

110TH CONGRESS  
1ST SESSION

# H. R. 3383

To require internal ethics compliance programs by Department of Defense contractors, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 2007

Mr. CASTLE introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Oversight and Government Reform, 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 internal ethics compliance programs by Department of Defense contractors, 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.**

4 This Act may be cited as the “Defense Contracting  
5 Ethics Oversight Act of 2007”.

6 **SEC. 2. ETHICS COMPLIANCE BY DEPARTMENT OF DE-**  
7 **FENSE CONTRACTORS.**

8 (a) IN GENERAL.—Not later than 180 days after the  
9 date of the enactment of this Act, the Secretary of Defense

1 shall prescribe in regulations a requirement that a con-  
2 tracting officer of the Department of Defense may not de-  
3 termine a contractor to be responsible for purposes of the  
4 award of a covered contract for the Department unless  
5 the entity to be awarded the contract has in place, by the  
6 deadline specified in subsection (c), an internal ethics com-  
7 pliance program, including a code of ethics and internal  
8 controls, to facilitate the timely detection and disclosure  
9 of improper conduct in connection with the award or per-  
10 formance of the covered contract and to ensure that ap-  
11 propriate corrective action is taken with respect to such  
12 conduct.

13 (b) ELEMENTS OF ETHICS COMPLIANCE PRO-  
14 GRAM.—Each ethics compliance program required of a  
15 contractor under subsection (a) shall include the following:

16 (1) Requirements for periodic reviews of the  
17 performance of the covered contract to ensure com-  
18 pliance of contractor personnel with applicable Gov-  
19 ernment contracting requirements, including laws,  
20 regulations, and contractual requirements.

21 (2) Internal reporting mechanisms, such as a  
22 hot-line, for contractor personnel to report suspected  
23 improper conduct among contractor personnel.

24 (3) Audits of the performance of the covered  
25 contract.

1           (4) Mechanisms for disciplinary actions against  
2 contractor personnel found to have engaged in im-  
3 proper conduct, including the exclusion of such per-  
4 sonnel from the exercise of substantial authority.

5           (5) Mechanisms for the reporting to appro-  
6 priate Government officials, including the con-  
7 tracting officer and the Office of the Inspector Gen-  
8 eral of the Department of Defense, of suspected im-  
9 proper conduct among contractor personnel, includ-  
10 ing suspected conduct involving corruption of a Gov-  
11 ernment official or individual acting on behalf of the  
12 Government, not later than 30 days after the date  
13 of discovery of such suspected conduct.

14           (6) Mechanisms to ensure full cooperation with  
15 Government officials responsible for investigating  
16 suspected improper conduct among contractor per-  
17 sonnel and for taking corrective actions.

18           (7) Mechanisms to ensure the recurring provi-  
19 sion of training to contractor personnel on the re-  
20 quirements and mechanisms of the ethics compliance  
21 program.

22           (8) Mechanisms to ensure the oversight of the  
23 ethics compliance program by contractor personnel  
24 with substantial authority within the contractor.

1           (c) DEADLINE FOR PROGRAM.—The deadline speci-  
2 fied in this subsection for a contractor having in place an  
3 ethics compliance program required under subsection (a)  
4 for purposes of a covered contract is 30 days after the  
5 date of the award of the contract.

6           (d) DETERMINATION OF EXISTENCE OF PROGRAM.—  
7 In determining whether a contractor has in place an ethics  
8 compliance program required under subsection (a), a con-  
9 tracting officer of the Department may use the assistance  
10 of the Office of the Inspector General of the Department  
11 of Defense.

12           (e) SUSPENSION OR DEBARMENT.—The regulations  
13 prescribed under subsection (a) shall provide that any con-  
14 tractor under a covered contract whose personnel are de-  
15 termined not to have reported suspected improper conduct  
16 in accordance with the requirements and mechanisms of  
17 the ethics compliance program concerned may, at the elec-  
18 tion of the Secretary of Defense, be suspended from the  
19 contract or debarred from further contracting with the  
20 Department of Defense.

21           (f) COVERED CONTRACT DEFINED.—In this section,  
22 the term “covered contract” means any contract to be  
23 awarded to a contractor of the Department of Defense if,  
24 in the year before the contract is to be awarded, the total

1 amount of contracts of the contractor with the Federal  
2 Government exceeded \$5,000,000.

3 **SEC. 3. REPORT TO CONGRESS ON PERSONAL FINANCIAL**  
4 **CONFLICTS OF INTEREST.**

5 (a) REPORT.—Not later than 180 days after the date  
6 of the enactment of this Act, the Administrator for Fed-  
7 eral Procurement Policy, after consultation with the Di-  
8 rector of the Office of Government Ethics, shall submit  
9 to Congress a report that contains—

10 (1) a description of current Federal laws, regu-  
11 lations, and practices relating to restrictions on per-  
12 sonal financial interests applicable to Federal em-  
13 ployees and non-Federal employees; and

14 (2) the Administrator’s findings and any rec-  
15 ommendations for establishing a requirement for  
16 compliance with restrictions relating to personal fi-  
17 nancial interests such as those that apply to Federal  
18 employees by—

19 (A) those employees of a covered Govern-  
20 ment contractor who are specifically retained  
21 for and engage in providing advice to one or  
22 more Federal agencies; and

23 (B) employees of federally funded research  
24 and development centers.

25 (b) DEFINITIONS.—In this section:

1 (1) COVERED GOVERNMENT CONTRACTOR.—

2 The term “covered Government contractor” means  
3 any entity (other than a Federal agency) awarded a  
4 contract by a Federal agency under which one or  
5 more individuals hired by the entity perform an ac-  
6 quisition planning function that is closely associated  
7 with the responsibilities of a Federal employee. For  
8 purposes of the preceding sentence, the term “acqui-  
9 sition planning function” means the function of pro-  
10 viding advice to a Federal agency on acquisition  
11 planning with respect to a particular acquisition or  
12 acquisitions.

13 (2) FEDERAL EMPLOYEE.—The term “Federal  
14 employee” means an employee of a Federal agency.

15 (3) FEDERAL AGENCY.—The term “Federal  
16 agency” means any of the following:

17 (A) any executive department or inde-  
18 pendent establishment in the executive branch  
19 of the Government, including any wholly owned  
20 Government corporation.

21 (B) any establishment in the legislative or  
22 judicial branch of the Government (except the  
23 Senate, the House of Representatives, and the  
24 Architect of the Capitol and any activities  
25 under the Architect’s direction).

1           (4) FEDERALLY FUNDED RESEARCH AND DE-  
2           VELOPMENT CENTER.—The term “federally funded  
3           research and development center” means a federally  
4           funded research and development center identified  
5           by the National Science Foundation in accordance  
6           with the Federal Acquisition Regulation.

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