

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5013) TO AMEND  
TITLE 10, UNITED STATES CODE, TO PROVIDE FOR PERFORMANCE MAN-  
AGEMENT OF THE DEFENSE ACQUISITION SYSTEM, AND FOR OTHER  
PURPOSES

APRIL 27, 2010.—Referred to the House Calendar and ordered to be printed

Ms. SLAUGHTER, from the Committee on Rules,  
submitted the following

R E P O R T

[To accompany H. Res. 1300]

The Committee on Rules, having had under consideration House Resolution 1300, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 5013, the “Implementing Management for Performance and Related Reforms to Obtain Value in Every Acquisition Act of 2010,” under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Armed Services.

The resolution waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Armed Services shall be considered as an original bill for the purpose of amendment and shall be considered as read. The resolution waives all points of order against the amendment in the nature of a substitute except those arising under clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The resolution further makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. All points of order against the amend-

ments are waived except those arising under clause 9 or 10 of rule XXI. The resolution provides one motion to recommit with or without instructions.

The resolution provides that the Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Armed Services or a designee. Finally, the resolution provides that the Chair may not entertain a motion to strike out the enacting words of the bill.

#### EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of the bill (except those arising under clause 9 or 10 of rule XXI) and all points of order against the amendment in the nature of a substitute (except those arising under clause 10 of rule XXI), the Committee is not aware of any points of order. The waivers are prophylactic.

#### COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

##### *Rules Committee record vote No. 406*

Date: April 27, 2010.

Measure: H.R. 5013.

Motion by: Mr. Dreier.

Summary of motion: To report an open rule.

Results: Defeated 3–9.

Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Sessions—Yea; Foxx—Yea; Slaughter—Nay.

#### SUMMARY OF AMENDMENTS MADE IN ORDER

1. Skelton (MO): Would make various technical corrections to the bill. It also would provide that nothing in contracts for military purpose non-developmental items shall restrict or otherwise affect the rights in technical data of the Government, the contractor, or any subcontractor for items developed by the contractor or subcontractor exclusively at private expense. (10 minutes)

2. Sessions (TX): Would provide that nothing in the Act or amendments made by it shall be construed to affect the competition requirements of 10 U.S.C. 2304 (contract competition requirements). (10 minutes)

3. Hastings, Alcee (FL): Would support a diverse workforce development program with respect to career development for civilian and military personnel in the acquisition workforce. (10 minutes)

4. Hall, John (NY): Would require the Director of the Office of Performance Assessment and Root Cause Analysis (“PARCA”) to include performance assessments with significant findings in its annual report. It also requires submission of egregious problems (as defined by the PARCA Director) to the Armed Services Committees. (10 minutes)

5. Edwards, Donna (MD): Would direct the DOD to engage in outreach to businesses in the vicinity of DOD installations to notify them of opportunities to obtain contracts and subcontracts to perform work at such installations. (10 minutes)

6. Moore, Gwen (WI): Would specify that assessment metrics required to measure contractor performance include “compliance of such contractors with department policy regarding the use of certain small businesses.” (10 minutes)

7. Murphy, Christopher (CT): Would specify that Title IV assistance in the legislation (Expansion of the Industrial Base) be limited to firms within the national technology and industrial base, as defined in section 2500(1) of title 10, United States Code. (10 minutes)

8. Quigley (IL), Giffords (AZ), Bartlett (MD): Would include energy efficiency as one of the metrics that may be used in performance assessment of defense acquisitions, and would include energy efficiency of weapons systems as one of the items considered in the Secretary of Defense’s review of defense acquisition guidance. (10 minutes)

9. Quigley (IL): Would direct the Cost Assessment and Program Evaluation (CAPE) in its next report to Congress to (1) assess whether and to what extent program cost estimators for major defense acquisition programs are independent and (2) whether a lack of independence affects their ability to generate reliable cost estimates. (10 minutes)

10. Schrader (OR): Would prohibit the award of contracts for personal services by any DOD component for the purpose of obtaining the services of a senior mentor. Nothing would prohibit DOD from hiring retired generals and flag officers as “senior mentors” under the highly qualified expert provision of 5 U.S.C. section 9903 with additional financial disclosure and conflict of interest requirements in place. (10 minutes)

