

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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Subtitle A—Acquisition Policy and Management

SEC. 801. TEMPORARY AUTHORITY TO ACQUIRE PRODUCTS AND SERVICES PRODUCED IN COUNTRIES ALONG A MAJOR ROUTE OF SUPPLY TO AFGHANISTAN; REPORT.

(a) **IN GENERAL.**—In the case of a product or service to be acquired in support of military or stability operations in Afghanistan for which the Secretary of Defense makes a determination described in subsection (b), the Secretary may conduct a procurement in which—

(1) competition is limited to products or services that are from one or more countries along a major route of supply to Afghanistan; or

(2) a preference is provided for products or services that are from one or more countries along a major route of supply to Afghanistan.

(b) **DETERMINATION.**—A determination described in this subsection is a determination by the Secretary that—

(1) the product or service concerned is to be used—

(A) in the country that is the source of the product or service;

(B) in the course of efforts by the United States and the NATO International Security Assistance Force to ship goods to Afghanistan in support of military or stability operations in Afghanistan; or

(C) by the military forces, police, or other security personnel of Afghanistan;

(2) it is in the national security interest of the United States to limit competition or provide a preference as described in subsection (a) because such limitation or preference is necessary—

(A) to reduce overall United States transportation costs and risks in shipping goods in support of military or stability operations in Afghanistan;

(B) to encourage countries along a major route of supply to Afghanistan to cooperate in expanding supply routes through their territory in support of military or stability operations in Afghanistan; or

(C) to help develop more robust and enduring routes of supply to Afghanistan; and

(3) limiting competition or providing a preference as described in subsection (a) will not adversely affect—

(A) military or stability operations in Afghanistan; or

(B) the United States industrial base.

(c) **PRODUCTS AND SERVICES FROM A COUNTRY ALONG A MAJOR ROUTE OF SUPPLY TO AFGHANISTAN.**—For the purposes of this section:

(1) A product is from a country along a major route of supply to Afghanistan if it is mined, produced, or manufactured in a covered country.

(2) A service is from a country along a major route of supply to Afghanistan if it is performed in a covered country by citizens or permanent resident aliens of a covered country.

(d) COVERED COUNTRY DEFINED.—In this section, the term “covered country” means Georgia, Kyrgyzstan, Pakistan, Armenia, Azerbaijan, Kazakhstan, Tajikistan, Uzbekistan, or Turkmenistan.

(e) CONSTRUCTION WITH OTHER AUTHORITY.—The authority provided in subsection (a) is in addition to the authority set forth in section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 266; 10 U.S.C. 2302 note).

(f) TERMINATION OF AUTHORITY.—The Secretary of Defense may not exercise the authority provided in subsection (a) on or after the date occurring three years after the date of the enactment of this Act.

(g) REPORT ON AUTHORITY.—Not later than April 1, 2010, the Secretary of Defense shall submit to the congressional defense committees a report on the use of the authority provided in subsection (a). The report shall address, at a minimum, the following:

(1) The number of determinations made by the Secretary pursuant to subsection (b).

(2) A description of the products and services acquired using the authority.

(3) The extent to which the use of the authority has met the objectives of subparagraph (A), (B), or (C) of subsection (b)(2).

(4) A list of the countries providing products or services as a result of a determination made pursuant to subsection (b).

(5) Any recommended modifications to the authority.

SEC. 802. ASSESSMENT OF IMPROVEMENTS IN SERVICE CONTRACTING.

(a) ASSESSMENT REQUIRED.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall direct the Defense Science Board to conduct an independent assessment of improvements in the procurement and oversight of services by the Department of Defense.

(b) MATTERS COVERED.—The assessment required by subsection (a) shall include the following:

(1) An assessment of the quality and completeness of guidance relating to the procurement of services, including implementation of statutory and regulatory authorities and requirements.

(2) A determination of the extent to which best practices are being developed for setting requirements and developing statements of work.

(3) An assessment of the contracting approaches and contract types used for the procurement of services and whether such contracting approaches and contract types best serve the interests of the Department of Defense.

(4) A determination of whether effective standards to measure performance have been developed.

(5) An assessment of the effectiveness of peer reviews within the Department of Defense of contracts for services and whether such reviews are being conducted at the appropriate dollar threshold.

(6) An assessment of the management structure for the procurement of services, including how the military departments and Defense Agencies have implemented section 2330 of title 10, United States Code.

(7) A determination of whether the performance savings goals required by section 802 of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2330 note) are being achieved.

(8) An assessment of the effectiveness of the Acquisition Center of Excellence for Services established pursuant to section 1431(b) of the Services Acquisition Reform Act of 2003 (title XIV of Public Law 108–136; 117 Stat. 1671; 41 U.S.C. 405 note) and the feasibility of creating similar centers of excellence in the military departments.

(9) An assessment of the quality and sufficiency of the acquisition workforce for the procurement and oversight of services.

(10) Such other related matters as the Under Secretary considers appropriate.

(c) REPORT.—Not later than March 10, 2010, the Under Secretary shall submit to the congressional defense committees a report on the results of the assessment, including such comments and recommendations as the Under Secretary considers appropriate.

SEC. 803. DISPLAY OF ANNUAL BUDGET REQUIREMENTS FOR PROCUREMENT OF CONTRACT SERVICES AND RELATED CLARIFYING TECHNICAL AMENDMENTS.

(a) CODIFICATION OF REQUIREMENT FOR SPECIFICATION OF AMOUNTS REQUESTED FOR PROCUREMENT OF CONTRACT SERVICES.—

(1) IN GENERAL.—Chapter 9 of title 10, United States Code, is amended by inserting after section 234 the following new section:

“§ 235. Procurement of contract services: specification of amounts requested in budget

“(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION MATERIALS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall include the information described in subsection (b) with respect to the procurement of contract services.

“(b) INFORMATION PROVIDED.—For each budget account, the materials submitted shall clearly and separately identify—

“(1) the amount requested for the procurement of contract services for each Department of Defense component, installation, or activity; and

“(2) the number of full-time contractor employees (or the equivalent of full-time in the case of part-time contractor employees) projected and justified for each Department of Defense component, installation, or activity based on the inventory of contracts for services required by subsection (c) of section 2330a of this title and the review required by subsection (e) of such section.

“(c) CONTRACT SERVICES DEFINED.—In this section, the term ‘contract services’—

“(1) means services from contractors; but

“(2) excludes services relating to research and development and services relating to military construction.”.

