

Calendar No. 755

118TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 118-335

VALUE OVER COST ACT OF 2024

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 9596

TO AMEND TITLE 41, UNITED STATES CODE, AND TITLE 10,
UNITED STATES CODE, TO PROVIDE BEST VALUE THROUGH THE
MULTIPLE AWARD SCHEDULE PROGRAM, AND FOR OTHER
PURPOSES



DECEMBER 19 (legislative day, DECEMBER 16), 2024.—Ordered to be
printed

U.S. GOVERNMENT PUBLISHING OFFICE

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DECEMBER 19 (legislative day, DECEMBER 16), 2024.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany H.R. 9596]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 9596) to amend title 41, United States Code, and title 10, United States Code, to provide best value through the multiple award schedule program, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

H.R. 9596, the *Value Over Cost Act of 2024*, would provide that contracts and orders under the multiple award schedule program of the General Services Administration (GSA) may be evaluated on best value, rather than lowest overall cost, if GSA determines that to be in the best interests of the federal government.

II. BACKGROUND AND NEED FOR THE LEGISLATION

The GSA multiple award schedule program provides federal agencies with a simplified process for obtaining commercial sup-

plies and commercial services at prices associated with volume buying.¹ Existing law mandates that contracts included in the program, as well as orders placed by agencies against those contracts, must result in the “lowest overall cost alternative” to the federal government.² The *Value Over Cost Act of 2024* would clarify the language in the statute to specify that GSA may determine where it is necessary to award these contracts and orders based on “best value” as defined in the Federal Acquisition Regulation.³ With this change, an award could be made to the contractor that meets the government’s minimum needs and has the lowest price, or where determined necessary, to the contractor that does not have the lowest price but offers a product or service with better technical characteristics or features that represent the best value to the government.⁴

The new authorities provided under the *Value Over Cost Act of 2024* would help ensure federal agencies are able to make necessary trade-offs between price and non-price factors when buying supplies and services through the GSA multiple award schedule program. They would also bring GSA ordering procedures in line with other recent Congressional directives to seek best value when procuring goods and services.⁵

III. LEGISLATIVE HISTORY

Representative Byron Donalds (R–FL–19) introduced H.R. 9596, the *Value Over Cost Act of 2024*, on September 16, 2024, with original cosponsors Representative Troy Nehls (R–TX–22), Representative Clay Higgins (R–LA–3), and Representative Lauren Boebert (R–CO–3). Representative Jared Moskowitz (D–FL–23) joined as an additional cosponsor on September 18, 2024. The bill was referred to the House Committee on Oversight and Accountability. The committee considered H.R. 9596 at a business meeting on September 18, 2024 and reported the bill with an amendment, by roll call vote of 39 yeas to 0 nays. The House of Representatives considered H.R. 9596 on November 12, 2024, under suspension of the rules, and passed the bill by voice vote.

The bill was received in the Senate and referred to the Senate Committee on Homeland Security and Governmental Affairs. The committee considered H.R. 9596 at a business meeting on November 20, 2024. At the business meeting, Senator Rick Scott (R–FL) offered an amendment to place a two-year sunset on the changes made by the bill. The amendment was not adopted, by voice vote, with Senators Peters, Hassan, Rosen, Ossoff, Blumenthal, Butler, Lankford, Scott, and Hawley present. The bill was ordered reported favorably by roll call vote of 9 yeas to 0 nays, with Senators Peters, Hassan, Rosen, Ossoff, Blumenthal, Butler, Lankford, Scott, and Hawley voting in the affirmative. Senators Carper, Sinema, John-

¹ Federal Acquisition Regulation 8.404.

² 41 U.S. Code § 152(3)(B).

³ Federal Acquisition Regulation 15.101.

⁴ *Id.*

⁵ Sections 813, 814, and 892 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328) and section 822 and 832 of the FY 2018 NDAA (Pub. L. 115–91) limited the circumstances in which lowest price technically acceptable criteria should be used and emphasized the importance of best value. *See also*, Section 880 of the FY 2019 NDAA (Pub. L. 115–232), which stated “It shall be the policy of the United States Government to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the Government the benefits of cost and technical tradeoffs in the source selection process.”

son, Romney, and Marshall voted yea by proxy, and Senator Paul voted nay by proxy, for the record only.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Value Over Cost Act of 2024.”

