

113TH CONGRESS
2D SESSION

S. 2286

To provide for greater oversight of Department of Defense service contracts.

IN THE SENATE OF THE UNITED STATES

MAY 1, 2014

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

A BILL

To provide for greater oversight of Department of Defense service contracts.

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 “Cutting Contractor
5 Use and Taxpayer Savings Act of 2014”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Since 2002, the Department of Defense has
9 spent more than \$2,000,000,000,000 on service con-
10 tractors.

1 (2) The decade-long trend of outsourcing work
2 has created a shadow government of service contrac-
3 tors that are largely dependent on the taxpayers as
4 their sole source of revenue.

5 (3) Studies show that service contractors can
6 cost taxpayers up to twice what it costs for members
7 of the Armed Forces to perform the work.

8 (4) In 2013, the Department of Defense spent
9 nearly \$180,000,000,000 on service contractors,
10 making it the largest buyer of services in the Fed-
11 eral Government.

12 (5) Approximately 30 percent of the intelligence
13 community workforce is made up of service contrac-
14 tors, employees that work for companies whose pri-
15 mary goal is to make a profit and have never sworn
16 an oath to defend and protect the United States.

17 (6) Since 2002, Congress has repeatedly en-
18 acted legislation to improve the Department of De-
19 fense's management of service contractors. However,
20 in 2013 the Government Accountability Office
21 (GAO) found that, while the Department has taken
22 action to address such legislative requirements, there
23 are no metrics in place to determine the effects of
24 those actions.

1 **SEC. 3. INSPECTOR GENERAL ANALYSIS OF SERVICE CON-**
2 **TRACTOR INVENTORY.**

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of the enactment of this Act, and annually thereafter,
5 the Inspector General of the Department of Defense shall
6 submit to the congressional defense committees a com-
7 prehensive analysis of the global inventory Department of
8 Defense service contractors.

9 (b) ELEMENTS.—The analysis required under sub-
10 section (a) shall include the following elements:

11 (1) A comprehensive inventory of Department
12 of Defense service contractors.

13 (2) An analysis of the types of service contracts
14 that were significantly expanded after fiscal year
15 2002.

16 (3) Identification of redundancies in the inven-
17 tory.

18 (c) PUBLIC AVAILABILITY.—The analysis required
19 under subsection (a) shall be made publically available.

20 **SEC. 4. DEFENSE CONTRACT AUDIT AGENCY REPORTING**
21 **ON SERVICE CONTRACTS.**

22 (a) AUDITS.—The Defense Contract Audit Agency,
23 in conducting audits of defense contracts, shall distinguish
24 service contracts in its analysis, including by distin-
25 guishing the percentage of payment awarded for service

1 elements on contracts containing both manufacturing and
2 service elements.

3 (b) REPORTING.—Not later than 180 days after the
4 date of the enactment of this Act, and annually thereafter,
5 the Defense Contract Audit Agency shall submit to the
6 congressional defense committees a report containing its
7 findings pursuant to subsection (a). The report shall be
8 made publically available.

9 **SEC. 5. SERVICE ACQUISITION IMPROVEMENT PLAN.**

10 (a) PLAN REQUIRED.—Not later than 180 days after
11 the date of the enactment of this Act, the Under Secretary
12 of Defense for Acquisition, Technology and Logistics shall,
13 in consultation with the senior services managers of the
14 military departments, submit to the congressional defense
15 committees a plan to improve the acquisition of services
16 by the Department of Defense.

17 (b) ELEMENTS.—The plan required under subsection
18 (a) shall include the following elements:

19 (1) Baseline data on the status of service acqui-
20 sition, including budget and spending data on serv-
21 ices by volume, type, and location.

22 (2) Specific goals for improving service acquisi-
23 tion.

24 (3) Metrics to assess progress in meeting the
25 goals outlined under paragraph (2).

1 **SEC. 6. REPORTING ON USE OF SERVICE CONTRACTS BY IN-**
2 **TELLIGENCE COMMUNITY.**

3 (a) ANNUAL REPORT.—Not later than 180 days after
4 the date of the enactment of this Act, and annually there-
5 after, the Director of National Intelligence shall submit
6 to the congressional defense committees and the Select
7 Committee on Intelligence of the Senate and the Perma-
8 nent Select Committee on Intelligence of the House of
9 Representatives a report with an inventory of service con-
10 tractors used by each element of the intelligence commu-
11 nity (as defined in section 3 of the National Security Act
12 of 1947 (50 U.S.C. 3003)).

13 (b) FORM.—The report required under subsection (a)
14 may be submitted in classified form, but shall contain an
15 unclassified summary including the total amount expended
16 by each element of the intelligence community on service
17 contracts.

