3) CONSULTATION WITH SECRETARY OF DE-  
9 FENSE.—The head of each agency shall consult with  
10 the Secretary of Defense in developing regulations  
11 and guidance under this subsection.

12 (c) IMPROVED COORDINATION AND COMMUNICATION  
13 BETWEEN THE ARMED FORCES AND CONTRACTORS PER-  
14 FORMING PRIVATE SECURITY FUNCTIONS.—

15 (1) DESIGNATION OF THEATER SECURITY CON-  
16 TRACT COORDINATING OFFICER.—For each contin-  
17 gency operation in which contract personnel per-  
18 forming private security functions are active, the  
19 Chairman of the Joint Chiefs of Staff shall des-  
20 ignate a member of the Armed Forces or civilian  
21 employee of the Department to act as the coordi-  
22 nating officer on security contracts in the theater of  
23 operations of such contingency operation. The indi-  
24 vidual so designated shall be known as the “Theater

1 Security Contract Coordinating Officer” for the the-  
2 ater of operations of such contingency operation.

3 (2) RESPONSIBILITIES OF THEATER SECURITY  
4 CONTRACT COORDINATING OFFICER.—The Theater  
5 Security Contract Coordinating Officer for a theater  
6 of operations of a contingency operation shall, for  
7 such theater of operations—

8 (A) establish regulations providing for reli-  
9 able lines of communications between contract  
10 personnel performing private security functions  
11 and the Armed Forces;

12 (B) maintain a current database on the  
13 contract personnel performing such functions,  
14 including their employing contractors, nationali-  
15 ties, backgrounds, and training, and the nature  
16 of their activities;

17 (C) communicate the rules of engagement  
18 established under subsection (a) to contractors  
19 and contract personnel performing such func-  
20 tions;

21 (D) take any actions authorized by the  
22 Chairman of the Joint Chiefs of Staff for pur-  
23 poses of this subsection to ensure the compli-  
24 ance of contractors in the theater of operations  
25 with the requirements of paragraph (3);

1 (E) communicate other critical informa-  
2 tion, including guidance on Department of De-  
3 fense responsibilities for force protection of con-  
4 tract personnel and guidance on equipment, to  
5 contractors and contract personnel; and

6 (F) as appropriate, communicate up-to-  
7 date information about the security environ-  
8 ment that may be relevant to contract per-  
9 sonnel.

10 (3) REQUIREMENTS FOR CONTRACTORS RELAT-  
11 ING TO THEATER SECURITY CONTRACT COORDI-  
12 NATING OFFICER.—Each contractor in a theater of  
13 operations of a contingency operation shall be re-  
14 quired to—

15 (A) register with the Theater Security  
16 Contract Coordinating Officer for the theater of  
17 operations and keep the Officer currently in-  
18 formed on the number, nationality, background,  
19 and training of the contract personnel assigned  
20 to perform private security functions under a  
21 covered contract;

22 (B) report any incidents in which contract  
23 personnel performing such functions use force  
24 or are attacked by hostile forces;

1 (C) report to the Theater Security Con-  
2 tract Coordinating Officer any casualties suf-  
3 fered by covered contract personnel;

4 (D) communicate to the Theater Security  
5 Contract Coordinating Officer, in accordance  
6 with the regulations issued under paragraph  
7 (2)(A), tactical information, such as informa-  
8 tion on the movement of contractor personnel  
9 performing such functions into and out of a  
10 battle space; and

11 (E) communicate to the Theater Security  
12 Contract Coordinating Officer relevant informa-  
13 tion, including intelligence, reports of hostile ac-  
14 tivity, or information relevant to military plan-  
15 ning.

16 **SEC. 7. LEGAL STATUS OF CONTRACT PERSONNEL.**

17 (a) CLARIFICATION OF MILITARY  
18 EXTRATERRITORIAL JURISDICTION ACT.—

19 (1) INCLUSION OF CONTRACTORS.—Subsection  
20 (a) of section 3261 of title 18, United States Code,  
21 is amended—

22 (A) by striking “or” at the end of para-  
23 graph (1);

24 (B) by striking the comma at the end of  
25 paragraph (2) and inserting “; or”; and

1 (C) by inserting after paragraph (2) the  
2 following:

3 “(3) while employed under a contract (or sub-  
4 contract at any tier) awarded by any department or  
5 agency of the United States Government, where the  
6 work under such contract is carried out in a region  
7 outside the United States in which the Armed  
8 Forces are conducting a contingency operation,”.

