

109TH CONGRESS
2^D SESSION

H. R. 3961

AN ACT

To authorize the National Park Service to pay for services rendered by subcontractors under a General Services Administration Indefinite Deliver/Indefinite Quantity Contract issued for work to be completed at the Grand Canyon National Park.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. DEFINITIONS.**

2 As used in this Act, the following definitions apply:

3 (1) IDIQ.—The term “IDIQ” means an Indefi-
4 nite Deliver/Indefinite Quantity contract.

5 (2) PARK.—The term “park” means Grand
6 Canyon National Park.

7 (3) PGI.—The term “PGI” means Pacific Gen-
8 eral, Inc.

9 (4) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior, acting through the Di-
11 rector of the National Park Service.

12 **SEC. 2. FINDINGS AND PURPOSE.**

13 (a) FINDINGS.—Congress finds the following:

14 (1) The park issued approximately 40 task or-
15 ders to PGI under an IDIQ between fiscal years
16 2002 and 2003 for a variety of projects.

17 (2) The value of these task orders was over
18 \$17,000,000 for various construction projects
19 throughout the park.

20 (3) According to invoices sent to the park, PGI
21 certified that proceeds of payments were being sent
22 to subcontractors and suppliers.

23 (4) In January 2004, complaints were received
24 by numerous subcontractors citing lack of payments
25 by PGI.

1 (5) The National Park Service has paid over
2 \$10,000,000 to PGI, of which an estimated
3 \$1,300,000 was owed, but not paid to subcontractors.
4

5 (6) During an acquisition management review
6 conducted by the Washington Contracting and Procurement
7 Office of the National Park Service, it was
8 found that the park had failed to ensure that PGI
9 obtained the necessary payment and performance
10 bonds required by the IDIQ and the Miller Act (40
11 U.S.C. 270a).

12 (7) On February 6, 2004, the National Park
13 Service suspended further payment to PGI and
14 issued a suspension notice to cease activity by the
15 contractor.

16 (8) The National Park Service gave PGI every
17 reasonable opportunity to resolve the situation, but
18 PGI has effectively ceased doing business.

19 (9) Recovery by the Government of that
20 \$1,300,000 is unlikely.

21 (10) The National Park Service is prohibited
22 from making payments to a contractor without obtaining
23 payment and performance bonds.

1 (11) Contract law generally prohibits payment
2 directly to subcontractors because of the lack of a
3 direct, contractual relationship between the parties.

4 (12) The Federal Government has derived bene-
5 fits from the work that has been completed.

6 (b) PURPOSE.—The purpose of this Act is to author-
7 ize the Secretary to pay for services rendered by sub-
8 contractors that should have been paid by PGI.

9 **SEC. 3. AUTHORIZATION.**

10 The Secretary is authorized to use \$1,300,000 from
11 the park's entrance fee revenues to pay subcontractors of
12 PGI for work performed at the park under an IDIQ with
13 PGI between fiscal years 2002 and 2003 provided that—

14 (1) the primary contract between PGI and the
15 National Park Service is terminated;

16 (2) the amount owed to the subcontractors is
17 verified;

18 (3) all reasonable legal avenues or recourse
19 have been exhausted by the subcontractors to recoup
20 amounts owed directly from PGI; and

21 (4) the subcontractors provide a written state-
22 ment that payment of the amount verified in para-
23 graph (2) represents payment in full by the United

- 1 States for all work performed at the park under the
- 2 IDIQ with PGI between fiscal years 2002 and 2003.
Passed the House of Representatives September 25,
2006.

Attest:

Clerk.

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