

105TH CONGRESS  
2D SESSION

# H. R. 3838

To amend title 10, United States Code, to require, in the evaluation of bids and proposals for a contract for the procurement by the Department of Defense of property or services, the consideration of the percentage of work under the contract planned to be performed in the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1998

Ms. KAPTUR introduced the following bill; which was referred to the  
Committee on National Security

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## A BILL

To amend title 10, United States Code, to require, in the evaluation of bids and proposals for a contract for the procurement by the Department of Defense of property or services, the consideration of the percentage of work under the contract planned to be performed in the United States, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. REQUIREMENTS RELATING TO CONTRACT PER-**  
 2 **FORMANCE IN THE UNITED STATES.**

3 (a) IN GENERAL.—(1) Chapter 141 of title 10,  
 4 United States Code, is amended by adding at the end the  
 5 following new section:

6 **“§ 2410n. Requirements relating to contract perform-**  
 7 **ance in the United States**

8 “(a) CONSIDERATION OF PERCENTAGE OF WORK  
 9 PERFORMED IN THE UNITED STATES.—In the evaluation  
 10 of sealed bids and competitive proposals submitted in re-  
 11 sponse to a solicitation for a contract for the procurement  
 12 of property or services, the head of an agency—

13 “(1) shall include, as a factor in the statement  
 14 required by section 2305(a)(2)(A)(i) of this title of  
 15 significant factors expected to be considered in such  
 16 evaluation, the percentage of work under the con-  
 17 tract that the bidder or offeror plans to perform in  
 18 the United States; and

19 “(2) shall assign a high importance to such fac-  
 20 tor.

21 “(b) BREACH OF CONTRACT FOR TRANSFERRING  
 22 WORK OUTSIDE THE UNITED STATES.—The head of an  
 23 agency shall include in each contract for the procurement  
 24 of property or services a clause providing that the contrac-  
 25 tor is deemed to have breached the contract if the contrac-  
 26 tor performs less work in the United States than the con-

1 tractor stated, in its response to the solicitation for the  
2 contract, that it planned to perform in the United States.

3 “(c) INELIGIBILITY FOR CONTRACT RENEWAL.—The  
4 head of an agency may not renew a contract made pursu-  
5 ant to a solicitation referred to in subsection (a) if the  
6 amount of work performed outside the United States  
7 under the contract exceed the maximum amount of work  
8 that the contractor was expected to perform outside the  
9 United States, based on the amount of work that the con-  
10 tractor stated, in its response to the solicitation for the  
11 contract, that it planned to perform inside the United  
12 States.

13 “(d) WAIVER.—The head of an agency may waive  
14 subsection (a), (b), or (c) on a case-by-case basis upon  
15 a determination that an emergency situation or the na-  
16 tional security interests of the United States requires such  
17 a waiver.

18 “(e) SCOPE OF COVERAGE.—This section applies—

19 “(1) to any contract for any amount greater  
20 than the simplified acquisition threshold (as speci-  
21 fied in section 2302(7) of title 10, United States  
22 Code); and

23 “(2) to any contract for items described in sec-  
24 tion 2534(a)(5) of this title.

1       “(f) CONSTRUCTION.—Subsections (a), (b), and (c)  
2 may not be construed to diminish the primary importance  
3 of considerations of quality in the procurement of defense-  
4 related property or services.

5       “(g) DEFINITION.—In this section, the term ‘head of  
6 an agency’ has the meaning provided by section 2302(1)  
7 of this title.”.

8       (2) The table of sections at the beginning of such  
9 chapter is amended by adding at the end the following  
10 new item:

“2410n. Requirements relating to contract performance in the United States.”.

11       (b) EFFECTIVE DATE.—Section 2410n of title 10,  
12 United States Code, as added by subsection (a), shall  
13 apply with respect to contracts entered into on or after  
14 the date that is 60 days after the date of the enactment  
15 of this Act.

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