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CENTRAL INTELLIGENCE AGENCY
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Washington, D.C. 20505
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TO: L. Britt Snider
Senate Select Committee on Intelligence
211 Hart Senate Office Building

Attached, per our conversation, is the language
we will discuss on Monday, 19 September 1988.



Legislation Division
15 September 1988

STAT

Page Denied

I believe the Senator from Louisiana, as manager of the bill on his side, would agree that it is a good proposal.

Mr. JOHNSTON. Mr. President, we believe this leave policy has been used successfully in the Defense Logistic Agency and can very well be employed Defense Department-wide. We support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alaska [Mr. STEVENS].

The amendment (No. 2818) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2819

(Purpose: To specify that the public announcement of projects, programs, or grants that are in whole or in part funded by the federal government identify the portion of federal funds involved)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2819.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

Mr. STEVENS. Mr. President, the amendment I have proposed has no budgetary impact, and does not add to detract from a single program contained in this bill. This proposal simply requires the recipient of Federal funds for any project, or program, or grant to identify the portion of Federal support provided for that activity.

The budget constraints that have faced the Congress over the past 2 years have generated a significant change in how many public works and improvement programs are funded. The States, local governments, and the Federal Government have forged a new partnership to share in the costs of many projects previously supported solely by Federal funds. I believe that this has been a positive development, leading to better projects and a genuine shared commitment to the success

of these initiatives by all parties involved.

I believe that the Federal Government should remain a significant contributor to such projects. Recognizing the various resources critical to the success of these programs, I simply propose that any announcement or publication of these programs specifically and fully identify the Federal contribution. I believe that this approach respects the roles of all participants in such projects, while insuring that the beneficiaries of these activities can perceive the cooperative role of all levels of government.

Mr. President, this amendment is quite similar to an amendment that has now been added, at my request, to five other appropriations bills this year. I would hope it would become a general provision, but I must add that to a defense authorization bill one of these days. This is, as we all know, an annual bill.

I think it is a matter of taxpayer concern. They ought to be informed how much money comes from Federal sources in any program, project or grant activity. This would accomplish that objective.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Alaska correctly describes the amendment. We support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alaska (Mr. STEVENS).

The amendment (No. 2819) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2820

(Purpose: To reduce certain appropriations for consulting services)

Mr. PRYOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) proposes an amendment numbered 2820.

Mr. PRYOR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

CONSULTING SERVICES

Sec. (a) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1989 is reduced by an amount equal to 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a).

(d) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

Mr. PRYOR. Mr. President, this is the ninth of a series of amendments that I have been offering to the appropriations bills coming through the Senate. All of these amendments have dealt with the issue of the shadow government of contracting out of services that have normally been performed by Federal employees that are now performed in the private sector.

We have anticipated, Mr. President, the savings of something in the neighborhood of probably \$300 to \$400 million thus far saved. In some cases returned to the Treasury directly, in some cases kept by the respective subcommittees that have dealt with these particular matters before the Senate.

Tonight's amendment, Mr. President, will relate to the Department of Defense and if this amendment is agreed to, if this amendment is successful, and if it is passed in the Senate and in the House, we will be saving the American taxpayers expenditures, on dollars now being spent for consultants, somewhere in the neighborhood of \$420 million.

Mr. President, we arrive at this figure very simply. The General Accounting Office in recent months has actually listed, now, 11 categories of consulting and outside services that the Federal Government is employing.