11. Connolly (VA): Would create an Industrial Base Council within the DOD, supported by existing personnel and funds, to provide recommendations to the Secretary on budget and policy matters related to the industrial base. Would require an annual report to Congress on the Council’s activities. (10 minutes)

12. Childers (MS): Would ensure that training courses for acquisition personnel include market research strategies to ensure that the surrounding market is considered during the contracting process. (10 minutes)

13. Dahlkemper (PA): Would direct the Secretary of Defense to carry out a program providing for cost savings on non-developmental items by allowing a contracting officer to make an award for an existing contract to an entity submitting a new proposal that provides for a savings of greater than 15%, provided that doing so does not constitute a breach of contract. (10 minutes)

14. Kissell, Larry (NC), Michaud (ME): Would require GAO to do a study of the items purchased under 37 U.S.C. section 418, and determine if there is sufficient domestic production of such items to adequately supply members of the Armed Forces. Would then require DOD to provide to the House Armed Services Committee, within 6 months of receiving the GAO recommendations, an evaluation of whether items purchased under section 418 of title 37 should be covered under the Berry Amendment. (10 minutes)

15. Grayson (FL), Hastings, Alcee (FL): Would require DOD to give cost at least equal importance in evaluating competitive proposals for Federal contracts versus other factors or explain any waivers of such requirement. (10 minutes)

16. Hare (IL): Would declare that it is the sense of Congress that the Department of Defense should ensure full compliance throughout the acquisition process with the Berry Amendment and the Buy American Act. Further, the amendment declares the sense of Congress that the Department of Defense not procure products made by manufacturers in the United States that violate labor standards as defined under the laws of the United States. (10 minutes)

TEXT OF AMENDMENTS TO BE MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SKELTON, IKE, OF MISSOURI OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, in the table of contents, strike the item relating to section 107 and insert the following:

Sec. 107. Requirement to include references to services acquisition throughout the Federal Acquisition Regulation.

Page 4, after line 12, strike the items relating to sections 2545 and 2546 and insert the following:

“2545. Performance assessments of the defense acquisition system.  
“2546. Audits of performance assessments.

Page 5, line 1, strike “assessment” and insert “assessments”.

Page 8, line 12, strike “analysis” and insert “Analysis”.

Page 11, line 1, strike “assessment” and insert “assessments”.

Page 16, line 9, strike “System” and insert “Systems”.

Page 26, line 10, insert “primarily” after “guidance”.

Page 27, line 22, strike “CONTRACTING” and insert “ACQUISITION”.

Page 28, line 14, strike “contracting” and insert “acquisition”.

Page 28, lines 15 and 16, strike “contracting” and insert “acquisition”.

Page 29, beginning on line 8, strike “and for which” and all that follows through “title” on line 10.

Page 30, insert after line 5 the following:

“(4) Nothing in the contract shall further restrict or otherwise affect the rights in technical data of the Government, the contractor, or any subcontractor of the contractor for items developed by the contractor or any such subcontractor exclusively at private expense, as prescribed in regulations implementing section 2320(a)(2)(B) of this title.

Page 69, line 17, strike “of the risk” and insert “of risk”.

Page 73, line 12, strike “contract” and insert “program”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SESSIONS, PETE, OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title IV, add the following new section:

**SEC. 407. CONSTRUCTION OF ACT ON COMPETITION REQUIREMENTS FOR THE ACQUISITION OF SERVICES.**

Nothing in this Act or the amendments made by this Act shall be construed to affect the competition requirements of section 2304

of title 10, United States Code, with respect to the acquisition of services.

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS, ALCEE, OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 44, after line 17, insert the following:

“(5) A deliberate workforce development strategy that ensures diversity in promotion, advancement, and experiential opportunities commensurate with the general workforce outlined in this section.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HALL, JOHN, OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 9, after line 22, insert the following:

“(f) INCLUSION IN ANNUAL REPORT.—The Director of the Office of Performance Assessment and Root Cause Analysis shall include information on the activities undertaken by the Director under this section in the annual report of the Director required under section 103(f) of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111–23; 123 Stat. 1716), including information on any performance assessment required by subsection (a) with significant findings. In addition, if a performance assessment uncovers particularly egregious problems, as identified by the Director, the Director shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such problems within 30 days after the problems are identified.

Page 9, line 23, strike “(f)” and insert “(g)”.

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE EDWARDS, DONNA, OF MARYLAND OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 61, line 3, strike “(c)” and insert “(d)”.

