

114TH CONGRESS
2D SESSION

S. 2826

To ensure the effective and appropriate use of the Lowest Price Technically
Acceptable source selection process.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2016

Mr. WARNER (for himself and Mr. ROUNDS) introduced the following bill;
which was read twice and referred to the Committee on Armed Services

A BILL

To ensure the effective and appropriate use of the Lowest
Price Technically Acceptable source selection process.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting Value
5 Based Defense Procurement Act of 2016”.

6 **SEC. 2. STATEMENT OF POLICY.**

7 It shall be the policy of the Department of Defense
8 to avoid using Lowest Price Technically Acceptable source
9 selection criteria in inappropriate circumstances that po-

1 tentially deny the Department the benefits of cost and
2 technical tradeoffs in the source selection process.

3 **SEC. 3. REVISION OF DEFENSE FEDERAL ACQUISITION**
4 **REGULATION SUPPLEMENT.**

5 Not later the 120 days after the date of the enact-
6 ment of this Act, the Department of Defense shall revise
7 the Defense Federal Acquisition Regulation Supplement
8 (DFARS) to require that, for new solicitations issued on
9 or after the date that is 120 days after the date of the
10 enactment of this Act, Lowest Price Technically Accept-
11 able source selection criteria are used only in situations
12 in which—

13 (1) the Department of Defense is able to com-
14 prehensively and clearly describe the minimum re-
15 quirements expressed in term of performance objec-
16 tives, measures, and standards that will be used to
17 determine acceptability of offers;

18 (2) the Department of Defense would realize
19 no, or minimal, value from a contract proposal ex-
20 ceeding the minimum technical or performance re-
21 quirements set forth in the Request for Proposal;

22 (3) the proposed technical approaches will re-
23 quire no, or minimal, subjective judgment by the
24 source selection authority as to the desirability of
25 one offeror's proposal versus a competing proposal;

1 (4) a review of technical proposals of offerors
 2 other than the lowest bidder would result in no, or
 3 minimal, benefit to the Department; and

4 (5) the contracting officer has included a jus-
 5 tification for the use of a Lowest Price Technically
 6 Acceptable evaluation methodology in the contract
 7 file, if the contract to be awarded is predominately
 8 for the acquisition of information technology serv-
 9 ices, systems engineering and technical assistance
 10 services, or other knowledge-based professional serv-
 11 ices.

12 **SEC. 4. AVOIDANCE OF USE OF LOWEST PRICE TECH-**
 13 **NICALLY ACCEPTABLE SOURCE SELECTION**
 14 **CRITERIA IN PROCUREMENTS OF INFORMA-**
 15 **TION TECHNOLOGY.**

16 To the maximum extent practicable, the use of Low-
 17 est Price Technically Acceptable source selection criteria
 18 shall be avoided when the procurement is predominately
 19 for the acquisition of information technology services, sys-
 20 tems engineering and technical assistance services, or
 21 other knowledge-based professional services.

22 **SEC. 5. REPORTING.**

23 Not later than 180 days after the date of the enact-
 24 ment of this Act, and annually thereafter for 3 years, the
 25 Secretary of Defense shall submit to the congressional de-

1 fense committees a report on the number of instances in
2 which Lowest-Price Technically Acceptable source selec-
3 tion criteria is used, including an explanation of how the
4 criteria in section 3 was considered when making a deter-
5 mination to use Lowest Price Technically Acceptable
6 source selection criteria.

○