

## To the office of U.S. Representative Michael Baumgartner

Re: HR 10109 (119th Congress), Wildfire Event Contract Prohibition Act • Latest action (2026-08-17): Referred to the Committee on Agriculture, and in addition to the Committee on the Judiciary, 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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Office of record (Congress.gov): 124 Cannon House Office Building, Washington, DC • (202) 225-2006

# Federal Wildfire Contract Integrity and Transparency Act of 2025

**The measure, as described from the official record:** To prevent abusive contracting practices in wildfire response, such as price gouging, conflicts of interest, or contracts with entities posing national security risks, while ensuring timely and effective emergency response.

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## THE PROPOSAL

This Act applies only to contracts for wildfire response, mitigation, or recovery that are funded in whole or in part by federal appropriations or that involve activities on federal lands. It does not apply to contracts solely between state or local governments and private entities that use no federal funds and do not affect interstate commerce.

**Section 2: Competitive Bidding Requirement.** All covered contracts must be awarded through a competitive bidding process, except when the Secretary of Agriculture or the Secretary of the Interior certifies that an emergency requires immediate action to protect life or property. In such emergencies, the contract must be reported to the relevant Inspector General within 7 days.

**Section 3: Disclosure of Ownership.** Any entity bidding on a covered contract must disclose any foreign ownership of 5% or more. The Secretary may reject a bid if the entity is owned or controlled by a foreign government that poses a national security risk, as determined by the Committee on Foreign Investment in the United States.

**Section 4: Prohibition on Conflicts of Interest.** No covered contract may be awarded to any entity that employs or has a financial relationship with any federal employee involved in the contracting decision. Violations render the contract voidable and subject the entity to civil penalties of up to \$500,000.

**Section 5: Oversight and Enforcement.** The Inspectors General of the Department of Agriculture and the Department of the Interior shall jointly issue regulations and investigate violations. Any person may file a complaint alleging a violation. The Attorney General may bring civil actions to enforce this Act.

**Section 6: Sunset and Review.** This Act expires 5 years after enactment, unless reauthorized by Congress. A report on its effectiveness shall be submitted to Congress 6 months before sunset.

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## **OPERATIVE PROVISIONS (VFA PROPOSAL)**

|                              |                                                                                                                                                     |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Funding Source</b>        | General fund appropriations for wildfire management (existing accounts).                                                                            |
| <b>Funding Amount</b>        | \$5 million per year for oversight and enforcement, allocated from the Department of Agriculture and Department of Interior administrative budgets. |
| <b>Sunset Years</b>          | 5 years                                                                                                                                             |
| <b>Oversight Body</b>        | Joint oversight by the Inspectors General of the Department of Agriculture and the Department of the Interior.                                      |
| <b>Enforcement Mechanism</b> | Civil penalties up to \$500,000 per violation; contract voidability; private right of action for whistleblowers; Attorney General enforcement.      |
| <b>Effective Date</b>        | 90 days after enactment.                                                                                                                            |

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## **CONSTITUTIONAL BASIS**

- Article I, Section 8, Clause 3 (Commerce Clause – contracts substantially affecting interstate commerce)
- Article I, Section 8, Clause 18 (Necessary and Proper Clause – implementing federal procurement integrity)
- Tenth Amendment (reserving to states contracts not involving federal funds or lands)
- Fifth Amendment Due Process Clause (ensuring fair bidding procedures and contract rights)

### **Concerns with the measure as written:**

- Original bill may have broadly prohibited all contracts related to wildfire events, infringing on state police powers under the Tenth Amendment to manage their own emergency response contracts.
- May have interfered with executive discretion in emergency procurement, potentially violating separation of powers.
- If applied to contracts that do not involve federal funds or federal lands, could exceed Congress's enumerated powers under Article I, Section 8.

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## **WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)**

Democratic priorities: Protects against price gouging and conflicts of interest, ensures transparency and competitive bidding, and includes whistleblower protections. Republican priorities: Limits federal reach to only contracts involving federal funds or lands, preserves state and local control over their own contracts, includes an emergency waiver to maintain executive discretion, and sunsets the law to prevent permanent overreach.

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