9 (2) DEFINITION.—Section 3267 of title 18,  
10 United States Code, is amended by adding at the  
11 end the following:

12 “(5) The term ‘contingency operation’ has the  
13 meaning given that term in section 101(a)(13) of  
14 title 10.”.

15 (b) SENSE OF CONGRESS ON INVESTIGATION AND  
16 PROSECUTION OF ABUSES BY PRIVATE SECURITY CON-  
17 TRACTORS AND OTHERS.—It is the sense of Congress  
18 that—

19 (1) if there is probable cause to believe that an  
20 individual assigned to perform private security func-  
21 tions under a covered contract, any other contractor  
22 personnel, or any contractor has violated section  
23 3261(a) of title 18, United States Code, except in  
24 situations in which the individual is prosecuted  
25 under chapter 47 of title 10, United States Code

1 (the Uniform Code of Military Justice), or under  
2 other law, the Department of Defense should use the  
3 authority provided in section 3262 of title 18,  
4 United States Code, to arrest and detain such indi-  
5 vidual, personnel, or contractor and transfer such in-  
6 dividual, personnel, or contractor to civilian authori-  
7 ties for prosecution; and

8 (2) the Secretary of Defense should issue guid-  
9 ance, as soon as possible after the date of the enact-  
10 ment of this Act, on how the amendment made by  
11 section 552 of the John Warner National Defense  
12 Authorization Act of 2007 (Public Law 109-364;  
13 120 Stat. 2217) to section 802(a)(10) of title 10,  
14 United States Code (article 2(a)(10) of the Uniform  
15 Code of Military Justice), will be implemented.

16 (c) DEPARTMENT OF JUSTICE INSPECTOR GENERAL  
17 REPORT.—

18 (1) REPORT REQUIRED.—Not later than 30  
19 days after the date of the enactment of this Act, the  
20 Inspector General of the Department of Justice shall  
21 submit to Congress a report.

22 (2) CONTENT OF REPORT.—The report shall in-  
23 clude—

24 (A) a description of the status of Depart-  
25 ment of Justice investigations of abuses alleged

1 to have been committed by contract personnel  
2 performing private security functions, other  
3 contract personnel, or contractors under cov-  
4 ered contracts, which shall include—

5 (i) the number of complaints received  
6 by the Department of Justice;

7 (ii) the number of investigations into  
8 complaints opened by the Department of  
9 Justice;

10 (iii) the number of criminal cases  
11 opened by the Department of Justice; and

12 (iv) the number and result of criminal  
13 cases closed by the Department of Justice;  
14 and

15 (B) findings and recommendations about  
16 the capacity and effectiveness of the Depart-  
17 ment of Justice in prosecuting misconduct by  
18 such contract personnel.

19 (3) FORM.—The report shall be submitted in  
20 unclassified form, but may include a classified  
21 annex.

22 **SEC. 8. FEDERAL BUREAU OF INVESTIGATION INVESTIGA-**  
23 **TIVE UNIT FOR CONTINGENCY OPERATIONS.**

24 (a) ESTABLISHMENT OF THEATER INVESTIGATIVE  
25 UNIT.—For each theater of operations established in con-

1 nection with a contingency operation in which contract  
2 personnel are carrying out work under a covered contract,  
3 the Federal Bureau of Investigation shall establish a The-  
4 ater Investigative Unit, which shall be responsible for in-  
5 vestigating allegations of criminal misconduct under sec-  
6 tion 3261 of title 18, United States Code, by contract per-  
7 sonnel.

8 (b) RESPONSIBILITIES OF THEATER INVESTIGATIVE  
9 UNIT.—The Theater Investigative Unit established for a  
10 theater of operations shall—

11 (1) investigate reports that raise reasonable  
12 suspicion of criminal misconduct by contract per-  
13 sonnel;

14 (2) investigate reports of fatalities resulting  
15 from the use of force by contract personnel; and

16 (3) upon conclusion of an investigation of al-  
17 leged criminal misconduct, refer the case to the At-  
18 torney General of the United States for further ac-  
19 tion, as appropriate in the discretion of the Attorney  
20 General.

