

## Legislation Would Enhance Transparency and Accountability for Battlefield Contracting

**Washington, D.C.** - Congressman David Price (D-NC) today introduced legislation to improve oversight of private security contractors operating in war zones and enhance coordination between contractors and the military.

Thousands of armed private security contractors are operating in Iraq, Afghanistan, and other conflict zones around the globe on behalf of the United States. They have provided needed protection for diplomats, supply convoys, and sensitive facilities, but they also have been implicated in detainee abuse at Abu Ghraib prison, numerous incidents in which civilian bystanders were killed and wounded, and fraudulent misappropriation of taxpayer dollars.

Contractors, government officials, and outside observers acknowledge the regulatory and logistical gray area in which important security operations are carried out through contracting, and the potential complications that can be caused without adequate coordination and oversight. The Government Accountability Office (GAO) has repeatedly raised flags about the lack of coordination and communication between American troops and armed contractors, reporting that "private security contractors continue to enter the battle space without coordinating with the U.S. military, putting both the military and security providers at a greater risk." Last week, Special Inspector General for Iraq Reconstruction issued a report calling oversight of private security contractors inadequate and vulnerable to waste, fraud, and abuse.

"Congress has a responsibility to take the lessons we've learned from contractor abuses in Iraq and Afghanistan and prevent the same mistakes in future conflicts," Price said. "No U.S. mission should be put at risk because of the actions of a few rogue contractors who operate with limited oversight and regulation. More accountable and transparent security contracting can save both lives and taxpayer money, keeping our troops and nation safer in the process."

Price's legislation, the Transparency and Accountability in Security Contracting Act, seeks to address contractor abuses through a combination of transparency, oversight, accountability, and regulation. First, the bill would ensure that both Congress and the federal government have complete information about the scope of contractor activities so that they can conduct robust oversight and hold contractors accountable for their actions. It would require contractors to provide detailed reports on their operations and would require the Secretaries of Defense and

State to create a database of that information which could track all security contracts, including costs and casualties. In addition, the database would be used to identify contractors who violate U.S. and international law or regulations, and bar them from future security contracting.

The bill also would limit the scope of contracts and ensure that the activities of contractors are coordinated by the military. It would require all federal agencies who use security contractors to develop minimum standards for hiring and training them, and make military commanders on the ground responsible for issuing rules on contractor use of force. The bill would expressly prohibit contractors from participating directly in battle or interrogating detainees.

Finally, the bill would seek a broader international framework governing the use of security contractors globally. The measure would build on initial efforts, such as the 2008 Montreux Document, by urging the Secretary of State to seek binding international commitments to regulate, oversee, and hold accountable security contractors operating under the authority of foreign governments. The need for enhanced global attention to the regulation and oversight of security contractors has been recently underscored by the spike in usage of private contractors to guard vessels against piracy in the Indian Ocean. Many leading private security firms, including Aegis and Xe (formerly Blackwater), have already begun or are preparing maritime security operations in international waters off the coast of Somalia.

The bill represents the latest evolution of Price's efforts to enhance management and oversight of security contractors, following similar legislation in the 109th and 110th Congresses. Many provisions of his previous bill were incorporated into the Fiscal Year 2008 Defense Authorization Act, passed during the 110th Congress. Price also plans to soon reintroduce his legislation expanding the Military Extraterritorial Jurisdiction Act (MEJA) to ensure that contractors who commit crimes in war zones are subject to prosecution. Price's previous MEJA Expansion and Enhancement bill in the 110th Congress overwhelmingly passed the House by a vote of 389 to 30 in October 2007; then-Senator Barack Obama's companion bill stalled in the Senate due to Republican opposition.

Original cosponsors of the Price bill include Rep. John Conyers, chairman of the House Judiciary Committee, Armed Services Committee members Reps. John Spratt and Jim Cooper, Intelligence Committee member Rep. Jan Schakowsky, and Reps. Robert Brady, Earl Blumenauer, Lois Capps, John Dingell, Keith Ellison, Bob Etheridge, Sam Farr, Bob Filner, John Hall, Mazie Hirono, Carolyn Maloney, Jim McGovern, Brad Miller, and Henry Waxman.

## **Transparency and Accountability in Security Contracting Act**

### **Section by Section Analysis**

**Section 1. Title.** "Transparency and Accountability in Security Contracting Act."

#### **Section 2(a). Improved Information-Sharing and Oversight.**

- Establishes a mechanism for contract officers to receive information from contractors on costs, number of personnel, training, activities performed, and compensation information for each covered contract. Ensures that contracting agencies have information necessary to conduct oversight of contracts awarded.
- Establishes a mechanism for contracting agencies to provide Congress with a regularly-updated broad picture of private security contracting operations for any given contingency.
- Includes protections to prevent requirements from revealing trade secrets or otherwise disadvantaging contractors.

#### **Section 2(b). Security Contracting Database**

- Requires the Secretaries of Defense and State to establish and maintain a database to include information on all active security contracts, including a description of the contract, the contract's value, and the number of personnel working on the contract.
- Requires the database to track total contract activity, including number and value of contracts awarded and number of contractor casualties, in connection with specific contingency

operations.

- Requires the database to include a list of individuals found guilty of violating U.S. and international law or regulations and (in Section 3(c) of the bill) bars such individuals from employment under U.S. security contracts.

### **Section 3. Enhanced Coordination Between Contractors and the Military**

- Prohibits the use of contractors for direct participation in hostilities or interrogation of detainees.
- Requires combatant commanders to issue rules for the use of force for contractors operating in their area of responsibility, thereby clarifying appropriate uses of force for contractors, and requires covered contracts to specify that contract personnel adhere to rules for the use of force as issued.
- Requires contracting agencies to develop guidance and minimum standards on hiring, training, and screening of contract personnel and equipment required for contract personnel.
- Requires the issuance of regulations that require training of contractors in international human rights law, rules for the use of force, and other key topics.
- Requires combatant commanders to designate, for each contingency, a Theater Security Contract Coordinating Officer to serve as a communications liaison between the U.S. Armed Forces and private security contractors in the contingency theater, and to maintain data on contractors operating in the theater.
- Expresses the sense of Congress that the Secretaries of State and Defense should work with contractors, industry associations, and NGOs to develop a system of independent, third-party accreditation for contractors.

**Section 4. International Framework for Security Contracting.**

- Directs the Secretary of State to work through existing or new international fora to achieve an international framework regulating the use of private contractors for security functions.

Section 5. Definitions. Restricts the bill to covering only private security contractors and contract personnel carrying out contracts in a theater where the U.S. is conducting contingency operations.

Section 6. Effective date. Applies the provisions of the bill to all current and future contingencies.

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