

111TH CONGRESS
2^D SESSION

H. R. 5013

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2010

Received; read twice and referred to the Committee on Armed Services

AN ACT

To amend title 10, United States Code, to provide for performance management of the defense acquisition system, 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,*

TITLE III—FINANCIAL MANAGEMENT

- Sec. 301. Incentives for achieving auditability.
 Sec. 302. Measures required after failure to achieve auditability.
 Sec. 303. Review of obligation and expenditure thresholds.
 Sec. 304. Disclosure and traceability of the cost of Department of Defense health care contracts.

TITLE IV—INDUSTRIAL BASE

- Sec. 401. Expansion of the industrial base.
 Sec. 402. Commercial pricing analysis.
 Sec. 403. Contractor and grantee disclosure of delinquent Federal tax debts.
 Sec. 404. Independence of contract audits and business system reviews.
 Sec. 405. Blue ribbon panel on eliminating barriers to contracting with the Department of Defense.
 Sec. 406. Inclusion of the providers of services and information technology in the national technology and industrial base.
 Sec. 407. Construction of Act on competition requirements for the acquisition of services.
 Sec. 408. Acquisition Savings Program.
 Sec. 409. Sense of Congress regarding compliance with the Berry Amendment, the Buy American Act, and labor standards of the United States.
 Sec. 410. Industrial Base Council and Fund.

TITLE V—OTHER MATTERS

- Sec. 501. Clothing allowance requirement.
 Sec. 502. Requirement that cost or price to the Federal Government be given at least equal importance as technical or other criteria in evaluating competitive proposals for defense contracts.

1 **TITLE I—DEFENSE ACQUISITION**
 2 **SYSTEM**

3 **SEC. 101. PERFORMANCE MANAGEMENT OF THE DEFENSE**
 4 **ACQUISITION SYSTEM.**

5 (a) PERFORMANCE MANAGEMENT OF THE DEFENSE
 6 ACQUISITION SYSTEM.—

7 (1) IN GENERAL.—Part IV of title 10, United
 8 States Code, is amended by inserting after chapter
 9 148 the following new chapter:

1 **“CHAPTER 149—PERFORMANCE MANAGE-**
2 **MENT OF THE DEFENSE ACQUISITION**
3 **SYSTEM**

“Sec.

“2545. Performance assessments of the defense acquisition system.

“2546. Audits of performance assessments.

“2547. Use of performance assessments for managing performance.

“2548. Acquisition-related functions of the Chiefs of Staff of the armed forces.

4 **“§ 2545. Performance assessments of the defense ac-**
5 **quisition system**

6 “(a) PERFORMANCE ASSESSMENTS REQUIRED.—(1)
7 The Secretary of Defense shall ensure that all elements
8 of the defense acquisition system are subject to regular
9 performance assessments—

10 “(A) to determine the extent to which such ele-
11 ments deliver appropriate value to the Department
12 of Defense; and

13 “(B) to enable senior officials of the Depart-
14 ment of Defense to manage the elements of the de-
15 fense acquisition system to maximize their value to
16 the Department.

17 “(2) The performance of each element of the defense
18 acquisition system shall be assessed as needed, but not
19 less often than annually.

20 “(3) The Secretary shall ensure that the performance
21 assessments required by this subsection are appropriately
22 tailored to reflect the diverse nature of defense acquisition
23 so that the performance assessment of each element of the

1 defense acquisition system accurately reflects the work
2 performed by such element.

3 “(b) SYSTEMWIDE CATEGORIES.—(1) The Secretary
4 of Defense shall establish categories of metrics for the de-
5 fense acquisition system, including, at a minimum, cat-
6 egories relating to cost, quality, delivery, workforce, and
7 policy implementation that apply to all elements of the de-
8 fense acquisition system.

