

105TH CONGRESS
2D SESSION

H. R. 4244

To amend the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) to provide for measurement of the performance of the Federal procurement system, to enhance the training of the acquisition workforce, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 1998

Mr. HORN (for himself, Mrs. MALONEY of New York, Mr. DAVIS of Virginia, Mr. SESSIONS, and Mr. KANJORSKI) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committee on National Security, 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

A BILL

To amend the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) to provide for measurement of the performance of the Federal procurement system, to enhance the training of the acquisition workforce, 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. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Federal Procurement System Performance Measurement
4 and Acquisition Workforce Training Act of 1998”.

5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Establishment of performance measures for the Federal procurement
system.

Sec. 3. Professionalism of the acquisition workforce.

Sec. 4. Responsibilities for acquisition workforce training.

Sec. 5. Funding for acquisition workforce training and education.

Sec. 6. Evaluation by the Comptroller General.

7 **SEC. 2. ESTABLISHMENT OF PERFORMANCE MEASURES**
8 **FOR THE FEDERAL PROCUREMENT SYSTEM.**

9 (a) PERFORMANCE MEASURES.—The Office of Fed-
10 eral Procurement Policy Act (Public Law 93–400; 41
11 U.S.C. 401 et seq.) is amended by adding at the end the
12 following new section:

13 **“SEC. 39. PERFORMANCE MEASURES FOR THE FEDERAL**
14 **PROCUREMENT SYSTEM.**

15 “(a)(1) The Administrator shall establish a system
16 for measuring the performance and effectiveness of the
17 procurement system, including standards for measuring
18 the performance of the various elements of the system.
19 The performance standards shall be structured—

20 “(A) to enable the Congress, the Office of Fed-
21 eral Procurement Policy, and the heads of executive
22 agencies to track progress of achievement of acquisi-

1 tion reform objectives on a Government-wide basis
2 and to gauge the effectiveness of the procurement
3 system in supporting the accomplishment of the mis-
4 sion of such agencies; and

5 “(B) to benchmark the performance of execu-
6 tive agencies against the performance of private and
7 public sector procurement operations.

8 “(2) The objective of the procurement performance
9 measurement system shall be to use the performance data
10 to improve executive agency acquisition practices and poli-
11 cies in order to enhance support for the accomplishment
12 of the mission of such agencies.

13 “(3) In developing and implementing the procure-
14 ment performance measurement system, the Adminis-
15 trator shall, to the maximum extent practical, use existing
16 data sources and automated data collection tools.

17 “(b)(1) The head of each executive agency for which
18 more than 50 percent of the funds appropriated are ex-
19 pended for procurement shall include, as a part of the an-
20 nual performance plan of the agency submitted under sec-
21 tion 1115 of title 31, United States Code, an assessment
22 of the performance of the procurement system of the agen-
23 cy in terms of its efficiency and effectiveness in supporting
24 the agency in accomplishing its mission.

1 “(2) The assessment required under paragraph (1)
2 shall—

3 “(A) address corrective actions and activities
4 planned by the agency to improve the performance
5 of the procurement system of the agency;

6 “(B) address the adequacy of the education and
7 training of the acquisition workforce of the agency,
8 including whether the workforce has the necessary
9 competencies, skills, and knowledge to effectively
10 support the achievement of the mission of the agen-
11 cy and information on the amount of funds budgeted
12 and expended to ensure that the acquisition work-
13 force of the agency is appropriately educated and
14 trained; and

15 “(C) evaluate the effectiveness of acquisition
16 workforce training programs in providing necessary
17 competencies, skills, and knowledge.

18 “(c) The Administrator may require the heads of ex-
19 ecutive agencies that are not required to submit a per-
20 formance plan under section 1115 of title 31, United
21 States Code, to submit an assessment to the Adminis-
22 trator similar to the assessment described in subsection
23 (b).”.

1 (b) CONFORMING AMENDMENT.—The table of con-
2 tents of such Act is amended by adding at the end the
3 following new item:

“Sec. 39. Performance measures for the Federal procurement system.”.

4 **SEC. 3. PROFESSIONALISM OF THE ACQUISITION WORK-**
5 **FORCE.**

6 (a) MANDATORY TRAINING AND EDUCATION.—Sec-
7 tion 37(f)(3) of the Office of Federal Procurement Policy
8 Act (41 U.S.C. 433(f)(3)) is amended to read as follows:

9 “(3) MANDATORY TRAINING AND EDU-
10 CATION.—The head of each executive agency shall
11 establish, for each career path, requirements for ini-
12 tial and continuing education in the critical acquisi-
13 tion-related duties and tasks of the career path.
14 Such requirements shall include, at a minimum, the
15 core curriculum, continuing education programs, and
16 policy implementation training required by the Fed-
17 eral Acquisition Regulation.”.