For example, we in this particular bill are taking from the top four categories that definitely without question, according to the General Accounting Office, involve consulting services which amounted, in 1987 to \$2.8 billion. We are taking 15 percent from that \$2.8 billion figure, thus

*DoD Appropriations Bill
to be fixed in annex*

H.R. 4761
Department of Defense Appropriations Bill

Amend amendment numbered 2851 to read as follows:

(f) This section shall not apply to a contract for advisory and assistance services which, as determined by the Secretary of Defense, involves--

(1) sensitive foreign intelligence or foreign counterintelligence activities; []

(2) sensitive law enforcement investigations; or

(3) information concerning a contract, including the parties, when either the subject matter of the contract, or the fact of the contractual relationship between the consultant and any other person for whom he performs consulting services, is classified pursuant to Executive Order 12356 and its successor orders or is otherwise protected from unauthorized disclosure by statute.

or

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meeting military requirements for an interim period, and after the year 2000, including both new aircraft and modifications of existing aircraft, and, as a minimum, the A-7 Plus Strikefighter, the F/A-18, the AV-8B, and the A-10 aircraft models in current or modified forms; the Secretary's assessment shall address the issues of costs, schedules, technical risks, manpower, force structure, five-year funding profiles, and cost and military effectiveness.

(b) The director of Defense Operational Test and Evaluation, after consultation with the Air Force Test and Evaluation Center, the Army Operational Testing and Evaluation Activity, and the Marine Corps Operational Test and Evaluation Activity, shall develop, no later than March 31, 1989, an operational test plan for a competitive fly-off of close air support alternatives.

(c) The Secretary of Defense shall assess the feasibility of transferring, from the Air Force to the Army, the close air support mission beginning no later than FY 1992, including the costs, schedules, five-year funding profiles, manpower, and force structure implications.

(d) The Secretary of Defense shall provide the Committees on Appropriations and Armed Services of the Senate and House of Representatives, no later than March 31, 1989, an interim report containing information required in the above-mentioned subsections (a)-(c), and a final report no later than December 31, 1989; such reports shall be in both classified and unclassified versions.

SYMMS AMENDMENT NO. 2847

Mr. JOHNSTON (for Mr. SYMMS) proposed an amendment to the bill H.R. 4781, supra; as follows:

At the appropriate place in the bill insert:
 Sec. . . . Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged. *Provided*, That reimbursements which are not received within one hundred eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred eighty first day following submission of an appropriate request for payment.

COHEN (AND LEVIN)
AMENDMENT NO. 2848

Mr. JOHNSTON (for Mr. COHEN, for himself and Mr. LEVIN) proposed an amendment to the bill H.R. 4781, supra; as follows:

At the appropriate place in the bill, insert:
 Sec. . . . Section 3554 of title 31, United States Code, is amended—

(1) in subsection (a)(1), by striking out "unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period";

(2) in subsection (c)—

(A) by striking out "may declare an appropriate interested party to be entitled to the costs of—" in paragraph (1) and inserting in lieu thereof "may recommend to the Federal agency issuing the solicitation, proposing the contract award, or awarding the contract, as the case may be, that such agency pay to the appropriate interested party reimbursement for the costs of—"; and

(B) by striking out "Monetary awards to which a party is declared to be entitled under paragraph (1) of this subsection shall be paid promptly" in paragraph (2) and inserting in lieu thereof "A payment of costs recommended by the Comptroller General under paragraph (1) of this subsection may be paid"; and

(3) in subsection (e)(1), by striking out "those recommendations within 60 days of the receipt of the Comptroller General's recommendations under subsection (b) of this section." and inserting in lieu thereof "the recommendations of the Comptroller General under subsection (b) or (c) of this section within 60 days after the head of such procuring activity receives those recommendations."

JOHNSTON AMENDMENT NO.
2849

Mr. JOHNSTON proposed an amendment to the bill H.R. 4781, supra; as follows:

On page 9, beginning on line 20, strike " through "Provided further, That", on line 21; and on page 10, line 1, immediately preceding "of the amount", insert " *Provided further, That*,"

On page 21, line 8, restore ";" and on line 14 delete ";

On page 34, line 1, strike " *Provided*," and on line 8, immediately preceding the word "That" insert " *Provided*,".

On page 35, line 14, strike " *Provided*,".