9 “(2) The Secretary of Defense shall issue guidance
10 for service acquisition executives within the Department
11 of Defense on the establishment of metrics, and goals and
12 standards relating to such metrics, within the categories
13 established by the Secretary under paragraph (1) to en-
14 sure that there is sufficient uniformity in performance as-
15 sessments across the defense acquisition system so that
16 elements of the defense acquisition system can be mean-
17 ingfully compared.

18 “(c) METRICS, GOALS, AND STANDARDS.—(1) Each
19 service acquisition executive of the Department of Defense
20 shall establish metrics to be used in the performance as-
21 sessments required by subsection (a) for each element of
22 the defense acquisition system for which such executive
23 is responsible within the categories established by the Sec-
24 retary under subsection (b). Such metrics shall be appro-

1 priately tailored pursuant to subsection (a)(3) and may
2 include measures of—

3 “(A) cost, quality, and delivery;

4 “(B) contractor performance, including compli-
5 ance with the Department of Defense policy regard-
6 ing the participation of small business concerns
7 owned and controlled by socially and economically
8 disadvantaged individuals, veteran-owned small busi-
9 nesses, service-disabled, veteran-owned small busi-
10 nesses, and women-owned small businesses;

11 “(C) excessive use of contract bundling and
12 availability of non-bundled contract vehicles;

13 “(D) workforce quality and program manager
14 tenure (where applicable);

15 “(E) the quality of market research;

16 “(F) appropriate use of integrated testing;

17 “(G) appropriate consideration of long-term
18 sustainment and energy efficiency; and

19 “(H) appropriate acquisition of technical data
20 and other rights and assets necessary to support
21 long-term sustainment.

22 “(2) Each service acquisition executive within the De-
23 partment of Defense shall establish goals and standards
24 (including, at a minimum, a threshold standard and an
25 objective goal) for each metric established under para-

1 graph (1) by the executive. In establishing the goals and
2 standards for an element of the defense acquisition sys-
3 tem, a service acquisition executive shall consult with the
4 head of the element to the maximum extent practicable,
5 but the service acquisition executive shall retain the final
6 authority to determine the goals and standards estab-
7 lished. The service acquisition executive shall update the
8 goals and standards as necessary and appropriate con-
9 sistent with the guidance issued under subsection (b)(2).

10 “(3) The Under Secretary of Defense for Acquisition,
11 Technology, and Logistics shall periodically review the
12 metrics, goals, and standards established by service acqui-
13 sition executives under this subsection to ensure that they
14 are consistent with the guidance issued under subsection
15 (b)(2).

16 “(d) RESPONSIBILITY FOR OVERSIGHT AND DIREC-
17 TION OF PERFORMANCE ASSESSMENTS.—(1) Perform-
18 ance assessments required by subsection (a) shall either
19 be carried out by, or shall be subject to the oversight of,
20 the Director of the Office of Performance Assessment and
21 Root Cause Analysis. The authority and responsibility
22 granted by this subsection is in addition to any other au-
23 thority or responsibility granted to the Director of the Of-
24 fice of Performance Assessment and Root Cause Analysis
25 by the Secretary of Defense or by any other provision of

1 law. In the performance of duties pursuant to this section,
2 the Director of the Office of Performance Assessment and
3 Root Cause Analysis shall coordinate with the Deputy
4 Chief Management Officer to ensure that performance as-
5 sessments carried out pursuant to this section are con-
6 sistent with the performance management initiatives of
7 the Department of Defense.

8 “(2) A performance assessment may be carried out
9 by an organization under the control of the service acquisi-
10 tion executive of a military department if—

11 “(A) the assessment fulfills the requirements of
12 subsection (a);

13 “(B) the organization is approved to carry out
14 the assessment by the Director of the Office of Per-
15 formance Assessment and Root Cause Analysis; and

16 “(C) the assessment is subject to the oversight
17 of the Director of the Office of Performance Assess-
18 ment and Root Cause Analysis in accordance with
19 paragraph (1).

