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Fact Sheet

Democratic Truth Squad Introduces “Clean Contracting Act”

Over the past five years, major government initiatives — including border and homeland security, the reconstruction of Iraq, and the recovery effort after Hurricane Katrina — have been undermined by billions of dollars in wasteful spending. In total, contracts worth over \$762 billion have been plagued by significant waste, fraud, abuse, and mismanagement under the Bush Administration.¹

In response to these widespread abuses in federal contracting, the Democrats’ Waste, Fraud, and Abuse Truth Squad is introducing the “Clean Contracting Act of 2006.” As summarized below, the bill would end the abusive contracting practices that have been rampant under the Bush Administration and promote greater transparency and accountability in federal contracting.

Promoting Competition in the Award of Contracts

- **Limiting the Length of Noncompetitive Contracts**
The Administration has justified the award of lucrative no-bid contracts by citing urgent and compelling needs. But these contracts have continued years after the emergency has passed. Section 101 limits the duration of no-bid contracts awarded in emergencies to eight months.
- **Competition in Multiple Award Contracts**
Agencies often award contracts to multiple contractors to provide the same goods or services, but then fail to compete individual “task orders.” Section 102 requires federal agencies to give eligible contractors fair notice and a chance to bid on task orders.
- **Minimizing No-Bid Contracts**
Spending on no-bid contracts has more than doubled under the Bush Administration. Section 103 curbs this abuse by requiring each federal agency to develop and implement a plan to promote competition and minimize the use of noncompetitive contracts.

¹ Minority Staff, Committee on Government Reform, *Dollars, Not Sense: Government Contracting Under the Bush Administration* (June 2006).

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- **Public Disclosure of Justifications for No-Bid Contracts**

When an agency awards a no-bid contract, it must prepare a “justification and approval” document that explains why the agency did not require full and open competition. Section 104 requires agencies to make these “justification and approval” documents public.

Limiting the Use of Abuse Prone Contracts

- **Banning Monopoly Contracts**

The Bush Administration has jeopardized taxpayer interests and squandered hundreds of millions of dollars by giving private contractors like Halliburton and Parsons monopolies over huge portions of the reconstruction effort in Iraq. Section 201 prohibits the use of these monopoly contracts, requiring the Administration to use contract vehicles that allow multiple contractors to compete for individual projects.

- **Limiting Tiers of Subcontractors**

Under the Bush Administration, federal contractors have awarded subcontracts to subcontractors, who then award another tier of subcontracts to sub-subcontractors, who then repeat the chain. This type of “layer cake” contract inflates costs and diffuses accountability. Section 202 prevents a contractor from using subcontracts for more than 65% of the work of a contract.

- **Minimizing Cost-Plus Contracts**

Cost-plus type contracts leave the taxpayer vulnerable to wasteful spending by providing contractors with little or no incentive to control costs. Section 203 requires each federal agency to develop and implement a plan to minimize the use of these abuse-prone contracts.

Preventing the Abuse of Contract Flexibilities

- **Preventing Abuse of “Commercial Item” Authority**

Under the Bush Administration, the authority to buy “commercial items” like paper goods and computers has been used to purchase specialty items like military aircraft without competition. Section 301 closes loopholes in the law and limits this authority to items that are truly commercially available.

- **Preventing Abuse of “Other Transaction” Authority**

Under the Bush Administration, the authority to waive government contracting procedures and accounting standards for small high-tech companies has been turned into a shield used by traditional defense contractors to avoid oversight. Section 302 limits this authority so that the original intent of the law is realized.

- **Preventing Abuse of Interagency Contracts**

The Bush Administration has abused interagency contracts, allowing an information technology contract established at the Department of the Interior to be used to hire interrogators at Abu Ghraib. Section 303 requires the Office of Management and Budget

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to issue guidelines to ensure that an interagency contract is appropriate in a given situation, that agency responsibilities are clear, and that an adequate audit trail is created.

- **Preventing Abuse of Purchase Cards**
Government purchase cards that were conceived as a way to simplify small government purchases have been used to buy unauthorized stereo equipment and pornography. Section 304 requires the Office of Management and Budget to issue guidelines to ensure that only employees who need purchase cards receive them, that these employees are trained in their use, and that purchases are monitored and audited to prevent wasteful spending.
- **Repealing Alaska Native Corporation Loophole**
Under the Bush Administration, Alaska Native Corporations and tribes have received huge no-bid contracts. Section 305 repeals the statutory provision that allows these entities to receive no-bid contracts of any value.

Increasing Contract Oversight

- **Funding Contract Oversight**
A large and recurring problem over the last five years has been insufficient and inept contract oversight. Section 401 mandates that agencies devote at least 1% of their procurement budget to contract oversight, planning, and administration.
- **Preventing Contractor Conflicts of Interest**
Federal agencies increasingly hire contractors to assist in overseeing contracts. Section 402 ensures that these contractors are truly independent, without any business or contractual relationships with the companies whose contracts they are helping to oversee.
- **Disclosing Contractor Overcharges**
The Bush Administration has hidden contractor overcharges from Congress, international auditors, and the public, impeding oversight and diminishing accountability. Section 403 promotes transparency in federal contracting by requiring that contract overcharges be disclosed to Congress.
- **Public Availability of Contract Awards**
Contracts financed with taxpayer dollars should be available for public inspection, but the information currently available is often insufficient and untimely. Section 404 requires agencies to publish contract information within 14 days by posting on the internet basic contract information, including the name and address of the contractor, the amount of the award, the type of contract, and the number of offers received.
- **Increasing Contract Transparency**
Sections 405 and 408 further promote transparency in federal contracting by requiring agencies to provide basic contracting documents to Congress and by improving the Federal Procurement Data System so that it is user-friendly and publicly accessible at no cost.

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- **Increasing Congressional Oversight**
The Republican Congress has abdicated its constitutional duty to provide vigorous oversight of the executive branch. Section 406 charges the House Committee on Government Reform with holding hearings to investigate credible evidence of waste, fraud, abuse, or mismanagement in federal contracts.
- **Depoliticizing Federal Contracts**
Legislation passed in 2003 required that the chief acquisition officers in federal agencies be political appointees. Section 407 repeals this effort to politicize federal acquisition policy.

Preventing Unjustified Award Fees

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Under the Bush Administration, contractors have regularly received large profits in the form of award fees even when their projects experienced cost overruns, schedule delays, and performance deficiencies. Section 501 allows agencies to pay award fees to contractors only when their performance is timely and under budget and requires agencies to consider cost, schedule, and performance goals when determining the amount of any award fee.

Deterring Corruption in Contracting

- **Closing the Revolving Door**
Section 601 increases from one to two years the amount of time contracting officials are barred from taking jobs with firms they have supervised as a government employee. It also extends the ban to lobbying and consulting for government contractors and requires federal contracting officials to disclose job offers made to relatives.
- **Requiring Honest Contractors**
Federal contracts should be awarded only to contractors that have a good record of integrity and business ethics. Section 602 prohibits the award of new contracts to contractors that have consistently overcharged the government, violated tax, labor, environmental, or consumer protections laws, or defaulted on federal debts.
- **Enhancing Whistleblower Protections**
Whistleblowers are an important source of information in the fight against waste, fraud, and abuse, often placing their own careers at risk to speak out against illegal or improper conduct. Section 603 extends whistleblower protections to federal contractor employees by permitting these individuals to bring claims in federal court if they face retaliation.