18 (b) ACQUISITION WORKFORCE.—Section 37(e) of the
19 Office of Federal Procurement Policy Act (41 U.S.C.
20 433(e)) is amended to read as follows:

21 “(e) APPLICABILITY TO ACQUISITION WORK-
22 FORCE.—The programs established by this section shall
23 apply to the acquisition workforce of each executive agen-
24 cy. For purposes of this section, the acquisition workforce
25 of an agency consists of—

1 “(1) all employees serving in acquisition posi-
2 tions listed in subsection (g)(1)(A) of this section;

3 “(2) program managers with significant acqui-
4 sition responsibilities;

5 “(3) contracting officers and contracting officer
6 representatives with authority to award or admin-
7 ister contracts for amounts above the micro-pur-
8 chase threshold; and

9 “(4) other Federal employees who are assigned
10 significant acquisition roles and responsibilities.”.

11 (c) CONTRACTING OFFICERS.—(1) Section 37(g) of
12 the Office of Federal Procurement Policy Act (41 U.S.C.
13 433(g)) is amended by adding at the end the following
14 new paragraph:

15 “(4) CONTRACTING OFFICERS.—(A) Beginning
16 on October 1, 2000, the head of each executive agen-
17 cy shall require, in order to serve as a contracting
18 officer with authority to award or administer con-
19 tracts for amounts above the micro-purchase thresh-
20 old, the following:

21 “(i) For appointments to serve as a con-
22 tracting officer with authority to award or ad-
23 minister contracts that do not exceed the sim-
24 plified acquisition threshold as specified in sec-
25 tion 4(11) of the Office of Federal Procurement

1 Policy Act (41 U.S.C. 403(11)), completion of
2 training in duties related to use of the sim-
3 plified acquisition procedures authorized to be
4 used under the appointed position (including
5 any training mandated for such duties by the
6 Federal Acquisition Regulation) and such addi-
7 tional requirements, based on the dollar value,
8 nature, and complexity of the contracts award-
9 ed or administered pursuant to the appoint-
10 ment, as may be established by the Federal Ac-
11 quisition Regulation or the appointing agency
12 head.

13 “(ii) For appointments to serve as a con-
14 tracting officer with authority to award or ad-
15 minister contracts for amounts above the sim-
16 plified acquisition threshold as specified in sec-
17 tion 4(11) of the Office of Federal Procurement
18 Policy Act—

19 “(I) completion of the core curriculum
20 established in the Federal Acquisition Reg-
21 ulation for contracting officers;

22 “(II) at least 2 years experience in a
23 contracting or purchasing position;

24 “(III) satisfaction of other qualifica-
25 tion requirements for contracting or pur-

1 chasing positions at the same grade level
2 established under paragraph (1)(A); and

3 “(IV) such additional requirements,
4 based on the dollar value, nature, and com-
5 plexity of the contracts awarded or admin-
6 istered pursuant to the appointment, as
7 may be established by the Federal Acquisi-
8 tion Regulation or the head of the agency
9 for the appointment.

10 “(B)(i) The head of the executive agency may
11 waive any of the requirements in subparagraph (A)
12 (except those contained in qualifications standards
13 approved by the Office of Personnel Management
14 under subsection (g)(3)) with respect to an employee
15 of the agency if the agency head determines that the
16 employee possesses significant potential for advance-
17 ment to levels of greater responsibility and author-
18 ity, based on demonstrated job performance and
19 qualifying experience.

20 “(ii) The head of the agency shall provide to
21 the administrator in writing the rationale for any de-
22 cision to waive such requirements.”.