20 “(e) RETENTION AND ACCESS TO RECORDS OF PER-
21 FORMANCE ASSESSMENTS WITHIN THE MILITARY DE-
22 PARTMENTS AND DEFENSE AGENCIES.—The Secretary of
23 Defense shall ensure that information from performance
24 assessments of all elements of the defense acquisition sys-
25 tem are retained electronically and that the Director of

1 the Office of Performance Assessment and Root Cause
2 Analysis—

3 “(1) promptly receives the results of all per-
4 formance assessments conducted by an organization
5 under the control of the service acquisition executive
6 of a military department; and

7 “(2) has timely access to any records and data
8 in the Department of Defense (including the records
9 and data of each military department and Defense
10 Agency and including classified and proprietary in-
11 formation) that the Director considers necessary to
12 review in order to perform or oversee performance
13 assessments pursuant to this section.

14 “(f) INCLUSION IN ANNUAL REPORT.—The Director
15 of the Office of Performance Assessment and Root Cause
16 Analysis shall include information on the activities under-
17 taken by the Director under this section in the annual re-
18 port of the Director required under section 103(f) of the
19 Weapon Systems Acquisition Reform Act of 2009 (Public
20 Law 111–23; 123 Stat. 1716), including information on
21 any performance assessment required by subsection (a)
22 with significant findings. In addition, if a performance as-
23 sessment uncovers particularly egregious problems, as
24 identified by the Director, the Director shall submit to the
25 Committees on Armed Services of the Senate and the

1 House of Representatives a report on such problems with-
2 in 30 days after the problems are identified.

3 “(g) DEFINITIONS.—In this section:

4 “(1) The term ‘defense acquisition system’
5 means the acquisition workforce; the process by
6 which the Department of Defense manages the ac-
7 quisition of goods and services, including weapon
8 systems, commodities, commercial and military
9 unique services, and information technology; and the
10 management structure for carrying out the acquisi-
11 tion function within the Department of Defense.

12 “(2) The term ‘element of the defense acquisi-
13 tion system’ means an organization that operates
14 within the defense acquisition system and that fo-
15 cuses primarily on acquisition.

16 “(3) The term ‘metric’ means a specific meas-
17 ure that serves as a basis for comparison.

18 “(4) The term ‘threshold performance standard’
19 means the minimum acceptable level of performance
20 in relation to a metric.

21 “(5) The term ‘objective performance goal’
22 means the most desired level of performance in rela-
23 tion to a metric.

24 “(6) The term ‘Office of Performance Assess-
25 ment and Root Cause Analysis’ means the office re-

1 reporting to the senior official designated by the Sec-
2 retary of Defense under section 103(a) of the Weap-
3 on Systems Acquisition Reform Act of 2009 (Public
4 Law 111–23, 10 U.S.C. 2430 note).

5 **“§ 2546. Audits of performance assessments**

6 “(a) AUDITS REQUIRED.—The Secretary of Defense
7 shall ensure that the performance assessments of the de-
8 fense acquisition system required by section 2545 of this
9 title are subject to periodic audits to determine the accu-
10 racy, reliability, and completeness of such assessments.

11 “(b) STANDARDS AND APPROACH.—In performing
12 the audits required by subsection (a), the Secretary shall
13 ensure that such audits—

14 “(1) comply with generally accepted government
15 auditing standards issued by the Comptroller Gen-
16 eral;

17 “(2) use a risk-based approach to audit plan-
18 ning; and

19 “(3) appropriately account for issues associated
20 with auditing assessments of activities occurring in
21 a contingency operation.

22 **“§ 2547. Use of performance assessments for man-**
23 **aging performance**

24 “(a) IN GENERAL.—The Secretary of Defense shall
25 ensure that the results of performance assessments are

1 used in the management of elements of the defense acqui-
2 sition system through direct linkages between the results
3 of a performance assessment and the following:

4 “(1) The size of the bonus pool available to the
5 workforce of an element of the defense acquisition
6 system.