Section 2. Providing best value through the multiple award schedule program

Subsection (a) provides that contracts and orders under GSA’s multiple award schedule program may be evaluated on best value, rather than lowest overall cost, if the GSA Administrator determines that to be in the best interests of the federal government. Specifically, this subsection amends section 152(3)(B) of title 41, U.S. Code, which defines “competitive procedures” including GSA procedures for the multiple awards schedule program. The amendment allows the Administrator of GSA to use procedures that result in obtaining the best value to meet the needs of the federal government (rather than procedures that result in the lowest overall cost alternative), if the Administrator determines that obtaining best value (as described under section 15.101 of the Federal Acquisition Regulation) is necessary to promote the best interests of the federal government, in awarding contracts and orders for the GSA multiple award schedule program.

Subsection (b) amends section 3012(3)(B) of title 10, U.S. Code, to make a conforming change for Defense contracting procedures.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s (CBO) statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 118th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation’s estimated effects on spending subject

to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION

Bill number	Title	Status	Last action	Budget function	Direct spending, 2025-2034	Revenues, 2025-2034	Spending subject to appropriation, 2025-2029	Pay-as-you-go procedures apply?	Budgetary effects after 2034	Mandates	Contact
H.R. 9596	Value Over Cost Act	Ordered reported	11/20/24	800	0	0	Not Estimated	No	No	No	Matthew Pickford.
	H.R. 9596 would allow the General Services Administration, through its Multiple Award Schedule program, to award contracts that obtain the best value for the government rather than only the lowest overall cost. CBO estimates enacting H.R. 9596 would not affect direct spending or revenues. CBO has not estimated the legislation's effects on spending subject to appropriation. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.										

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 41—PUBLIC CONTRACTS

* * * * *

Subtitle I—Federal Procurement Policy

* * * * *

DIVISION A—GENERAL**CHAPTER 1—DEFINITIONS**

* * * * *

Subchapter III—Division C Definitions

* * * * *

SEC. 152. COMPETITIVE PROCEDURES.

* * *

(1) * * *

(2) * * *

(3) the procedures established by the Administrator of General Services for the multiple awards schedule program of the General Services Administration if—

(A) participation in the program has been open to all responsible sources; and

(B) [orders and contracts under those procedures result in the lowest overall cost alternative to meet the needs of the Federal Government;] *orders and contracts under those procedures result in—*

(i) the lowest overall cost alternative; or

(ii) in the case that the Administrator of General Services determines that obtaining best value (as described under section 15.101 of the Federal Acquisition Regulation) is necessary to promote the best interests of the Federal Government, obtaining the best value to meet the needs of the Federal Government.

* * * * *

UNITED STATES CODE

* * * * *

TITLE 10—ARMED FORCES

* * * * *

Subtitle A—General Military Law

* * * * *

PART V—ACQUISITION

* * * * *

Subpart A—General

* * * * *

CHAPTER 201—DEFINITIONS

* * * * *

Subchapter II—Definitions Applicable to Procurement Generally

* * * * *

SEC. 3012. COMPETITIVE PROCEDURES.

* * *

(1) * * *

(2) * * *

(3) the procedures established by the Administrator of General Services for the multiple awards schedule program of the General Services Administration if—

(A) participation in the program has been open to all responsible sources; and

(B) **[orders and contracts under those procedures result in the lowest overall cost alternative to meet the needs of the Federal Government;]** *orders and contracts under those procedures result in—*

(i) the lowest overall cost alternative; or

(ii) in the case that the Administrator of General Services determines that obtaining best value (as described under section 15.101 of the Federal Acquisition Regulation) is necessary to promote the best interests of the Federal Government, obtaining the best value to meet the needs of the Federal Government.

* * * * *