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

“235. Procurement of contract services: specification of amounts requested in budget.”.

(3) REPEAL OF SUPERSEDED PROVISION.—Section 806 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 221 note) is repealed.

(b) CLARIFICATION OF CONTRACT SERVICES REVIEW AND PLANNING REQUIREMENTS.—Section 2330a(e) of title 10, United States Code, is amended in paragraph (4) by inserting after “plan” the following: “, including an enforcement mechanism and approval process,”.

(c) COMPTROLLER GENERAL REPORT ON INVENTORY.—Not later than 180 days after the date on which the Secretary of Defense submits to Congress the inventory required by section 2330a(c) of title 10, United States Code, in each of 2010, 2011 and 2012, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the inventory so submitted, with such findings and recommendations as the Comptroller General considers appropriate.

SEC. 804. IMPLEMENTATION OF NEW ACQUISITION PROCESS FOR INFORMATION TECHNOLOGY SYSTEMS.

(a) NEW ACQUISITION PROCESS REQUIRED.—The Secretary of Defense shall develop and implement a new acquisition process for information technology systems. The acquisition process developed and implemented pursuant to this subsection shall, to the extent determined appropriate by the Secretary—

(1) be based on the recommendations in chapter 6 of the March 2009 report of the Defense Science Board Task Force on Department of Defense Policies and Procedures for the Acquisition of Information Technology; and

(2) be designed to include—

(A) early and continual involvement of the user;

(B) multiple, rapidly executed increments or releases of capability;

(C) early, successive prototyping to support an evolutionary approach; and

(D) a modular, open-systems approach.

(b) REPORT TO CONGRESS.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the new acquisition process developed pursuant to subsection (a). The report required by this subsection shall, at a minimum—

(1) describe the new acquisition process;

(2) provide an explanation for any decision by the Secretary to deviate from the criteria established for such process in paragraphs (1) and (2) of subsection (a);

(3) provide a schedule for the implementation of the new acquisition process;

(4) identify the categories of information technology acquisitions to which such process will apply; and

(5) include the Secretary's recommendations for any legislation that may be required to implement the new acquisition process.

SEC. 805. LIFE-CYCLE MANAGEMENT AND PRODUCT SUPPORT.

(a) **GUIDANCE ON LIFE-CYCLE MANAGEMENT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue comprehensive guidance on life-cycle management and the development and implementation of product support strategies for major weapon systems. The guidance issued pursuant to this subsection shall—

(1) maximize competition and make the best possible use of available Department of Defense and industry resources at the system, subsystem, and component levels; and

(2) maximize value to the Department of Defense by providing the best possible product support outcomes at the lowest operations and support cost.

(b) **PRODUCT SUPPORT MANAGERS.**—

(1) **REQUIREMENT.**—The Secretary of Defense shall require that each major weapon system be supported by a product support manager in accordance with this subsection.

(2) **RESPONSIBILITIES.**—A product support manager for a major weapon system shall—

(A) develop and implement a comprehensive product support strategy for the weapon system;

(B) conduct appropriate cost analyses to validate the product support strategy, including cost-benefit analyses as outlined in Office of Management and Budget Circular A-94;

(C) assure achievement of desired product support outcomes through development and implementation of appropriate product support arrangements;

(D) adjust performance requirements and resource allocations across product support integrators and product support providers as necessary to optimize implementation of the product support strategy;

(E) periodically review product support arrangements between the product support integrators and product support providers to ensure the arrangements are consistent with the overall product support strategy; and

(F) prior to each change in the product support strategy or every five years, whichever occurs first, revalidate any business-case analysis performed in support of the product support strategy.

(c) **GOVERNMENT PERFORMANCE OF PRODUCT SUPPORT MANAGER FUNCTION.**—Section 820(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2330) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

“(3) Product support manager.”.

(d) **DEFINITIONS.**—In this section:

(1) The term “product support” means the package of support functions required to field and maintain the readiness

and operational capability of major weapon systems, subsystems, and components, including all functions related to weapon system readiness.

(2) The term “product support arrangement” means a contract, task order, or any type of other contractual arrangement, or any type of agreement or non-contractual arrangement within the Federal Government, for the performance of sustainment or logistics support required for major weapon systems, subsystems, or components. The term includes arrangements for any of the following:

- (A) Performance-based logistics.
- (B) Sustainment support.
- (C) Contractor logistics support.
- (D) Life-cycle product support.
- (E) Weapon systems product support.

(3) The term “product support integrator” means an entity within the Federal Government or outside the Federal Government charged with integrating all sources of product support, both private and public, defined within the scope of a product support arrangement.

(4) The term “product support provider” means an entity that provides product support functions. The term includes an entity within the Department of Defense, an entity within the private sector, or a partnership between such entities.

(5) The term “major weapon system” has the meaning given that term in section 2302d of title 10, United States Code.

SEC. 806. TREATMENT OF NON-DEFENSE AGENCY PROCUREMENTS UNDER JOINT PROGRAMS WITH INTELLIGENCE COMMUNITY.

Section 801(b) of the National Defense Authorization Act for Fiscal Year 2008 (10 U.S.C. 2304 note) is amended by adding at the end the following new paragraph:

“(3) TREATMENT OF PROCUREMENTS UNDER JOINT PROGRAMS WITH INTELLIGENCE COMMUNITY.—For purposes of this subsection, a contract entered into by a non-defense agency that is an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) for the performance of a joint program conducted to meet the needs of the Department of Defense and the non-defense agency shall not be considered a procurement of property or services for the Department of Defense through a non-defense agency.”.

SEC. 807. POLICY AND REQUIREMENTS TO ENSURE THE SAFETY OF FACILITIES, INFRASTRUCTURE, AND EQUIPMENT FOR MILITARY OPERATIONS.

(a) POLICY.—It shall be the policy of the Department of Defense that facilities, infrastructure, and equipment that are intended for use by military or civilian personnel of the Department in current or future military operations should be inspected for safety and habitability prior to such use, and that such facilities should be brought into compliance with generally accepted standards for the safety and health of personnel to the maximum extent practicable and consistent with the requirements of military operations and the best interests of the Department of Defense, to minimize the safety and health risk posed to such personnel.