23 (2) Section 1724(a) of title 10, United States Code,
24 is amended to read as follows:

1 “(a) CONTRACTING OFFICERS.—Beginning on Octo-
2 ber 1, 2000, the Secretary of Defense shall require, in
3 order to serve as a contracting officer with authority to
4 award or administer contracts for amounts above the
5 micro-purchase threshold as specified in section 32(g) of
6 the Office of Federal Procurement Policy Act (41 U.S.C.
7 428(f)), the following:

8 “(1) For appointments to serve as a contracting
9 officer with authority to award or administer con-
10 tracts that do not exceed the simplified acquisition
11 threshold as specified in section 4(11) of the Office
12 of Federal Procurement Policy Act (41 U.S.C.
13 403(11))—

14 “(A) completion of training in duties relat-
15 ed to use of the simplified acquisition proce-
16 dures authorized to be used by the appointment
17 (including any training mandated for such du-
18 ties by the Federal Acquisition Regulation); and

19 “(B) such additional requirements, based
20 on the dollar value, nature, and complexity of
21 the contracts awarded or administered pursuant
22 to the appointment as may be established under
23 the Federal Acquisition Regulation or by the
24 Secretary of Defense for the appointment.

1 “(2) For appointments to serve as a contracting
2 officer with authority to award or administer con-
3 tracts for amounts above the simplified acquisition
4 threshold as specified in section 4(11) of the Office
5 of Federal Procurement Policy Act (41 U.S.C.
6 403(11))—

7 “(A) completion of the core curriculum es-
8 tablished in the Federal Acquisition Regulation
9 for contracting officers;

10 “(B) at least 2 years experience in a con-
11 tracting or purchasing position;

12 “(C)(i) a baccalaureate degree from an ac-
13 credited educational institution authorized to
14 grant baccalaureate degrees;

15 “(ii) completion of at least 24 semester
16 credit hours (or the equivalent) of study from
17 an accredited institution of higher education in
18 accounting, business, finance, law, contracts,
19 purchasing, economics, industrial management,
20 marketing, quantitative methods, and organiza-
21 tion and management; or

22 “(iii) passage of an examination considered
23 by the Secretary of Defense to demonstrate
24 skills, knowledge, or abilities comparable to that
25 of an individual who has completed at least 24

1 semester credit hours (or the equivalent) of
2 study from an accredited institution of higher
3 education in any of the disciplines listed in sub-
4 paragraph (ii); and

5 “(D) such additional requirements, based
6 on the dollar value, nature, and complexity of
7 the contracts awarded or administered pursuant
8 to the appointment, as may be established by
9 the Federal Acquisition Regulation or the Sec-
10 retary of Defense for the appointment.”.

11 (d) QUALIFICATIONS STANDARDS.—Section 1724(b)
12 of title 10, United States Code, is amended by adding at
13 the end the following new sentence: “The Secretary of De-
14 fense shall also require employees to meet any additional
15 qualification requirements established by the Adminis-
16 trator of the Office of Federal Procurement Policy for sen-
17 ior contracting positions in the GS–1102 series pursuant
18 to section 37(g)(1)(ii) of the Office of Federal Procure-
19 ment Policy Act (41 U.S.C. 433(g)(1)(ii)).”.

20 (e) CERTIFICATION EXAMINATIONS.—Section
21 1732(c)(2) of title 10, United States Code, is amended
22 by striking “is serving” and all that follows through “if
23 the employee”.

24 (f) COURSEWORK TUITION.—Section 37(h)(2) of the
25 Office of Federal Procurement Policy Act (41 U.S.C.

1 433(h)(2)) is amended by striking “in accordance with”
2 and inserting “notwithstanding the provisions of”.

3 (g) ACCELERATED PROMOTIONS.—Section 37 of the
4 Office of Federal Procurement Policy Act (41 U.S.C. 433)
5 is further amended by adding at the end the following new
6 subsection:

7 “(i) RECRUITMENT AND PROMOTIONS.—

8 “(1) RECRUITMENT.—(A) For purposes of sec-
9 tions 3304, 5333, and 5753 of title 5, United States
10 Code, the head of an agency (including the Secretary
11 of Defense) may determine that certain Federal ac-
12 quisition positions are ‘shortage category’ positions
13 in order to recruit and directly hire employees with
14 unusually high qualifications, such as employees
15 who—

16 “(i) hold masters or equivalent degrees
17 from accredited institutions of higher education
18 in business administration, public administra-
19 tion, or systems engineering; or

20 “(ii) have had substantial, outstanding pri-
21 vate sector experience with commercial acquisi-
22 tion practices, terms, and conditions.

23 “(B) Personnel actions under this paragraph
24 shall be subject to policies prescribed by the Office
25 of Personnel Management for direct recruitment, in-

cluding the appointment of a preference eligible as long as preference eligibles are available who satisfy the stipulated high level of qualifications.