On page 36, line 16, strike ";" and on page 37, line 12, insert ";" immediately preceding " *Provided*,".

On page 113, line 1, delete ";" and insert in lieu thereof ";

BUMPERS AMENDMENT NO. 2850

Mr. JOHNSTON (for Mr. BUMPERS) proposed an amendment to the bill H.R. 4781, supra; as follows:

On page 114, after line 22, insert the following new section:

SEC. 8127. Section 2345 of the Military Construction Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1230), is amended to read as follows:

"SEC. 2345. USE OF SEWAGE FACILITIES AT FORT CHAFFEE, ARKANSAS

"(a) IN GENERAL.—The Secretary of the Army shall permit the City of Barling, Arkansas, to use the sewage treatment facilities at Fort Chaffee under an agreement that would require the city to pay a reasonable cost for the use of such facilities and to pay any reasonable costs incurred by the Army in increasing the capacity of the sewage treatment facilities at Fort Chaffee in order to accommodate the use of such facilities by the city. An agreement entered into under this section shall be for such period, not less than 20 years, as may be agreed upon by the Secretary and the city.

"(b) REQUIREMENT FOR COMPLETION OF ALL ASSESSMENTS, STUDIES, AND REPORTS.—(1) The Secretary of the Army shall complete all necessary environmental assessments, studies, and reports and all baseline studies that may be required in connection with the increased use and expansion of the sewage

treatment facilities at Fort Chaffee as a result of the enactment of this section not later than 120 days after the date of the enactment of this Act.

"(2) The city shall be required to reimburse the United States for all costs incurred by the Secretary in carrying out such assessments, studies, and reports. Such costs shall be amortized over the period of the agreement entered into by the Secretary and the city pursuant to subsection (a).

"(c) DEADLINE FOR AGREEMENT.—The Secretary shall enter into negotiations with the City of Barling at the earliest practicable date after the date of the enactment of this Act regarding the use of the sewage treatment facilities at Fort Chaffee and shall make every effort to conclude negotiations and sign an agreement with the city not later than 180 days after the date of the enactment of this Act.

"ADDITIONAL TERMS AND CONDITIONS.—Any agreement entered into under this section shall be subject to such other terms and conditions as the Secretary of the Army determines necessary or appropriate to protect the interests of the United States."

PRYOR (AND OTHERS)
AMENDMENT NO. 2851

Mr. PRYOR (for himself, Mr. LEVIN, Mr. CONRAD, Mr. GORE, Mr. GRASSLEY, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 4781, supra; as follows:

On page 114, below line 22, add the following:

SEC. 8127. (a)(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2397c the following new section:

"§ 2397d. Registration of consultants

"(a)(1) An agency may not award a contract for the procurement of advisory and assistance services to a consultant unless—

"(A) such consultant complies with the registration requirements of this section; and

"(B) the contracting officer responsible for such contract has reviewed the information provided by such consultant in its registration and such other information as may be available to the contracting officer and determined, with the approval of his supervisor, that, with respect to such contract, the consultant does not have a conflict of interest that could be prejudicial to the interests of the United States.

"(2) An agency may not award a contract to any person submitting a bid or proposal to such agency unless such person certifies that, to the best of such person's knowledge and belief, each consultant that has furnished advice, information, direction, or assistance to such person in support of the preparation or submission of the bid or proposal has complied with the registration requirements of this section.

"(b)(1) A consultant submitting a bid or proposal for a contract referred to in subsection (a)(1) shall, within such time after submitting the bid or proposal as the Secretary of Defense shall prescribe in regulations, register with the Office of Standards of Conduct of the Department of Defense and provide a copy of such registration to the contracting officer responsible for such contract.

"(2) A consultant retained by a person in connection with the preparation or submission of a bid or proposal for a Department of Defense contract shall register with the Office of Standards of Conduct of the Department of Defense within such time after

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the retention of such consultant as the Secretary of Defense shall prescribe in regulations.