(b) REQUIREMENTS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) ensure that each contract or task or delivery order entered into for the construction, installation, repair, maintenance, or operation of facilities for use by military or civilian personnel of the Department complies with the policy established in subsection (a);

(2) ensure that contracts entered into prior to the date that is 60 days after the date of the enactment of this Act comply with such policy to the maximum extent practicable;

(3) define the term “generally accepted standards” with respect to fire protection, structural integrity, electrical systems, plumbing, water treatment, waste disposal, and telecommunications networks for the purposes of this section; and

(4) provide such exceptions and limitations as may be needed to ensure that this section can be implemented in a manner that is consistent with the requirements of military operations and the best interests of the Department of Defense.

Subtitle B—Amendments to General Contracting Authorities, Procedures, and Limitation

SEC. 811. JUSTIFICATION AND APPROVAL OF SOLE-SOURCE CONTRACTS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to provide that the head of an agency may not award a sole-source contract in a covered procurement for an amount exceeding \$20,000,000 unless—

(1) the contracting officer for the contract justifies the use of a sole-source contract in writing;

(2) the justification is approved by the appropriate official designated to approve contract awards for dollar amounts that are comparable to the amount of the sole-source contract; and

(3) the justification and related information are made public as provided in sections 2304(f)(1)(C) and 2304(l) of title 10, United States Code, or sections 303(f)(1)(C) and 303(j) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(C) and 253(j)), as applicable.

(b) ELEMENTS OF JUSTIFICATION.—The justification of a sole-source contract required pursuant to subsection (a) shall include the following:

(1) A description of the needs of the agency concerned for the matters covered by the contract.

(2) A specification of the statutory provision providing the exception from the requirement to use competitive procedures in entering into the contract.

(3) A determination that the use of a sole-source contract is in the best interest of the agency concerned.

(4) A determination that the anticipated cost of the contract will be fair and reasonable.

(5) Such other matters as the head of the agency concerned shall specify for purposes of this section.

(c) DEFINITIONS.—In this section:

(1) COVERED PROCUREMENT.—The term “covered procurement” means either of the following:

(A) A procurement described in section 2304(f)(2)(D)(ii) of title 10, United States Code.

(B) A procurement described in section 303(f)(2)(D)(ii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(2)(D)(ii)).

(2) HEAD OF AN AGENCY.—The term “head of an agency”—

(A) in the case of a covered procurement as defined in paragraph (1)(A), has the meaning provided in section 2302(1) of title 10, United States Code; and

(B) in the case of a covered procurement as defined in paragraph (1)(B), has the meaning provided the term “agency head” in section 309(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(a)).

(3) APPROPRIATE OFFICIAL.—The term “appropriate official” means—

(A) in the case of a covered procurement as defined in paragraph (1)(A), an official designated in section 2304(f)(1)(B) of title 10, United States Code; and

(B) in the case of a covered procurement as defined in paragraph (1)(B), an official designated in section 303(f)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)).

SEC. 812. REVISION OF DEFENSE SUPPLEMENT RELATING TO PAYMENT OF COSTS PRIOR TO DEFINITIZATION.

(a) REVISION REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall revise the Defense Supplement to the Federal Acquisition Regulation to ensure that any limitations described in subsection (b) are applicable to all categories of undefinitized contractual actions (including undefinitized task orders and delivery orders).

(b) LIMITATIONS.—The limitations referred to in subsection (a) are any limitations on the reimbursement of costs and the payment of profits or fees with respect to costs incurred before the definitization of an undefinitized contractual action of the Department of Defense, including—

(1) such limitations as described in part 52.216-26 of the Federal Acquisition Regulation; and

(2) any such limitations implementing the requirements of section 809 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 2326 note).

SEC. 813. REVISIONS TO DEFINITIONS RELATING TO CONTRACTS IN IRAQ AND AFGHANISTAN.

(a) REVISIONS TO DEFINITION OF CONTRACT IN IRAQ OR AFGHANISTAN.—Section 864(a)(2) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 258; 10 U.S.C. 2302 note) is amended—

(1) by striking “or a task order or delivery order at any tier issued under such a contract” and inserting “a task order or delivery order at any tier issued under such a contract, a grant, or a cooperative agreement”;

(2) by striking in the parenthetical “or task order or delivery order” and inserting “task order, delivery order, grant, or cooperative agreement”;

(3) by striking “or task or delivery order” after the parenthetical and inserting “task order, delivery order, grant, or cooperative agreement”; and

(4) by striking “14 days” and inserting “30 days”.

(b) REVISION TO DEFINITION OF COVERED CONTRACT.—Section 864(a)(3) of such Act (Public Law 110–181; 122 Stat. 259; 10 U.S.C. 2302 note) is amended—

(1) by striking “or” at the end of subparagraph (B);

(2) by striking the period and inserting a semicolon at the end of subparagraph (C); and

(3) by adding at the end the following new subparagraphs:

“(D) a grant for the performance of services in an area of combat operations, as designated by the Secretary of Defense under subsection (c) of section 862; or

“(E) a cooperative agreement for the performance of services in such an area of combat operations.”.

(c) REVISION TO DEFINITION OF CONTRACTOR.—Paragraph (4) of section 864(a) of such Act (Public Law 110–181; 122 Stat. 259; 10 U.S.C. 2302 note) is amended to read as follows:

“(4) CONTRACTOR.—The term ‘contractor’, with respect to a covered contract, means—

“(A) in the case of a covered contract that is a contract, subcontract, task order, or delivery order, the contractor or subcontractor carrying out the covered contract;

“(B) in the case of a covered contract that is a grant, the grantee; and

“(C) in the case of a covered contract that is a cooperative agreement, the recipient.”.

(d) REVISION IN VALUE OF CONTRACTS COVERED BY CERTAIN REPORT.—Section 1248(c)(1)(B) of such Act (Public Law 110–181; 122 Stat. 400) is amended by striking “\$25,000” and inserting “\$100,000”.

SEC. 814. AMENDMENT TO NOTIFICATION REQUIREMENTS FOR AWARDS OF SINGLE SOURCE TASK OR DELIVERY ORDERS.

(a) CONGRESSIONAL DEFENSE COMMITTEES.—Subparagraph (B) of section 2304a(d)(3) of title 10, United States Code, is amended to read as follows:

“(B) The head of the agency shall notify the congressional defense committees within 30 days after any determination under clause (i), (ii), (iii), or (iv) of subparagraph (A).”.

(b) CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of a task or delivery order contract awarded with respect to intelligence activities of the Department of Defense, any notification provided under subparagraph (B) of section 2304a(d)(3) of title 10, United States Code, as amended by subsection (a), shall also be provided at the same time as notification is provided to the congressional defense committees under that subparagraph—

(1) to the Permanent Select Committee on Intelligence of the House of Representatives insofar as such task or delivery order contract relates to tactical intelligence and intelligence-related activities of the Department; and

(2) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives insofar as such task or delivery order contract relates to intelligence and intelligence-related activities

of the Department other than those specified in paragraph (1).

