

108TH CONGRESS  
2D SESSION

# H. R. 4749

To require accountability for personnel performing Federal contracts with private security contractors.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2004

Mr. PRICE of North Carolina (for himself, Mr. WAXMAN, Mr. SPRATT, Mr. MEEHAN, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To require accountability for personnel performing Federal contracts with private security contractors.

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 “Transparency and Ac-  
5 countability in Security Contracting Act”.

1 **SEC. 2. REQUIREMENTS RELATING TO CONTRACTS WITH**  
2 **PRIVATE SECURITY CONTRACTORS.**

3 (a) ACCOUNTABILITY REQUIREMENTS FOR PER-  
4 SONNEL PERFORMING FEDERAL CONTRACTS WITH PRI-  
5 VATE SECURITY CONTRACTORS.—

6 (1) REQUIREMENT TO PROVIDE CERTAIN IN-  
7 FORMATION ABOUT PERSONNEL PERFORMING FED-  
8 ERAL CONTRACTS.—Each covered contract shall re-  
9 quire contractors to provide the appropriate Federal  
10 Government contracting officer with the following in-  
11 formation at the time the contract is awarded and  
12 to update the information during contract perform-  
13 ance as necessary:

14 (A) Number of persons being used by the  
15 contractor and subcontractors (at any tier) of  
16 the contractor to carry out the contract and any  
17 subcontracts under the contract.

18 (B) A description of how such persons are  
19 trained to carry out tasks specified under the  
20 contract.

21 (C) The salaries and benefits of such per-  
22 sons.

23 (D) A description of each category of activ-  
24 ity required by the covered contract.

25 (2) FULL COST ACCOUNTING.—Each covered  
26 contract shall include the following requirements:

1 (A) Before award of the contract, the con-  
2 tractor shall provide cost estimates of salary,  
3 insurance, materials, logistics, travel, adminis-  
4 trative costs, and other costs of carrying out  
5 the contract.

6 (B) Before contract closeout, the con-  
7 tractor shall provide a report on the actual  
8 costs of carrying out the contract, in the same  
9 categories as provided under subparagraph (A).

10 (3) CASUALTY REPORTING.—Each covered con-  
11 tract shall require full reporting by the contractor of  
12 all personnel casualties in carrying out the contract.

13 (4) OVERSIGHT.—Before a covered contract is  
14 awarded, the head of the agency awarding the con-  
15 tract shall ensure that sufficient funds are available  
16 to enable contracting officers of the agency to per-  
17 form oversight of the performance of the contract.

18 (5) WAIVER AUTHORITY.—The head of the  
19 agency awarding a covered contract may waive a re-  
20 quirement of this section with respect to a contract  
21 in an emergency or exceptional situation, as deter-  
22 mined by the head of the agency. Any such waiver  
23 shall be limited to the requirements that are impos-  
24 sible or impracticable to implement because of the  
25 emergency or exceptional situation. In any case in

1       which the head of an agency waives a requirement  
2       under this section with respect to a contract, the  
3       agency head shall submit to Congress a report, with-  
4       in 30 days after the date of award of the contract,  
5       that describes the contract, the waiver, the emer-  
6       gency or exceptional situation that justified the  
7       waiver, and a plan for bringing the contract into  
8       compliance with the waived requirements as soon as  
9       possible or an explanation of why the waiver needs  
10      to be permanent.

11           (6) FAR REVISIONS.—Not later than 120 days  
12      after the date of the enactment of this Act, the Fed-  
13      eral Acquisition Regulation shall be revised to imple-  
14      ment the provisions of this subsection.

15      (b) REQUIREMENTS OF THE SECRETARY OF DE-  
16      FENSE RELATING TO CONTRACTS WITH PRIVATE SECU-  
17      RITY CONTRACTORS.—

18           (1) HIRING STANDARDS RELATING TO PRIVATE  
19      SECURITY CONTRACTORS.—Not later than 90 days  
20      after the date of the enactment of this Act, the Sec-  
21      retary of Defense shall prescribe in regulations min-  
22      imum standards for the persons that private security  
23      contractors may hire for the performance of any cov-  
24      ered contract. The standards may vary based on the  
25      duties of personnel, but must address past criminal

1 activity, security clearance requirements, and other  
2 issues the Secretary determines may lead to security  
3 or performance concerns.

4 (2) COMPARATIVE ANALYSIS.—Before a Federal  
5 agency enters into a covered contract, the Secretary  
6 of Defense shall perform a cost and effectiveness  
7 analysis for every category of potential activity that  
8 may be carried out by the private security contractor  
9 under the contract, comparing the cost and effective-  
10 ness that would be associated with the same activi-  
11 ties being carried out by civilian employees of the  
12 Department of Defense or members of the Armed  
13 Forces. The Secretary shall ensure, as part of the  
14 analysis, that the overall military mission would not  
15 be significantly affected if the contractor personnel  
16 refused to perform work as required under the con-  
17 tract.

18 (c) DEFINITIONS.—In this section:

19 (1) COVERED CONTRACTS.—The term “covered  
20 contract” means a contract entered into by the Fed-  
21 eral Government with a private security contractor,  
22 except that, in the case of a task or delivery order  
23 contract entered into by the Federal Government  
24 with a private security contractor, the term means  
25 a task order issued under the contract.

1           (2) PRIVATE SECURITY CONTRACTOR.—The  
2 term “private security contractor” means any entity  
3 under contract with the Federal Government—

4           (A) whose personnel are allowed to carry  
5 weapons as part of their contract; or

6           (B) that uses persons who perform one or  
7 more of the following duties:

8           (i) Military logistics and maintenance.

9           (ii) Interrogation of prisoners.

10          (iii) Convoy security.

11          (iv) Guarding vital facilities and per-  
12 sonnel.

13          (v) Intelligence gathering and anal-  
14 ysis.

15          (vi) Tactical security work.

16          (vii) Local force training.

17          (d) EFFECTIVE DATE.—This section shall apply to  
18 covered contracts entered into on or after the date occur-  
19 ring 60 days after the date of the enactment of this Act.

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