Page 61, line 8, strike “(d)” and insert “(e)”.

Page 61, insert after line 2 the following new subsection:

(c) OUTREACH TO LOCAL FIRMS NEAR DEFENSE INSTALLATIONS.—The program established under subsection (a) shall include outreach, using procurement technical assistance centers, to notify firms of all business sizes in the vicinity of Department of Defense installations of opportunities to obtain contracts and subcontracts to perform work at such installations.

Page 61, insert after line 18 the following new paragraph:

(3) PROCUREMENT TECHNICAL ASSISTANCE CENTER.—The term “procurement technical assistance center” means a center operating under a cooperative agreement with the Defense Logistics Agency to provide procurement technical assistance pursuant to the authority provided in chapter 142 of title 10, United States Code.

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MOORE, GWEN, OF WISCONSIN OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, line 21, insert after “performance” the following: “, including compliance with the Department of Defense policy regarding the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, veteran-owned small businesses, service-disabled, veteran-owned small businesses, and women-owned small businesses”.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MURPHY, CHRISTOPHER, OF CONNECTICUT OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 60, line 19, insert after the period the following: “The program shall be limited to firms within the national technology and industrial base (as defined in section 2500(1) of title 10, United States Code).”.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE QUIGLEY, MIKE, OF ILLINOIS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, line 4, insert after “sustainment” the following: “and energy efficiency”.

Page 26, line 15, insert “and energy efficiency” after “sustainment”.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE QUIGLEY, MIKE, OF ILLINOIS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 17, after line 8, insert the following:

(c) ASSESSMENT OF INDEPENDENCE OF COST ESTIMATORS AND COST ANALYSTS REQUIRED IN NEXT ANNUAL REPORT ON COST ASSESSMENT ACTIVITIES.—In the next annual report prepared by the Director of Cost Assessment and Program Evaluation under section 2334(e) of title 10, United States Code, the Director shall include an assessment of whether and to what extent personnel responsible for cost estimates or cost analysis developed by a military department or defense agency for a major defense acquisition program are independent and whether their independence or lack thereof affects their ability to generate reliable cost estimates.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCHRADER, KURT, OF OREGON OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title II, add the following new section:

**SEC. 210. PROHIBITION ON PERSONAL SERVICES CONTRACTS FOR SENIOR MENTORS.**

(a) PROHIBITION.—The Secretary of Defense shall prohibit the award of a contract for personal services by any component of the Department of Defense for the purpose of obtaining the services of a senior mentor.

(b) INTERPRETATION.—Nothing in this section shall be interpreted to prohibit the employment of a senior mentor as a highly qualified expert pursuant to section 9903 of title 5, United States Code, subject to the pay and term limitations of that section. A senior mentor employed as a highly qualified expert shall be required to submit a financial disclosure report and comply with all conflict of interest laws and regulations applicable to other Federal employees with similar conditions of service.

(c) DEFINITIONS.—In this section:

(1) The term “contract for personal services” means a contract awarded under the authority of section 129b(a) of title 10, United States Code, or section 3109 of title 5, United States Code.

(2) The term “component of the Department of Defense” means a military department, a defense agency, a Department of Defense field activity, a unified combatant command, or the joint staff.

(3) The term “senior mentor” means any person—

(A)(i) who has served as a general or flag officer in the Armed Forces; or

(ii) who has served in a position at a level at or above the level of the senior executive service;

(B) has retired within the 10 years preceding the award of a contract; and

(C) who serves as a mentor, teacher, trainer, or advisor to government personnel on matters pertaining to the former official duties of such person.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONNOLLY, GERALD, OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title IV, add the following new section:

**SEC. 407. INDUSTRIAL BASE COUNCIL AND FUND.**

(a) INDUSTRIAL BASE COUNCIL.—

(1) IN GENERAL.—Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 188. Industrial Base Council**

“(a) COUNCIL ESTABLISHED.—There is in the Department of Defense an Industrial Base Council.

“(b) MISSION.—The mission of the Industrial Base Council is to assist the Secretary in all matters pertaining to the industrial base of the Department of Defense, including matters pertaining to the national defense technology and industrial base included in chapter 148 of this title.