7 “(2) Rates of promotion in the workforce of an
8 element of the defense acquisition system.

9 “(3) Awards for acquisition excellence.

10 “(4) The scope of work assigned to an element
11 of the defense acquisition system.

12 “(b) **ADDITIONAL REQUIREMENTS.**—The Secretary
13 of Defense shall ensure that actions taken to manage the
14 acquisition workforce pursuant to subsection (a) are un-
15 dertaken in accordance with the requirements of sub-
16 sections (c) and (d) of section 1701a of this title.

17 **“§ 2548. Acquisition-related functions of the Chiefs of**
18 **Staff of the armed forces**

19 “(a) **ASSISTANCE.**—The Secretary of Defense shall
20 ensure, notwithstanding section 3014(c)(1)(A), section
21 5014(c)(1)(A), and section 8014(c)(1)(A) of this title, that
22 the Chief of Staff of the Army, the Chief of Naval Oper-
23 ations, the Chief of Staff of the Air Force, and the Com-
24 mandant of the Marine Corps assist the Secretary of the

1 military department concerned in the performance of the
2 following acquisition-related functions of such department:

3 “(1) The development of requirements relating
4 to the defense acquisition system.

5 “(2) The development of measures to control
6 requirements creep in the defense acquisition sys-
7 tem.

8 “(3) The development of career paths in acqui-
9 sition for military personnel (as required by section
10 1722a of this title).

11 “(4) The assignment and training of con-
12 tracting officer representatives when such represent-
13 atives are required to be members of the armed
14 forces because of the nature of the contract con-
15 cerned.

16 “(b) DEFINITIONS.—In this section:

17 “(1) The term ‘requirements creep’ means the
18 addition of new technical or operational specifica-
19 tions after a requirements document is approved.

20 “(2) The term ‘requirements document’ means
21 a document produced in the requirements process
22 that is provided for an acquisition program to guide
23 the subsequent development, production, and testing
24 of the program and that—

1 “(A) justifies the need for a materiel ap-
2 proach, or an approach that is a combination of
3 materiel and non-materiel, to satisfy one or
4 more specific capability gaps;

5 “(B) details the information necessary to
6 develop an increment of militarily useful,
7 logistically supportable, and technically mature
8 capability, including key performance param-
9 eters; or

10 “(C) identifies production attributes re-
11 quired for a single increment of a program.”.

12 (2) CLERICAL AMENDMENTS.—The table of
13 chapters at the beginning of subtitle A of title 10,
14 United States Code, and at the beginning of part IV
15 of such subtitle, are each amended by inserting after
16 the item relating to chapter 148 the following new
17 item:

 “149. Performance Management of the Defense Acquisition System 2545”.

18 (b) PHASED IMPLEMENTATION OF PERFORMANCE
19 ASSESSMENTS.—The Secretary of Defense shall imple-
20 ment the requirements of chapter 149 of title 10, United
21 States Code, as added by subsection (a), in a phased man-
22 ner while guidance is issued, and categories, metrics,
23 goals, and standards are established. Implementation shall
24 begin with a cross section of elements of the defense acqui-
25 sition system representative of the entire system and shall

1 be completed for all elements not later than 2 years after
2 the date of the enactment of this Act.

3 **SEC. 102. MEANINGFUL CONSIDERATION BY JOINT RE-**
4 **QUIREMENTS OVERSIGHT COUNCIL OF**
5 **INPUT FROM CERTAIN OFFICIALS.**

6 (a) ADVISORS TO THE JOINT REQUIREMENTS OVER-
7 SIGHT COUNCIL.—

8 (1) ADDITIONAL CIVILIAN ADVISORS.—Sub-
9 section (d)(1) of section 181 of title 10, United
10 States Code, is amended by striking “The Under
11 Secretary” and all that follows through “and exper-
12 tise.” and inserting the following: “The following of-
13 ficials of the Department of Defense shall serve as
14 advisors to the Council on matters within their au-
15 thority and expertise:

16 “(A) The Under Secretary of Defense for Ac-
17 quisition, Technology, and Logistics.