SEC. 815. CLARIFICATION OF UNIFORM SUSPENSION AND DEBARMENT REQUIREMENT.

Section 2455(c)(1) of the Federal Acquisition Streamlining Act of 1994 (31 U.S.C. 6101 note) is amended by adding at the end the following: “Such term includes subcontracts at any tier, other than subcontracts for commercially available off-the-shelf items (as defined in section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c))), except that in the case of a contract for commercial items, such term includes only first-tier subcontracts.”

SEC. 816. EXTENSION OF AUTHORITY FOR USE OF SIMPLIFIED ACQUISITION PROCEDURES FOR CERTAIN COMMERCIAL ITEMS.

Section 4202 of the Clinger–Cohen Act of 1996 (division D of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304 note) as amended by section 822 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 226) is amended in subsection (e) by striking “2010” and inserting “2012”.

SEC. 817. REPORTING REQUIREMENTS FOR PROGRAMS THAT QUALIFY AS BOTH MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS AND MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) **IN GENERAL.**—Section 2445d of title 10, United States Code, is amended by striking “of this title” and all that follows and inserting “of this title, the Secretary may designate the program to be treated only as a major automated information system program covered by this chapter or to be treated only as a major defense acquisition program covered by such chapter 144.”

(b) **GUIDANCE REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance on the implementation of section 2445d of title 10, United States Code (as amended by subsection (a)). The guidance shall provide that, as a general rule—

(1) a program covered by such section that requires the development of customized hardware shall be treated only as a major defense acquisition program under chapter 144 of title 10, United States Code; and

(2) a program covered by such section that does not require the development of customized hardware shall be treated only as a major automated information system program under chapter 144A of title 10, United States Code.

SEC. 818. SMALL ARMS PRODUCTION INDUSTRIAL BASE MATTERS.

(a) **AUTHORITY TO MODIFY DEFINITION OF “SMALL ARMS PRODUCTION INDUSTRIAL BASE”.**—Section 2473(c) of title 10, United States Code, is amended—

(1) by striking “In this section” and inserting “(1) Subject to paragraph (2), in this section”; and

(2) by adding at the end the following new paragraph: “(2) After March 31, 2010, the Secretary of Defense may eliminate, modify, or add to the firms included in the small arms production industrial base, as defined in paragraph (1), as he determines appropriate to best ensure the competitive development, production, and maintenance of small arms for the Department of Defense.”

(b) **REVIEW OF SMALL ARMS PRODUCTION INDUSTRIAL BASE.**—

(1) REVIEW.—Not later than March 31, 2010, the Secretary of Defense shall review and determine, based on current and future Department requirements and competitive manufacturing capability and capacity—

(A) whether any firms included in the small arms production industrial base (as that term is defined in section 2473(c) of title 10, United States Code) should be eliminated or modified and whether any additional firms should be included; and

(B) whether any of the small arms listed in section 2473(d) of title 10, United States Code, should be eliminated from the list or modified on the list and whether any additional small arms should be included in the list.

(2) REPORTS.—

(A) Not later than March 31, 2010, the Secretary of Defense shall submit to the congressional defense committees a report on the review conducted under this subsection.

(B) The Secretary of Defense shall notify the congressional defense committees not later than 30 days after making any modification to the list maintained pursuant to subsection (c) of section 2473 of title 10, United States Code, or the list under subsection (d) of such section.

SEC. 819. CONTRACT AUTHORITY FOR ADVANCED COMPONENT DEVELOPMENT OR PROTOTYPE UNITS.

(a) AUTHORITY.—A contract initially awarded from the competitive selection of a proposal resulting from a general solicitation referred to in section 2302(2)(B) of title 10, United States Code, may contain a contract line item or contract option for—

(1) the provision of advanced component development or prototype of technology developed under the contract; or

(2) the delivery of initial or additional prototype items if the item or a prototype thereof is created as the result of work performed under the contract.

(b) LIMITATIONS.—

(1) MINIMAL AMOUNT.—A contract line item or contract option described in subsection (a)(2) shall require the delivery of the minimal amount of initial or additional prototype items to allow for the timely competitive solicitation and award of a follow-on development or production contract for those items.

(2) TERM.—A contract line item or contract option described in subsection (a) shall be for a term of not more than 12 months.

(3) DOLLAR VALUE OF WORK.—The dollar value of the work to be performed pursuant to a contract line item or contract option described in subsection (a) may not exceed the lesser of the amounts as follows:

(A) The amount that is three times the dollar value of the work previously performed under the contract.

(B) \$20,000,000.

(4) TERMINATION OF AUTHORITY.—A military department or defense agency may not exercise a contract line item or contract option pursuant to the authority provided in subsection (a) after September 30, 2014.

(c) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the use of the

authority provided by subsection (a) not later than March 1, 2013. The report shall, at a minimum, describe—

(1) the number of times a contract line item or contract option was exercised under such authority, the dollar amount of each such line item or option, and the scope of each such line item or option;

(2) the circumstances that rendered the military department or defense agency unable to solicit and award a follow-on development or production contract in a timely fashion, but for the use of such authority;

(3) the extent to which such authority affected competition and technology transition; and

(4) such recommendations as the Secretary considers appropriate, including any recommendations regarding the modification or extension of such authority.

SEC. 820. PUBLICATION OF NOTIFICATION OF BUNDLING OF CONTRACTS OF THE DEPARTMENT OF DEFENSE.

(a) **REQUIREMENT TO PUBLISH NOTIFICATION FOR BUNDLING.**—A contracting officer of the Department of Defense carrying out a covered acquisition shall publish a notification consistent with the requirements of paragraph (c)(2) of subpart 10.001 of the Federal Acquisition Regulation on the website known as FedBizOpps.gov (or any successor site) at least 30 days prior to the release of a solicitation for such acquisition and, if the agency has determined that measurably substantial benefits are expected to be derived as a result of bundling such acquisition, shall include in the notification a brief description of the benefits.

(b) **COVERED ACQUISITION DEFINED.**—In this section, the term “covered acquisition” means an acquisition that is—

(1) funded entirely using funds of the Department of Defense; and

(2) covered by subpart 7.107 of the Federal Acquisition Regulation (relating to acquisitions involving bundling).