“(c) MEMBERSHIP.—The following officials of the Department of Defense shall be members of the Council:

“(1) The Chairman of the Council, who shall be the Under Secretary of Defense for Acquisition, Technology, and Logistics, the functions of which may be delegated by the Under Secretary only to the Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(2) The Executive Director of the Council, who shall be an official from within the Office of the Under Secretary responsible for industrial base matters and who shall report directly to the Under Secretary or the Principal Deputy Under Secretary.

“(3) Officials from within the Office of the Secretary of Defense, as designated by the Secretary, with direct responsibility for matters pertaining to following areas:

“(A) Manufacturing.

“(B) Research and development.

“(C) Systems engineering and system integration.

“(D) Services.

“(E) Information Technology.

“(F) Sustainment and logistics.

“(4) The Director of the Defense Logistics Agency.

“(5) Officials from the military departments, as designated by the Secretary of each military department, with responsibility for industrial base matters relevant to the military department concerned.

“(d) DUTIES.—The Council shall assist the Secretary in the following:

“(1) Providing input on industrial base matters to strategy reviews, including quadrennial defense reviews performed pursuant to section 118 of this title.

“(2) Managing the industrial base.

“(3) Providing recommendations to the Secretary on budget matters pertaining to the industrial base.

“(4) Providing recommendations to the Secretary on supply chain management and supply chain vulnerability.

“(5) Providing input on industrial base matters to defense acquisition policy guidance.

“(6) Issuing and revising the Department of Defense technology and industrial base guidance required by section 2506 of this title.

“(7) Such other duties as are assigned by the Secretary.

“(e) REPORTING OF ACTIVITIES.—The Secretary shall include a section describing the activities of the Council in the annual report to Congress required by section 2505 of this title.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“188. Industrial Base Council.”

(b) INDUSTRIAL BASE FUND.—

(1) IN GENERAL.—Chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2508. Industrial Base Fund**

“(a) ESTABLISHMENT.—The Secretary of Defense shall establish an Industrial Base Fund (in this section referred to as the ‘Fund’).

“(b) CONTROL OF FUND.—The Fund shall be under the control of the Industrial Base Council established pursuant to section 188 of this title.



“(c) AMOUNTS IN FUND.—The Fund shall consist of amounts appropriated or otherwise made available to the Fund.

“(d) USE OF FUND.—Subject to subsection (e), the Fund shall be used—

“(1) to support the monitoring and assessment of the industrial base required by this chapter;

“(2) to address critical issues in the industrial base relating to urgent operation needs;

“(3) to support efforts to expand the industrial base; and

“(4) to address supply chain vulnerabilities.

“(e) USE OF FUND SUBJECT TO APPROPRIATIONS.—The authority of the Secretary of Defense to use the Fund under this section in any fiscal year is subject to the availability of appropriations for that purpose.

“(f) EXPENDITURES.—The Secretary shall establish procedures for expending monies in the Fund in support of the uses identified in subsection (d), including the following:

“(1) Direct obligations from the Fund.

“(2) Transfers of monies from the Fund to relevant appropriations of the Department of Defense.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2508. Industrial Base Fund.”.

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12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CHILDERS, TRAVIS, OF MISSISSIPPI OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 48, line 21, insert “market research strategies (including assessments of local contracting capabilities),” after “services contracting.”.

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13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DAHLKEMPER, KATHLEEN, OF PENNSYLVANIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title IV, add the following new section:

**SEC. 407. ACQUISITION SAVINGS PROGRAM.**

(a) PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall carry out a program to provide opportunities to provide cost-savings on nondevelopmental items.

(2) SAVINGS.—The program, to be known as the Acquisition Savings Program, shall provide any person or activity within or outside the Department of Defense with the opportunity to offer a proposal to provide savings in excess of 15 percent, to be known as an acquisition savings proposal, for covered contracts.

(3) SUNSET.—The program shall cease to be required on September 30, 2013.

(b) QUALIFYING ACQUISITION SAVINGS PROPOSALS.—A proposal shall qualify as an acquisition savings proposal for purposes of this

section if it offers to supply a nondevelopmental item that is identical to, or equivalent to (under a performance specification or relevant commercial standard), an item being procured under a covered contract.

(c) REVIEW BY CONTRACTING OFFICER.—Each acquisition savings proposal shall be reviewed by the contracting officer for the covered contract concerned to determine if such proposal qualifies under this section and to calculate the savings provided by such proposal.

