

SUMMARY: History of Wartime Contracting Provisions in the FY13 NDAA

The Commission on Wartime Contracting: In 2007, Senators McCaskill and Webb introduced legislation to create an independent Commission on Wartime Contracting, modeled on the Truman Committee, which investigated waste and fraud during World War II. That legislation, which became law in 2008, created the Commission on Wartime Contracting in Iraq and Afghanistan.

In 2011, in its final report to Congress, the Commission found that as much as \$60 billion, roughly \$12 million “*every day for the past 10 years,*” was lost to waste or fraud through contracts in Iraq and Afghanistan. In addition to the financial costs, the Commission found that poor planning, management, and oversight of contracts damaged the United States’ strategic and diplomatic objectives overseas.

Need for Legislation: In 2012, GAO reviewed the actions taken by the Defense Department, State Department, and the U.S. Agency for International Development (USAID) to address the recommendations by the Commission. In its report, GAO found that while the Defense Department had acted or planned to act on about half of the Commission’s applicable recommendations, the State Department and USAID had acted or planned to act on fewer than one-third of the recommendations, claiming that many of them were inapplicable. The report also found that no agency planned to act on recommendations to elevate positions of authority and responsibility for wartime contracting.

Wartime Contracting Reform Legislation: In February 2012, Senators McCaskill and Webb introduced “The Comprehensive Contingency Contracting Reform Act of 2012” (S.2139) to build upon the Commission’s recommendations as well as investigations and oversight conducted by Senator McCaskill’s Subcommittee on Contracting Oversight, GAO, inspectors general, and other federal auditors and investigators. In June 2012, following hearings and meetings with stakeholders, Senator McCaskill introduced a strengthened, bipartisan version of the legislation (S.3286) supported by Senators Webb, Collins, Lieberman, Blumenthal, Franken, Manchin, Sanders, and Tester.

The legislation included provisions to increase accountability across government and within federal agencies for contracting in overseas contingency operations. It also contained requirements for the federal government to address how it would pay for contingency operations. The legislation also included provisions which would increase the authority of Inspectors General, strengthen suspension and debarment, improve planning and training for government personnel, increase competition, and decrease reliance on private security contractors.

Inclusion of Wartime Contracting Legislation in the NDAA: Major components of Senator McCaskill’s legislation were included in the base FY13 National Defense Authorization Act (NDAA), but were applicable only to the Department of Defense. On November 29, 2012, the Senate, by unanimous consent, adopted provisions expanding the NDAA to cover wartime contracting reforms applicable to the State Department and USAID. The bill, which also includes provisions for management and oversight of contracts across the federal government, was signed into law on January 2, 2013 as public law 112-239.