(c) **CONSTRUCTION.**—

(1) **NOTIFICATION.**—Nothing in this section shall be construed to alter the responsibility of a contracting officer to provide the notification referred to in subsection (a) with respect to a covered acquisition, or otherwise provide notification, to any party concerning such acquisition under any other requirement of law or regulation.

(2) **DISCLOSURE.**—Nothing in this section shall be construed to require the public availability of information that is exempt from public disclosure under section 552(b) of title 5, United States Code, or is otherwise restricted from public disclosure by law or Executive order.

(3) **ISSUANCE OF SOLICITATION.**—Nothing in this section shall be construed to require a contracting officer to delay the issuance of a solicitation in order to meet the requirements of subsection (a) if the expedited issuance of such solicitation is otherwise authorized under any other requirement of law or regulation.

Subtitle C—Contractor Matters

SEC. 821. AUTHORITY FOR GOVERNMENT SUPPORT CONTRACTORS TO HAVE ACCESS TO TECHNICAL DATA BELONGING TO PRIME CONTRACTORS.

(a) AUTHORITY FOR ACCESS TO TECHNICAL DATA.—Subsection (c) of section 2320 of title 10, United States Code, is amended—

- (1) in paragraph (1), by striking “or” at the end;
- (2) by redesignating paragraph (2) as paragraph (3); and
- (3) by inserting after paragraph (1) the following new paragraph (2):

“(2) notwithstanding any limitation upon the license rights conveyed under subsection (a), allowing a covered Government support contractor access to and use of any technical data delivered under a contract for the sole purpose of furnishing independent and impartial advice or technical assistance directly to the Government in support of the Government’s management and oversight of the program or effort to which such technical data relates; or”.

(b) COVERED GOVERNMENT SUPPORT CONTRACTOR DEFINED.—Such section is further amended by adding at the end the following new subsection:

“(f) In this section, the term ‘covered Government support contractor’ means a contractor under a contract the primary purpose of which is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government’s management and oversight of a program or effort (rather than to directly furnish an end item or service to accomplish a program or effort), which contractor—

“(1) is not affiliated with the prime contractor or a first-tier subcontractor on the program or effort, or with any direct competitor of such prime contractor or any such first-tier subcontractor in furnishing end items or services of the type developed or produced on the program or effort; and

“(2) executes a contract with the Government agreeing to and acknowledging—

“(A) that proprietary or nonpublic technical data furnished will be accessed and used only for the purposes stated in that contract;

“(B) that the covered Government support contractor will enter into a non-disclosure agreement with the contractor to whom the rights to the technical data belong;

“(C) that the covered Government support contractor will take all reasonable steps to protect the proprietary and nonpublic nature of the technical data furnished to the covered Government support contractor during the program or effort for the period of time in which the Government is restricted from disclosing the technical data outside of the Government;

“(D) that a breach of that contract by the covered Government support contractor with regard to a third party’s ownership or rights in such technical data may subject the covered Government support contractor—

“(i) to criminal, civil, administrative, and contractual actions in law and equity for penalties, damages,

and other appropriate remedies by the United States; and

“(ii) to civil actions for damages and other appropriate remedies by the contractor or subcontractor whose technical data is affected by the breach; and
“(E) that such technical data provided to the covered Government support contractor under the authority of this section shall not be used by the covered Government support contractor to compete against the third party for Government or non-Government contracts.”.

SEC. 822. EXTENSION AND ENHANCEMENT OF AUTHORITIES ON THE COMMISSION ON WARTIME CONTRACTING IN IRAQ AND AFGHANISTAN.

(a) **DATE OF FINAL REPORT.**—Subsection (d)(3) of section 841 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 230) is amended by striking “two years” and inserting “three years”.

(b) **ASSISTANCE FROM FEDERAL AGENCIES.**—Such section is further amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

“(f) **ASSISTANCE FROM FEDERAL AGENCIES.**—

“(1) **DEPARTMENT OF DEFENSE.**—The Secretary of Defense shall provide to the Commission administrative support for the performance of the Commission’s functions in carrying out the requirements of this section.

“(2) **TRAVEL AND LODGING IN COMBAT THEATERS.**—The administrative support provided the Commission under paragraph (1) shall include travel and lodging undertaken in combat theaters, which support shall be provided through funds made available for that purpose through the Washington Headquarters Services or on a non-reimbursable basis, as appropriate.

“(3) **OTHER DEPARTMENTS AND AGENCIES.**—In addition to the support required by paragraph (1), any department or agency of the Federal Government may provide to the Commission such services, funds, facilities, staff, and other support services for the performance of the Commission’s functions as the head of such department or agency considers advisable, or as may otherwise be authorized by law.”.

SEC. 823. AUTHORITY FOR SECRETARY OF DEFENSE TO REDUCE OR DENY AWARD FEES TO COMPANIES FOUND TO JEOPARDIZE HEALTH OR SAFETY OF GOVERNMENT PERSONNEL.

(a) **AUTHORITY TO REDUCE OR DENY AWARD FEES.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall revise the guidance issued pursuant to section 814 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 129 Stat. 2321) to ensure that all covered contracts using award fees—

(1) provide for the consideration of any incident described in subsection (b) in evaluations of contractor performance for the relevant award fee period; and

(2) authorize the Secretary to reduce or deny award fees for the relevant award fee period, or to recover all or part of award fees previously paid for such period, on the basis of the negative impact of such incident on contractor performance.

(b) COVERED INCIDENTS.—An incident referred to in subsection (a) is any incident in which the contractor—

(1) has been determined, through a criminal, civil, or administrative proceeding that results in a disposition listed in subsection (c), in the performance of a covered contract to have caused serious bodily injury or death to any civilian or military personnel of the Government through gross negligence or with reckless disregard for the safety of such personnel; or

(2) has been determined, through a criminal, civil, or administrative proceeding that results in a disposition listed in subsection (c), to be liable for actions of a subcontractor of the contractor that caused serious bodily injury or death to any civilian or military personnel of the Government, through gross negligence or with reckless disregard for the safety of such personnel.

(c) LIST OF DISPOSITIONS IN CRIMINAL, CIVIL, OR ADMINISTRATIVE PROCEEDINGS.—For purposes of subsection (a), the dispositions listed in this subsection are as follows:

(1) In a criminal proceeding, a conviction.

(2) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(3) In an administrative proceeding, a finding of fault and liability that results in—

(A) the payment of a monetary fine or penalty of \$5,000 or more; or

(B) the payment of a reimbursement, restitution, or damages in excess of \$100,000.