“(2) ACCELERATED PROMOTIONS.—(A) The Director of the Office of Personnel Management shall authorize the rapid promotion of Federal acquisition personnel (including personnel in the Department of Defense) who satisfactorily complete programs of training and education required by the Federal Acquisition Regulation for positions at higher General Schedule grade levels in their respective fields and otherwise meet or exceed standards for satisfactory performance.

“(B) The heads of agencies may provide any such personnel with a maximum of 2 promotions during any 52-week period.

“(C) No employee may be promoted under this paragraph without adherence to competition requirements under law or regulation.”.

SEC. 4. RESPONSIBILITIES FOR ACQUISITION WORKFORCE TRAINING.

(a) ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended—

1 (1) by striking “and” at the end of paragraph
2 (12);

3 (2) in paragraph (13), by striking the period
4 and inserting “; and”; and

5 (3) by adding at the end the following new
6 paragraph:

7 “(14) establishing requirements for acquisition
8 professionals to obtain and maintain certification by
9 a relevant professional association or other entities
10 as authorized in the Federal Acquisition Regula-
11 tion.”.

12 (b) FEDERAL ACQUISITION REGULATORY COUN-
13 CIL.—Section 25(d) of the Office of Federal Procurement
14 Policy Act (41 U.S.C. 421(d)) is amended—

15 (1) by striking “and” at the end of paragraph
16 (2);

17 (2) in paragraph (3), by striking the period and
18 inserting “; and”; and

19 (3) by adding at the end the following new
20 paragraph:

21 “(2) review, approve, and promulgate in the
22 Federal Acquisition Regulation certification require-
23 ments, core curricula, continuing education pro-
24 grams, and policy implementation training rec-
25 ommended by the Director of the Federal Acquisi-

1 tion Institute under section 6(d)(5)(F) and (J) to
2 ensure that instructional materials provided for the
3 Federal acquisition workforce accurately incorporate
4 the provisions and intent of the Federal Acquisition
5 Regulation and are effective in providing the skills
6 and knowledge necessary to competently implement
7 those provisions and otherwise enable the workforce
8 to obtain the best value in awarding and administer-
9 ing Federal contracts.”.

10 (c) FEDERAL ACQUISITION INSTITUTE.—Section
11 6(d) of the Office of Federal Procurement Policy Act (41
12 U.S.C. 405(d)) is amended—

13 (1) in paragraph (5)(B), by inserting “, and
14 provide fellowships and grants for researching acqui-
15 sition issues” before the period;

16 (2) by amending paragraph (5)(F) to read as
17 follows:

18 “(F) develop and recommend core curric-
19 ular, continuing education programs, policy im-
20 plementation training, and other instructional
21 materials for acquisition personnel in coordina-
22 tion with private and public sector acquisition
23 colleges and training facilities (to the maximum
24 extent practicable), and integrate those instruc-
25 tional materials with electronic performance

1 support systems for just-in-time delivery of ini-
2 tial and continuing education in critical duties
3 and tasks).”;

4 (3) by striking “and” at the end of subpara-
5 graph (I);

6 (4) by redesignating subparagraph (J) as sub-
7 paragraph (K); and

8 (5) by inserting after subparagraph (I) the fol-
9 lowing new subparagraph:

10 “(J) enter into partnerships with private
11 and public sector employers of acquisition per-
12 sonnel and with nonprofit professional associa-
13 tions in developing and maintaining valid and
14 reliable professional certification programs for
15 acquisition disciplines; and”.

16 **SEC. 5. FUNDING FOR ACQUISITION WORKFORCE TRAIN-**
17 **ING AND EDUCATION.**

18 Section 37(h) of the Office of Federal Procurement
19 Policy Act (41 U.S.C. 433) is amended—

20 (1) by amending paragraph (1) to read as fol-
21 lows:

22 “(1) FUNDING LEVELS.—(A)(i) The head of
23 each executive agency shall be responsible for ensur-
24 ing adequate funding is included in budget requests
25 of the agency and for ensuring any funds provided

1 for the education and training of the acquisition
2 workforce are expended for such purposes.

3 “(ii) In requesting funding as a part of the
4 budget request of the agency, the agency head shall
5 take into consideration the results of the assessment
6 of the performance of the procurement system of the
7 agency in terms of its efficiency and effectiveness in
8 supporting the agency in accomplishing its mission,
9 including the adequacy of the education and training
10 of the acquisition workforce and whether the work-
11 force has the necessary competencies, skills, and
12 knowledge to effectively support the achievement of
13 the mission of the agency.