18 “(B) The Under Secretary of Defense (Comp-
19 troller).

20 “(C) The Under Secretary of Defense for Pol-
21 icy.

22 “(D) The Director of Cost Assessment and Pro-
23 gram Evaluation.”.

1 (2) ROLE OF COMBATANT COMMANDERS AS
2 MEMBERS OF THE JROC.—Paragraph (1) of sub-
3 section (c) of such section is amended—

4 (A) by striking “and” at the end of sub-
5 paragraph (D);

6 (B) by striking the period at the end of
7 subparagraph (E) and inserting “; and”; and

8 (C) by adding at the end the following new
9 subparagraph:

10 “(F) when directed by the chairman, the
11 commander of any combatant command (or, as
12 directed by that commander, the deputy com-
13 mander of that command) when matters related
14 to the area of responsibility or functions of that
15 command will be under consideration by the
16 Council.”.

17 (b) AMENDMENT RELATED TO REPORT.—Paragraph
18 (2) of section 105(c) of the Weapon Systems Acquisition
19 Reform Act of 2009 (Public Law 111–23; 123 Stat. 1718)
20 is amended to read as follows:

21 “(2) MATTERS COVERED.—The report shall in-
22 clude, at a minimum, an assessment of—

23 “(A) the extent to which the Council has
24 effectively sought, and the commanders of the
25 combatant commands have provided, meaning-

1 ful input on proposed joint military require-
2 ments;

3 “(B) the extent to which the Council has
4 meaningfully considered the input and expertise
5 of the Under Secretary of Defense for Acquisi-
6 tion, Technology, and Logistics in its discus-
7 sions;

8 “(C) the extent to which the Council has
9 meaningfully considered the input and expertise
10 of the Director of Cost Assessment and Pro-
11 gram Evaluation in its discussions;

12 “(D) the quality and effectiveness of ef-
13 forts to estimate the level of resources needed
14 to fulfill joint military requirements; and

15 “(E) the extent to which the Council has
16 considered trade-offs among cost, schedule, and
17 performance objectives.”.

18 (c) ASSESSMENT OF INDEPENDENCE OF COST ESTI-
19 MATORS AND COST ANALYSTS REQUIRED IN NEXT AN-
20 NUAL REPORT ON COST ASSESSMENT ACTIVITIES.—In
21 the next annual report prepared by the Director of Cost
22 Assessment and Program Evaluation under section
23 2334(e) of title 10, United States Code, the Director shall
24 include an assessment of whether and to what extent per-
25 sonnel responsible for cost estimates or cost analysis devel-

1 oped by a military department or defense agency for a
2 major defense acquisition program are independent and
3 whether their independence or lack thereof affects their
4 ability to generate reliable cost estimates.

5 **SEC. 103. PERFORMANCE MANAGEMENT FOR THE JOINT**
6 **CAPABILITIES INTEGRATION AND DEVELOP-**
7 **MENT SYSTEM.**

8 (a) **REQUIREMENT FOR PROGRAM.**—The Secretary of
9 Defense shall ensure that the Department of Defense de-
10 velops and implements a program to manage performance
11 in establishing joint military requirements pursuant to
12 section 181 of title 10, United States Code.

13 (b) **LEADERS.**—The Secretary of Defense shall des-
14 ignate an officer identified or designated as a joint quali-
15 fied officer to serve as leader of a joint effort to develop
16 the performance management program required by sub-
17 section (a). The Secretary shall also designate an officer
18 from each Armed Force to serve as leader of the effort
19 within the Armed Force concerned. Officers designated
20 pursuant to this section shall have the seniority and au-
21 thority necessary to oversee and direct all personnel en-
22 gaged in establishing joint military requirements within
23 the Joint Staff or within the Armed Force concerned.