"(3) A consultant who is registered with the Office of Standards of Conduct under this subsection with respect to one contract, bid, or proposal shall update the registered information whenever the consultant submits a bid or proposal for another Department of Defense contract (if such contract is for the procurement of advisory and assistance services) and whenever the consultant is retained by a person in connection with the preparation or submission of a bid or proposal for another Department of Defense contract. The consultant shall update such information within such time as the Secretary of Defense shall prescribe in regulations.

"(c) A person registering as a consultant under this section shall include in its registration the following information:

"(1) The name and address of the consultant.

"(2) A description of the nature of the services furnished by the consultant in the normal course of the consultant's business and a description of the nature of the clients (public and private, foreign and domestic) for which the consultant has furnished such services.

"(3) A list of all clients for which the consultant has furnished related advisory and assistance services within three years before the date of the registration and a description of the related advisory and assistance services furnished each such client by the consultant.

"(4) A statement of whether the consultant has ever been convicted of a felony and whether, at the time of the registration, there is pending any indictment or information charging the consultant with a felony.

"(5) A statement of whether, at the time of the registration, the consultant is ineligible, by reason of suspension or debarment, to be awarded a contract by the Federal Government.

"(6) A certification that, to the best of the consultant's knowledge and belief at the time of the registration, such consultant and all employees of the consultant are not in violation of any applicable requirement set out in, and are not engaged in any conduct prohibited by, sections 2397, 2397a, 2397b, and 2397c of this title and any contract term required by such section 2397c.

"(d) The Inspector General of the Department of Defense shall monitor the compliance of consultants with the registration requirements of this section and shall submit to the Committees on Armed Services of the Senate and the House of Representatives an annual report containing a discussion of the extent of such compliance.

"(e) Each consultant who intentionally fails to comply with the registration requirements of this section shall be subject to suspension and debarment proceedings.

"(f) This section shall not apply to a contract for advisory and assistance services which, as determined by the Secretary of Defense, involves—

"(1) sensitive foreign intelligence or foreign counterintelligence activities; or

"(2) sensitive law enforcement investigations.

"(g) In this section:

"(1) The term 'agency' means those agencies listed in paragraphs (1), (2), (3), and (4) of section 2303(a) of this title.

"(2) The term 'consultant' means any person (including, in the case of a business organization, any affiliate of such organization) that—

"(A) furnishes or offers to furnish advisory and assistance services; or

"(B) pursuant to a contract, furnishes advice, information, direction, or assistance to any other person in support of the preparation or submission of a bid or proposal for a Department of Defense contract by such other person.

"(3)(A) The term 'advisory and assistance services' means those services acquired by an agency from any nongovernmental source, by contract, to support or improve agency policy development, decisionmaking, management, and administration, or to support or improve the operation of management systems.

"(B) Such term includes—

"(i) 'management and professional services';

"(ii) the conduct and preparation of studies, analyses, and evaluations; and

"(iii) engineering and technical services.

"(4) The term 'management and professional services' means professional services relating to the management and control of programs, including—

(A) management data collection services;

(B) policy review and development services;

(C) program evaluation services;

(D) program management support services;

(E) program review and development services;

(F) systems engineering services; and

(G) other management and professional services of a similar nature which are not related to any specific program.

"(5) The term 'studies, analyses, and evaluations' includes the following:

"(A) Any analysis or other examination of a subject which—

"(i) is undertaken to provide greater understanding of relevant issues and alternatives regarding organizations, policies, procedures, systems, programs, and resources; and

"(ii) leads to conclusions or recommendations with respect to planning, programming, budgeting, decisionmaking, or policy development.

"(B) With respect to a program of an agency, any study initiated by or for the program management office of the agency.

"(C) A cost-benefit analysis, a data analysis (other than a scientific analysis), an economic study or analysis, an environmental assessment or impact study, a legal or litigation study, a legislative study, a regulatory study, a socioeconomic study, and a feasibility study which does not relate to construction.