(d) ACTIONS UPON FAVORABLE REVIEW.—If the contracting officer for a covered contract determines after review of an acquisition savings proposal that the proposal would provide an identical or equivalent nondevelopmental item at a savings in excess of 15 percent, and that a contract award to the offeror of the proposal would not result in the violation of a minimum purchase agreement or otherwise cause a breach of contract for the covered contract, the contracting officer may make an award under the covered contract to the offeror of the acquisition savings proposal or otherwise award a contract for the nondevelopmental item concerned to such offeror.

(e) ACTIONS UPON UNFAVORABLE REVIEW.—If a contracting officer determines after review of an acquisition savings proposal that the proposal would not satisfy the requirements of this section, the contracting officer shall debrief the person or activity offering such proposal within 30 days after completion of the review.

(f) REPORT.—Not later than March 1, 2013, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report regarding the program, including the number of acquisition savings proposals submitted, the number favorably reviewed, the cumulative savings, and any further recommendations for the program.

(g) DEFINITIONS.—In this section:

(1) NONDEVELOPMENTAL ITEM.—The term “nondevelopmental item” has the meaning provided for such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) COVERED CONTRACT.—The term “covered contract”—

(A) means an indefinite delivery indefinite quantity contract for property as defined in section 2304d(2) of title 10, United States Code; and

(B) does not include any contract awarded under an exception to competitive acquisition authorized by the Small Business Act (15 U.S.C. 631 et seq.)

(3) PERFORMANCE SPECIFICATION.—The term “performance specification” means a specification of required item functional characteristics.

(4) COMMERCIAL STANDARD.—The term “commercial standard” means a standard used in industry promulgated by an accredited standards organizations that is not a Federal entity.

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14. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KISSELL, LARRY, OF NORTH CAROLINA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following:

## TITLE V—OTHER MATTERS

### SEC. 501. CLOTHING ALLOWANCE REQUIREMENT.

The Comptroller General shall conduct a study of the items purchased under section 418 of title 37, United States Code, to determine if there is sufficient domestic production of such items to adequately supply members of the Armed Forces and shall transmit the results of such study to the Secretary of Defense. Not later than 6 months after receiving the results of such study, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives an evaluation on whether such items under the study should be considered subject to section 2533a of title 10, United States Code (popularly known as the “Berry Amendment”).

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### 15. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GRAYSON, ALAN, OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill add the following new section:

#### SEC. 501. REQUIREMENT THAT COST OR PRICE TO THE FEDERAL GOVERNMENT BE GIVEN AT LEAST EQUAL IMPORTANCE AS TECHNICAL OR OTHER CRITERIA IN EVALUATING COMPETITIVE PROPOSALS FOR DEFENSE CONTRACTS.

(a) REQUIREMENT.—Subparagraph (A) of section 2305(a)(3) of title 10, United States Code, is amended by striking “proposals; and” at the end of clause (ii) and all that follows through the end of the subparagraph and inserting the following: “proposals and that must be assigned importance at least equal to all evaluation factors other than cost or price when combined.”.

(b) WAIVER.—Section 2305(a)(3) of such title is further amended by striking subparagraph (B) and inserting the following:

“(B) The requirement of subparagraph (A)(ii) relating to assigning at least equal importance to evaluation factors of cost or price may be waived by the head of the agency. The authority to issue a waiver under this subparagraph may not be delegated.”.

(c) REPORT.—Section 2305(a)(3) of such title is further amended by adding at the end the following new subparagraph:

“(C) Not later than 180 days after the end of each fiscal year, the Secretary of Defense shall submit to Congress, and post on a publicly available website of the Department of Defense, a report containing a list of each waiver issued by the head of an agency under subparagraph (B) during the preceding fiscal year.”.

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### 16. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HARE, PHIL, OF ILLINOIS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title IV, add the following new section:

#### SEC. 407. SENSE OF CONGRESS REGARDING COMPLIANCE WITH THE BERRY AMENDMENT, THE BUY AMERICAN ACT, AND LABOR STANDARDS OF THE UNITED STATES.

In order to create jobs, level the playing field for domestic manufacturers, and strengthen economic recovery, it is the sense of Congress that the Department of Defense should—

(1) ensure full contractor and subcontractor compliance with the Berry Amendment (10 U.S.C. 2533a) and the Buy American Act (41 U.S.C. 10a et seq.); and

(2) not procure products made by manufacturers in the United States that violate labor standards as defined under the laws of the United States.