(4) To the maximum extent practicable and consistent with applicable laws and regulations, in a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the person if the proceeding could have led to any of the outcomes specified in paragraph (1), (2), or (3).

(d) DEFINITIONS.—In this section:

(1) The term “defense contractor” means a company awarded a covered contract.

(2) The term “covered contract” means a contract awarded by the Department of Defense for the procurement of goods or services.

(3) The term “serious bodily injury” means a grievous physical harm that results in a permanent disability.

(e) EFFECTIVE DATE.—This section shall apply with respect to contracts entered into after the date occurring 180 days after the date of the enactment of this Act.

Subtitle D—Acquisition Workforce Matters

SEC. 831. ENHANCEMENT OF EXPEDITED HIRING AUTHORITY FOR DEFENSE ACQUISITION WORKFORCE POSITIONS.

(a) IN GENERAL.—Paragraph (1) of section 1705(h) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking “acquisition positions within the Department of Defense as shortage category positions” and inserting “acquisition workforce positions as positions for which there exists a shortage of candidates or there is a critical hiring need”; and

(2) in subparagraph (B), by striking “highly”.

(b) EXTENSION.—Paragraph (2) of such section is amended by striking “September 30, 2012” and inserting “September 30, 2015”.

(c) TECHNICAL AMENDMENT.—Paragraph (1) of such section is further amended by striking “United States Code,” in the matter preceding subparagraph (A).

SEC. 832. FUNDING OF DEPARTMENT OF DEFENSE ACQUISITION WORKFORCE DEVELOPMENT FUND.

(a) ADDITIONAL ELEMENT OF FUND.—Subsection (d) of section 1705 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph (B):

“(B) Amounts transferred to the Fund pursuant to paragraph (3).”; and

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

“(3) TRANSFER OF CERTAIN UNOBLIGATED BALANCES.—To the extent provided in appropriations Acts, the Secretary of Defense may, during the 24-month period following the expiration of availability for obligation of any appropriations made to the Department of Defense for procurement, research, development, test, and evaluation, or operation and maintenance, transfer to the Fund any unobligated balance of such appropriations. Any amount so transferred shall be credited to the Fund.”.

(b) NATURE OF EXPENDED AMOUNTS PROVIDING BASIS FOR CREDIT TO FUND.—Subparagraph (A) of paragraph (2) of such subsection is amended by striking “, other than” and all that follows and inserting “from amounts available for contract services for operation and maintenance.”.

(c) REMITTANCES.—Subparagraph (B) of paragraph (2) of such subsection is amended by inserting “, from amounts available to such military department or Defense Agency, as the case may be, for contract services for operation and maintenance,” after “remit to the Secretary of Defense”.

(d) ADDITIONAL MATTERS RELATING TO REMITTANCES.—

(1) REMITTANCE BY FISCAL YEAR INSTEAD OF QUARTER.—Subparagraph (B) of paragraph (2) of such subsection is amended—

(A) in the first sentence, by striking “the third fiscal year quarter” and all that follows through “thereafter” and inserting “the first quarter of each fiscal year”; and

(B) by striking “quarter” before “for services”.

(2) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—Such subsection is further amended—

(A) in paragraph (2)(B), by striking “Not later than” and inserting “Subject to paragraph (4), not later than”; and

(B) by adding at the end the following new paragraph:

“(4) ADDITIONAL REQUIREMENTS AND LIMITATIONS ON REMITTANCES.—(A) In the event amounts are transferred to the Fund during a fiscal year pursuant to paragraph (1)(B) or appropriated to the Fund for a fiscal year pursuant to paragraph (1)(C), the aggregate amount otherwise required to be remitted to the Fund for that fiscal year pursuant to paragraph (2)(B) shall be reduced by the amount equal to the amounts so transferred or appropriated to the Fund during or for that fiscal year. Any reduction in the aggregate amount required to be remitted to the Fund for a fiscal year under this subparagraph shall be allocated as provided in applicable provisions of appropriations Acts or, absent such provisions, on a pro rata basis among the military departments and Defense Agencies required to make remittances to the Fund for that fiscal year under paragraph (2)(B), subject to any exclusions the Secretary of Defense determines to be necessary in the best interests of the Department of Defense.

“(B) Any remittance of amounts to the Fund for a fiscal year under paragraph (2) shall be subject to the availability of appropriations for that purpose.”.

(e) REMITTANCE AMOUNTS.—Paragraph (2) of such subsection is further amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

“(C) For purposes of this paragraph, the applicable percentage for a fiscal year is the percentage that results in the credit to the Fund in such fiscal year of an amount as follows:

“(i) For fiscal year 2010, \$100,000,000.

“(ii) For fiscal year 2011, \$770,000,000.

“(iii) For fiscal year 2012, \$900,000,000.

“(iv) For fiscal year 2013, \$1,180,000,000.

“(v) For fiscal year 2014, \$1,330,000,000.

“(vi) For fiscal year 2015, \$1,470,000,000.

“(D) The Secretary of Defense may reduce an amount specified in subparagraph (C) for a fiscal year if the Secretary determines that the amount is greater than is reasonably needed for purposes of the Fund for such fiscal year. The Secretary may not reduce the amount for a fiscal year to an amount that is less than 80 percent of the amount otherwise specified in subparagraph (C) for such fiscal year.”.

(f) CLARIFICATION OF LIMITATION ON PAY OF BASE SALARY OF CURRENT EMPLOYEES.—Subsection (e)(5) of such section is amended by striking “as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008” and inserting “serving in a position in the acquisition workforce as of January 28, 2008”.

(g) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of such section is amended by inserting “Development” after “Workforce”.

(2) Subsection (f) of such section is amended in the matter preceding paragraph (1) by striking “beginning with fiscal year 2008”.

(h) EFFECTIVE DATES.—

(1) FUNDING AMENDMENTS.—The amendments made by subsections (a) through (c) shall take effect as of October 1, 2009.

(2) TECHNICAL AMENDMENTS.—The amendments made by subsections (f) and (g) shall take effect on the date of the enactment of this Act.

SEC. 833. REVIEW OF POST-EMPLOYMENT RESTRICTIONS APPLICABLE TO THE DEPARTMENT OF DEFENSE.

(a) REVIEW REQUIRED.—The Panel on Contracting Integrity, established pursuant to section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364), shall review policies relating to post-employment restrictions on former Department of Defense personnel to determine whether such policies adequately protect the public interest, without unreasonably limiting future employment options for former Department of Defense personnel.