"(D) A geological study, a natural resource study, a scientific data study, a soil study, a water quality study, a wildlife study, and a general health study.

"(E) Any similar study or analysis.

"(6) The term 'engineering and technical services' means the furnishing of advice, training, or direct assistance to personnel in order to ensure the efficient and effective operation or maintenance of existing platforms, weapon systems, related systems, and associated software by such personnel.

"(7) The term 'related advisory and assistance services' means advisory and assistance services provided to any person or to the Department of Defense regarding a contract, subcontract, or prospective contract or subcontract awarded or to be awarded by the Department of Defense."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2397c the following:

"2397d. Registration of consultants."

(b) The first report required by section 2397d(d) of title 10, United States Code, as

added by subsection (a), shall be submitted not later than one year after the date of the enactment of this Act.

BYRD (AND OTHERS) AMENDMENT NO. 2852

Mr. JOHNSTON (for Mr. BYRD, for himself, Mr. DOMENICI, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 4781, supra; as follows:

On page 80, line 10, after "... manufacturers", insert the following: "Provided further, That of the funds appropriated for "Other Procurement, Army" for fiscal year 1988, those funds provided for a supercomputer may only be obligated to purchase a system to be installed at a competitively selected independent academic institution."

HATFIELD AMENDMENT NO. 2853

Mr. STEVENS (for Mr. HATFIELD) proposed an amendment to the bill H.R. 4781, supra; as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . (a) Of the amounts available for the University Research Initiative Program in 'Research, Development, Test and Evaluation, Defense Agencies', no more than \$12,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

GARN AMENDMENT NO. 2854

Mr. JOHNSTON (for Mr. GARN) proposed an amendment to the bill H.R. 4781, supra; as follows:

At an appropriate place at the end of the bill, insert the following new section:

SEC. . Of the amounts available for obligation for research, development, test, and evaluation, no more than \$2,500,000 shall be made available in equal amounts to the Army and the Air Force for the testing and evaluation of low-profile antenna systems for ground level communications: *Provided*, That whatever total amount made available by this section shall only be available if it is matched on an equal basis by any industrial participant in the testing and evaluation: *Provided further*, That the Secretary of the Army and the Secretary of the Air Force shall report the results of these tests and evaluation to the Committees on Appropriations of the Senate and House of Representatives by June 30, 1989.

INOUE AMENDMENT NO. 2855

Mr. JOHNSTON (for Mr. INOUE) proposed an amendment to the bill H.R. 4781, supra; as follows:

On page 78, at the end of line 15, before the period, add: "Provided further, that any and all funds derived from contracts or subcontracts issued pursuant to this Solicitation shall not be subject to any Hawaii State or local sales, general excise, or similar taxes imposed upon gross sales, gross income or gross receipts, except to the extent that such taxes are uniformly im-

S. 2674

Consultant Registration and Reform Act of 1988

Amend section 10(c) to read as follows:

(3) This subsection shall not apply to a contract for consulting services, or any data, reports, or other material pertaining to such services, if the contract --

(A) involves sensitive foreign intelligence or foreign counterintelligence activities;

(B) involves sensitive law enforcement investigations; []

(C) is classified under the national security classification system; or

(D) involves an agency or component of an agency as described in section 3.4(f) of Executive Order 12333 or its successor orders.

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Amend section 13 to read as follows:

Sections 5, 6, 7, 8, 9, and 11 shall not apply to a contract for advisory and assistance services, or any data, reports, or other material pertaining to such services, if the contract --

(1) involves sensitive foreign intelligence or foreign counterintelligence activities;

(2) involves sensitive law enforcement investigations; []

(3) is classified under the national security classification system; or

(4) involves an agency or component of an agency as described in section 3.4(f) of Executive Order 12333 or its successor orders.

*a comparable
definitional section
in*