18 **SEC. 7. LIMITATION ON ALLOWABLE GOVERNMENT CON-**
19 **TRACTOR COMPENSATION COSTS.**

20 (a) LIMITATION.—

21 (1) CIVILIAN CONTRACTS.—Paragraph (16) of
22 section 4304(a) of title 41, United States Code, is
23 amended to read as follows:

24 “(16) Costs of compensation of contractor and
25 subcontractor employees for a fiscal year, regardless
26 of the contract funding source, to the extent that

1 such compensation exceeds the annual salary of the
2 President as determined under section 102 of title 3,
3 except that the head of an executive agency may es-
4 tablish one or more narrowly targeted exceptions for
5 scientists, engineers, or other specialists upon a de-
6 termination that such exceptions are needed to en-
7 sure that the executive agency has continued access
8 to needed skills and capabilities.”.

9 (2) DEFENSE CONTRACTS.—Subparagraph (P)
10 of section 2324(e)(1) of title 10, United States
11 Code, is amended to read as follows:

12 “(P) Costs of compensation of contractor and
13 subcontractor employees for a fiscal year, regardless
14 of the contract funding source, to the extent that
15 such compensation exceeds the annual salary of the
16 President as determined under section 102 of title 3,
17 except that the head of an executive agency may es-
18 tablish one or more narrowly targeted exceptions for
19 scientists, engineers, or other specialists upon a de-
20 termination that such exceptions are needed to en-
21 sure that the executive agency has continued access
22 to needed skills and capabilities.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) REPEAL.—Section 1127 of title 41, United
25 States Code, is repealed.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions at the beginning of chapter 11 of such title is
3 amended by striking the item relating to section
4 1127.

5 (c) APPLICABILITY.—This section and the amend-
6 ments made by this section shall apply only with respect
7 to costs of compensation incurred under contracts entered
8 into on or after the date that is 180 days after the date
9 of the enactment of this Act.

10 (d) REPORTS.—

11 (1) IN GENERAL.—Not later than 60 days after
12 the end of each fiscal year, the Director of the Office
13 of Management and Budget shall submit a report on
14 contractor compensation to—

15 (A) the Committee on Armed Services of
16 the Senate;

17 (B) the Committee on Armed Services of
18 the House of Representatives;

19 (C) the Committee on Homeland Security
20 and Governmental Affairs of the Senate;

21 (D) the Committee on Oversight and Gov-
22 ernment Reform of the House of Representa-
23 tives;

24 (E) the Committee on Appropriations of
25 the Senate; and

1 (F) the Committee on Appropriations of
2 the House of Representatives.

3 (2) ELEMENTS.—The report required under
4 paragraph (1) shall include—

5 (A) the total number of contractor employ-
6 ees, by executive agency, in the narrowly tar-
7 geted exception positions described in section
8 4304(a)(16) of title 41, United States Code (as
9 amended by subsection (a)(1)), and section
10 2324(e)(1)(P) of title 10, United States Code
11 (as amended by subsection (a)(2)), during the
12 preceding fiscal year;

13 (B) the taxpayer-funded compensation
14 amounts received by each contractor employee
15 in a narrowly targeted exception position during
16 such fiscal year; and

17 (C) the duties and services performed by
18 contractor employees in the narrowly targeted
19 exception positions during such fiscal year.

20 **SEC. 8. REDUCTION IN SERVICE CONTRACT SPENDING.**

21 (a) THREE-YEAR REQUIREMENT.—

22 (1) LIMITATION.—The aggregate amount obli-
23 gated and expended by the Department of Defense
24 for service contracts in fiscal years beginning after
25 September 30, 2017, may not exceed the lesser of—

1 (A) the amount equal to 67 percent of the
2 aggregate amount expended for service con-
3 tracts in fiscal year 2014; or

4 (B) the amount equal to 67 percent of the
5 amount appropriated for the Department of De-
6 fense for the current fiscal year and available
7 for service contracts.

8 (2) INAPPLICABILITY OF LIMITATION.—The
9 limitation in paragraph (1)(B) shall not apply if the
10 Secretary of Defense certifies to Congress in writing
11 that the aggregate amount to be obligated and ex-
12 pended by the Department of Defense in such fiscal
13 year for service contracts will not exceed the amount
14 specified in paragraph (1)(A).

15 (b) TEN-YEAR REQUIREMENT.—The amount obli-
16 gated and expended by the Department of Defense on
17 service contracts in fiscal years beginning after September
18 30, 2024, may not exceed the amount obligated or ex-
19 pended by the Department of Defense on service contracts
20 in fiscal year 2002 (adjusted for inflation).

21 **SEC. 9. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.**

22 In this Act, the term “congressional defense commit-
23 tees” has the meaning given the term in section
24 101(a)(16) of title 10, United States Code.

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