(b) MATTERS CONSIDERED.—In performing the review required by subsection (a), the Panel shall consider the extent to which current post-employment restrictions—

(1) appropriately protect the public interest by preventing personal conflicts of interests and preventing former Department of Defense officials from exercising undue or inappropriate influence on the Department of Defense;

(2) appropriately require disclosure of personnel accepting employment with contractors of the Department of Defense involving matters related to their official duties;

(3) use appropriate thresholds, in terms of salary or duties, for the establishment of such restrictions;

(4) are sufficiently straightforward and have been explained to personnel of the Department of Defense so that such personnel are able to avoid potential violations of post-employment restrictions and conflicts of interest in interactions with former personnel of the Department;

(5) appropriately apply to all personnel performing duties in acquisition-related activities, such as personnel involved in—

(A) the establishment of requirements;

(B) testing and evaluation; and

(C) the development of doctrine;

(6) ensure that the Department of Defense has access to world-class talent, especially with respect to highly qualified technical, engineering, and acquisition expertise; and

(7) ensure that service in the Department of Defense remains an attractive career option.

(c) COMPLETION OF THE REVIEW.—The Panel shall complete the review required by subsection (a) not later than one year after the date of the enactment of this Act.

(d) REPORT TO COMMITTEES ON ARMED SERVICES.—Not later than 30 days after the completion of the review, the Panel shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the findings of the review and the recommendations of the Panel to the Secretary

of Defense, including recommended legislative or regulatory changes, resulting from the review.

(e) NATIONAL ACADEMY OF PUBLIC ADMINISTRATION ASSESSMENT.—

(1) Not later than 30 days after the completion of the review, the Secretary of Defense shall enter into an arrangement with the National Academy of Public Administration to assess the findings and recommendations of the review.

(2) Not later than 210 days after the completion of the review, the National Academy of Public Administration shall provide its assessment of the review to the Secretary, along with such additional recommendations as the National Academy may have.

(3) Not later than 30 days after receiving the assessment, the Secretary shall provide the assessment, along with such comments as the Secretary considers appropriate, to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 834. REVIEW OF FEDERAL ACQUISITION WORKFORCE TRAINING AND HIRING.

(a) COMPTROLLER GENERAL REPORT ON THE GOVERNMENT-WIDE ACQUISITION WORKFORCE DEVELOPMENT STRATEGIC PLAN.—Not later than 180 days after the Acquisition Workforce Development Strategic Plan required by section 869 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4553) is completed, the Comptroller General of the United States shall submit to the relevant committees of Congress a report on the Plan.

(b) MATTERS COVERED.—The report required under subsection (a) shall include assessments of the following:

(1) The methodologies used to formulate the Acquisition Workforce Development Strategic Plan and its recommendations.

(2) The extent to which the Acquisition Workforce Development Strategic Plan addresses previously identified shortcomings in the acquisition workforce and prior efforts by agencies to develop acquisition workforce plans, including the strategies used to identify and hire acquisition personnel.

(3) The feasibility of the Acquisition Workforce Development Strategic Plan's recommendations and associated time frames for implementation, particularly as they relate to the development of a sustainable funding model and the applicability of the Defense Acquisition Workforce Development Fund model to civilian agencies.

(4) The extent to which the Acquisition Workforce Development Strategic Plan considered the use by agencies of contractor personnel to supplement the acquisition workforce.

(5) Whether the Acquisition Workforce Development Strategic Plan considered the full range of laws, regulations, and policies that currently apply to the acquisition workforce.

(6) The extent to which the Acquisition Workforce Development Strategic Plan considered the specific training and retention tools (whether located within or outside an agency) used to professionally develop and retain acquisition personnel, including the following:

(A) The Defense Acquisition University.

(B) The Federal Acquisition Institute.

(C) Continuing education and professional development opportunities available to acquisition professionals.

(D) Opportunities to pursue higher education available to acquisition personnel, including scholarships and student loan forgiveness.

(7) Such other matters, findings, and recommendations as the Comptroller General considers appropriate.

(c) RELEVANT COMMITTEES.—In this section, the term “relevant committees” means each of the following:

(1) The Committee on Oversight and Government Reform of the House of Representatives.

(2) The Committee on Armed Services of the House of Representatives.

(3) The Committee on Homeland Security and Government Affairs of the Senate.

(4) The Committee on Armed Services of the Senate.

Subtitle E—Other Matters

SEC. 841. REPORTS TO CONGRESS ON FULL DEPLOYMENT DECISIONS FOR MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS.

(a) IMPLEMENTATION SCHEDULE.—Section 2445b(b)(2) of title 10, United States Code, is amended by striking “initial operational capability, and full operational capability” and inserting “full deployment decision, and full deployment”.

(b) CRITICAL CHANGES IN PROGRAM.—Section 2445c(d)(2)(A) of such title is amended by striking “initial operational capability” and inserting “a full deployment decision”.

(c) DEFINITIONS.—Section 2445a of such title is amended by adding at the end the following new subsections:

“(e) FULL DEPLOYMENT DECISION.—In this chapter, the term ‘full deployment decision’ means, with respect to a major automated information system program, the final decision made by the Milestone Decision Authority authorizing an increment of the program to deploy software for operational use.

“(f) FULL DEPLOYMENT.—In this chapter, the term ‘full deployment’ means, with respect to a major automated information system program, the fielding of an increment of the program in accordance with the terms of a full deployment decision.”.

SEC. 842. AUTHORIZATION TO TAKE ACTIONS TO CORRECT THE INDUSTRIAL RESOURCE SHORTFALL FOR HIGH-PURITY BERYLLIUM METAL.

Notwithstanding any limitation in section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093), an action may be taken under such section to correct an industrial resource shortfall or domestic industrial base shortfall for high-purity beryllium metal if such action does not cause the aggregate outstanding amount of all such actions for such shortfall to exceed “\$85,000,000”.

SEC. 843. REPORT ON RARE EARTH MATERIALS IN THE DEFENSE SUPPLY CHAIN.

(a) REPORT REQUIRED.—Not later than April 1, 2010, the Comptroller General shall submit to the Committees on Armed Services

of the Senate and House of Representatives a report on rare earth materials in the supply chain of the Department of Defense.

(b) MATTERS ADDRESSED.—The report required by subsection (a) shall address, at a minimum, the following:

(1) An analysis of the current and projected domestic and worldwide availability of rare earths for use in defense systems, including an analysis of projected availability of these materials in the export market.