14 “(B) The Administrator shall—

15 “(i) review the agency budget requests to
16 assess the adequacy of funding levels for the
17 education and training of the acquisition work-
18 force and make recommendations to the agency
19 head for adjustments of the funding levels, as
20 appropriate;

21 “(ii) include sufficient funds in the budget
22 recommended to the Administrator of General
23 Services for the Federal Acquisition Institute in
24 accordance with section 6(d)(5) for the develop-
25 ment and maintenance of the instructional ma-

1 materials for the core curricula, policy implementa-
2 tion training, and for the development of tech-
3 nology-based learning tools and support systems
4 that will benefit the acquisition workforce
5 across the Federal Government;

6 “(iii) prepare a report for inclusion in the
7 President’s annual budget on the amounts re-
8 quested by agencies in terms of adequacy for
9 accomplishing the purposes of this section, and
10 for maintaining an efficient and effective acqui-
11 sition system (including information on rec-
12 ommended funding levels for the Federal Acqui-
13 sition Institute);

14 “(iv) in preparing the report under clause
15 (iii), and after consulting with the head of each
16 affected executive agency, recommend any ap-
17 propriate consolidation of funding for inter-
18 agency acquisition training and education pro-
19 grams and provide information on actual out-
20 lays in prior fiscal years for acquisition training
21 and education along with an evaluation of the
22 effectiveness of those programs in providing the
23 workforce with the necessary competencies,
24 skills, and knowledge.

1 “(C) The President shall include the report in
2 the annual budget submitted pursuant to section
3 1105 of title 31, United States Code.”; and

4 (2) by adding at the end the following new paragraph:

5 “(3) PROFESSIONAL ORGANIZATIONS.—Not-
6 withstanding section 4109(b) of title 5, United
7 States Code, the head of an executive agency may
8 pay membership fees and fees for certification test-
9 ing for individual employees to organizations to fur-
10 ther acquisition professionalism.”.

11 **SEC. 6. EVALUATION BY THE COMPTROLLER GENERAL.**

12 The Comptroller General shall conduct an independ-
13 ent evaluation of the actions taken by executive agencies
14 to carry out the requirements of section 37 of the Office
15 of Federal Procurement Policy Act. On or before February
16 10, 2000, the Comptroller General shall submit to the
17 Committee on Government Reform and Oversight of the
18 House of Representatives and the Committee on Govern-
19 mental Affairs of the Senate a report on the evaluation
20 required by this section. Such report shall include—

21 (1) an analysis of the effectiveness of the ac-
22 tions taken by executive agencies to carry out such
23 requirements; and

24 (2) any legislative and administrative rec-
25 ommendations that the Comptroller General consid-

1 ers appropriate to meet the objectives of that sec-
2 tion.

3 **SEC. 7. FUNDING.**

4 (a) IN GENERAL.—(1) Funds described in subsection
5 (b) may be transferred to an account of the Office of Man-
6 agement and Budget for use by the Administrator of the
7 Office of Federal Procurement Policy for the purpose of
8 administering Governmentwide acquisition workforce
9 training activities and related purposes consistent with the
10 objectives of the Office of Management and Budget.

11 (2) The specific amounts to be transferred under this
12 section shall be determined jointly by the Director of the
13 Office of Management and Budget and the head of the
14 applicable department or agency.

15 (3) Funds transferred under this section shall remain
16 available for obligation until expended.

17 (b) FUNDS AVAILABLE FOR TRANSFER.—Funds
18 available for transfer under this section are funds appro-
19 priated for fiscal year 1993 or a subsequent fiscal year.

20 (c) LIMITATIONS.—(1) Funds may be transferred
21 under this section not later than the end of the fifth fiscal
22 year after the fiscal year for which funds are appropriated
23 or otherwise made available.

1 (2) The aggregate amount to be transferred in any
2 fiscal year under this section shall not exceed the lesser
3 of—

4 (A) the amount that is 20 percent of the unob-
5 ligated balance of funds appropriated for operating
6 expenses and salary and other expenses available to
7 each department and agency during the fiscal year
8 for which the funds are appropriated; or

9 (B) \$30,000,000.

10 (3) Funds transferred under this section shall only
11 be made available if—

12 (A) the Director of the Office of Management
13 and Budget notifies the Chairmen of the Committees
14 on Appropriations of the House of Representatives
15 and the Senate of the proposed transfer of such
16 funds; and

17 (B) 30 days have elapsed following the date of
18 such notification.

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