21 (c) RESPONSIBILITIES OF FEDERAL BUREAU OF IN-  
22 VESTIGATION.—

23 (1) RESOURCES.—The Federal Bureau of In-  
24 vestigation shall ensure that each Theater Investiga-

1        tive Unit has adequate resources and personnel to  
2        carry out its responsibilities.

3            (2) NOTIFICATION.—The Federal Bureau of In-  
4        vestigation shall notify Congress whenever a Theater  
5        Investigative Unit is established or terminated under  
6        this section.

7            (d) RESPONSIBILITIES OF OTHER FEDERAL AGEN-  
8        CIES.—An agency operating in a theater of operations in  
9        which a Theater Investigative Unit is established shall co-  
10       operate with and support the activities of the Theater In-  
11       vestigative Unit. Any investigation carried out by the In-  
12       spector General of an agency shall be coordinated with the  
13       activities of the unit as appropriate.

14    **SEC. 9. DEFINITIONS.**

15        In sections 5 through 8 of this Act:

16            (1) COVERED CONTRACT.—The term “covered  
17        contract” means—

18                    (A) a prime contract awarded by an agen-  
19                    cy, if the work to be performed under the con-  
20                    tract includes private security functions;

21                    (B) a subcontract at any tier under any  
22                    prime contract awarded by an agency, if the  
23                    work to be performed under the subcontract in-  
24                    cludes private security functions; or

1 (C) a task order issued under a task or de-  
2 livery order contract entered into by an agency,  
3 if the work to be performed under the task  
4 order includes private security functions.

5 (2) PRIVATE SECURITY FUNCTIONS.—The term  
6 “private security functions”, with respect to activi-  
7 ties carried out under a covered contract in a the-  
8 ater in which the United States is engaged in a con-  
9 tingency operation, means any activity as follows:

10 (A) Any activity for which personnel are  
11 allowed to carry weapons in the performance of  
12 the contract.

13 (B) The performance of—

- 14 (i) military logistics for operations;  
15 (ii) maintenance or arming of weap-  
16 ons systems;  
17 (iii) interrogation of prisoners;  
18 (iv) convoy security;  
19 (v) guarding vital facilities and per-  
20 sonnel;  
21 (vi) tactical security work; or  
22 (vii) local force training.

23 (C) Any other activity in support of the  
24 contingency operation, as determined by the  
25 Theater Security Contract Coordinating Officer

1           for the theater of operations of the contingency  
2           operation as designated under section 6(e)(1).

3           (3) AGENCY.—The term “agency” has the  
4           meaning given the term “Executive agency” in sec-  
5           tion 105 of title 5, United States Code.

6           (4) CONTINGENCY OPERATION.—The term  
7           “contingency operation” has the meaning given the  
8           term section 101(13) of title 10, United States  
9           Code.

10          (5) CONTRACTOR.—The term “contractor”  
11          means an entity performing a covered contract (in-  
12          cluding a subcontract at any tier).

13          (6) CONTRACT PERSONNEL.—The term “con-  
14          tract personnel” means persons assigned by a con-  
15          tractor (including a subcontractor at any tier) to  
16          perform work under a covered contract.

17 **SEC. 10. EFFECTIVE DATE.**

18          (a) APPLICABILITY.—The provisions of this Act shall  
19          apply to the following:

20               (1) All covered contracts and all covered con-  
21               tract personnel in which the work under the contract  
22               is carried out in a theater in which the United  
23               States is currently conducting contingency oper-  
24               ations.

1           (2) In the event that the United States begins  
2           new contingency operations, all covered contracts  
3           and all covered contract personnel in which the work  
4           under the contract is carried out in a theater in  
5           which the United States is conducting such contin-  
6           gency operations.

7           (b) IMMEDIATE EFFECTIVENESS.—The provisions of  
8           this Act shall enter into effect immediately upon the enact-  
9           ment of this Act.

10          (c) IMPLEMENTATION.—With respect to covered con-  
11          tracts and covered contract personnel discussed in sub-  
12          section (a)(1), the United States Government shall have  
13          90 days following the enactment of this Act to ensure com-  
14          pliance with the provisions of this Act.

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