(2) An analysis of actions or events outside the control of the Government of the United States that could restrict the access of the Department of Defense to rare earth materials, such as past procurements and attempted procurements of rare earth mines and mineral rights.

(3) A determination as to which defense systems are currently dependent on, or projected to become dependent on, rare earth materials, particularly neodymium iron boron magnets, whose supply could be restricted—

(A) by actions or events identified pursuant to paragraph (2); or

(B) by other actions or events outside the control of the Government of the United States.

(4) The risk to national security, if any, of the dependencies (current or projected) identified pursuant to paragraph (3).

(5) Any steps that the Department of Defense has taken or is planning to take to address any such risk to national security.

(6) Such recommendations for further action to address the matters covered by the report as the Comptroller General considers appropriate.

(c) DEFINITIONS.—In this section:

(1) The term “rare earth” means the chemical elements, all metals, beginning with lanthanum, atomic number 57, and including all of the natural chemical elements in the periodic table following lanthanum up to and including lutetium, element number 71. The term also includes the elements yttrium and scandium.

(2) The term “rare earth material” includes rare earth ores, semi-finished rare earth products, and components containing rare earth materials.

SEC. 844. COMPTROLLER GENERAL REPORT ON STRUCTURE AND MANAGEMENT OF SUBCONTRACTORS UNDER CONTRACTS FOR MAJOR WEAPON SYSTEMS.

(a) STUDY.—The Comptroller General shall conduct a study on the structure and management of major subcontracts under contracts for the acquisition of selected major weapon systems.

(b) ISSUES TO BE ADDRESSED.—At a minimum, the study required by subsection (a) shall address the following:

(1) The number of major subcontracts under each prime contract reviewed.

(2) The manner in which the prime contractor addressed decisions to conduct work in-house or through subcontracts.

(3) The manner in which any potential organizational conflicts of interest were addressed and the Government’s role (if any) in selecting the approach chosen.

(4) The manner in which such subcontracts were awarded (including the degree of competition) and the Government's role (if any) in such award decisions.

(5) Any recommendations that the Comptroller General may have for improving Government oversight, reducing the oversight burden on the acquisition workforce, or otherwise improving the management of subcontractors under contracts for the acquisition of major weapon systems.

(c) **DEADLINE FOR SUBMISSION.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study required by subsection (a), with such findings and recommendations as the Comptroller General considers appropriate.

SEC. 845. STUDY OF THE USE OF FACTORS OTHER THAN COST OR PRICE AS THE PREDOMINATE FACTORS IN EVALUATING COMPETITIVE PROPOSALS FOR DEFENSE PROCUREMENT CONTRACTS.

(a) **STUDY REQUIRED.**—The Comptroller General of the United States shall conduct a study of Department of Defense procurements that use solicitations in which evaluation factors other than cost or price, when combined, are more important than cost or price.

(b) **ISSUES TO BE ADDRESSED.**—The study required by subsection (a) shall include, at a minimum, an assessment of—

(1) the frequency with which evaluation factors other than cost or price, when combined, are given more weight than cost or price in solicitations for competitive proposals;

(2) the types of contracts for products or services for which such evaluation factors are most frequently used;

(3) the reasons why the Department of Defense chooses to use such evaluation factors; and

(4) the extent to which the use of such factors is or is not in the interest of the Department of Defense.

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Service of the Senate and the House of Representatives a report on the results of the study required by subsection (a).

SEC. 846. REPEAL OF REQUIREMENTS RELATING TO THE MILITARY SYSTEM ESSENTIAL ITEM BREAKOUT LIST.

Section 813 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1543) is repealed.

SEC. 847. EXTENSION OF SBIR AND STTR PROGRAMS OF THE DEPARTMENT OF DEFENSE.

(a) **SBIR EXTENSION.**—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended—

(1) by striking “The authorization” and inserting the following:

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the authorization”; and

(2) by adding at the end the following:

“(2) **EXCEPTION FOR DEPARTMENT OF DEFENSE.**—The Secretary of Defense and the Secretary of each military department is authorized to carry out the Small Business Innovation

Research Program of the Department of Defense until September 30, 2010”.

(b) STTR REAUTHORIZATION.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended—

(1) by striking “With respect” and inserting the following:

“(i) FEDERAL AGENCIES GENERALLY.—Except as provided in clause (ii), with respect”; and

(2) by adding at the end the following:

“(ii) DEPARTMENT OF DEFENSE.—The Secretary of Defense and the Secretary of each military department shall carry out clause (i) with respect to each fiscal year through fiscal year 2010.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of July 30, 2009.

SEC. 848. EXTENSION OF AUTHORITY FOR SMALL BUSINESS INNOVATION RESEARCH COMMERCIALIZATION PILOT PROGRAM.

Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended in paragraph (6) by striking “2009” and inserting “2010”.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Department of Defense Management

- Sec. 901. Authority to allow private sector civilians to receive instruction at Defense Cyber Investigations Training Academy of the Defense Cyber Crime Center.
- Sec. 902. Organizational structure of the Office of the Assistant Secretary of Defense for Health Affairs and the TRICARE Management Activity.
- Sec. 903. Sense of Congress regarding the Director of Operational Energy Plans and Programs.
- Sec. 904. Increased flexibility for combatant commander initiative fund.
- Sec. 905. Repeal of requirement for a Deputy Under Secretary of Defense for Technology Security Policy within the Office of the Under Secretary of Defense for Policy.
- Sec. 906. Deputy Under Secretaries of Defense and Assistant Secretaries of Defense.

Subtitle B—Space Activities

- Sec. 911. Submission and review of space science and technology strategy.
- Sec. 912. Provision of space situational awareness services and information to non-United States Government entities.
- Sec. 913. Management and funding strategy and implementation plan for the National Polar-Orbiting Operational Environmental Satellite System Program.

Subtitle C—Intelligence-Related Matters

- Sec. 921. Inclusion of Defense Intelligence Agency in authority to use proceeds from counterintelligence operations.
- Sec. 922. Plan to address foreign ballistic missile intelligence analysis.

Subtitle D—Other Matters

- Sec. 931. Implementation strategy for developing leap-ahead cyber operations capabilities.
- Sec. 932. Defense integrated military human resources system development and transition.
- Sec. 933. Report on special operations command organization, manning, and management.
- Sec. 934. Study on the recruitment, retention, and career progression of uniformed and civilian military cyber operations personnel.
- Sec. 935. Plan on access to national airspace for unmanned aircraft systems.