24 (c) **MATTERS COVERED.**—The program developed
25 pursuant to subsection (a) shall:

1 (1) Measure the following in relation to each
2 joint military requirement:

3 (A) The time a requirements document
4 takes to receive validation through the require-
5 ments process.

6 (B) The quality of cost information associ-
7 ated with the requirement and the extent to
8 which cost information was considered during
9 the requirements process.

10 (C) The extent to which the requirements
11 process established a meaningful level of pri-
12 ority for the requirement.

13 (D) The extent to which the requirements
14 process considered trade-offs between cost,
15 schedule, and performance objectives.

16 (E) The quality of information on
17 sustainment associated with the requirement
18 and the extent to which sustainment informa-
19 tion was considered during the requirements
20 process.

21 (F) Such other matters as the Secretary
22 shall determine appropriate.

23 (2) Achieve, to the maximum extent practicable,
24 the following outcomes in the requirements process:

1 (A) Timeliness in delivering capability to
2 the warfighter.

3 (B) Mechanisms for controlling require-
4 ments creep.

5 (C) Responsiveness to fact-of-life changes
6 occurring after the approval of a requirements
7 document, including changes to the threat envi-
8 ronment, the emergence of new capabilities, or
9 changes in the resources estimated to procure
10 or sustain a capability.

11 (D) The development of the personnel
12 skills, capacity, and training needed for an ef-
13 fective and efficient requirements process.

14 (E) Such other outcomes as the Secretary
15 shall determine appropriate.

16 (d) IMPLEMENTATION.—The program required by
17 subsection (a) shall be developed and initially implemented
18 not later than 1 year after the date of the enactment of
19 this Act and shall apply to requirements documents enter-
20 ing the requirements process after the date of initial im-
21 plementation.

22 (e) INITIAL REPORT.—Not later than 90 days after
23 the initial implementation of the program required by sub-
24 section (a), the Secretary shall submit to the congressional
25 defense committees a report on the steps taken to develop

1 and implement the performance management program for
2 joint military requirements. The report shall address the
3 measures specified in subsection (c)(1).

4 (f) FINAL REPORT.—Not later than 4 years after the
5 initial implementation of the program required by sub-
6 section (a), the Secretary shall submit to the congressional
7 defense committees a report on the effectiveness of the
8 program for joint military requirements in achieving the
9 outcomes specified in subsection (c)(2).

10 (g) DEFINITIONS.—In this section:

11 (1) REQUIREMENTS PROCESS.—The term “re-
12 quirements process” means the Joint Capabilities
13 Integration and Development System (JCIDS) proc-
14 ess or any successor to such process established by
15 the Chairman of the Joint Chiefs of Staff to support
16 the statutory responsibility of the Joint Require-
17 ments Oversight Council in advising the Chairman
18 and the Secretary of Defense in identifying, assess-
19 ing, and validating joint military capability needs,
20 with their associated operational performance cri-
21 teria, in order to successfully execute missions.

22 (2) REQUIREMENTS DOCUMENT.—The term
23 “requirements document” means a document pro-
24 duced in the requirements process that is provided
25 for an acquisition program to guide the subsequent

1 development, production, and testing of the program
2 and that—

3 (A) justifies the need for a materiel ap-
4 proach, or an approach that is a combination of
5 materiel and non-materiel, to satisfy one or
6 more specific capability gaps;

7 (B) details the information necessary to
8 develop an increment of militarily useful,
9 logistically supportable, and technically mature
10 capability, including key performance param-
11 eters; or

12 (C) identifies production attributes re-
13 quired for a single increment of a program.

14 (3) REQUIREMENTS CREEP.—The term “re-
15 quirements creep” means the addition of new tech-
16 nical or operational specifications after a require-
17 ments document is approved.

18 (h) DISCRETIONARY IMPLEMENTATION AFTER 5
19 YEARS.—After the date that is 5 years after the initial
20 implementation of the performance management program
21 under this section, the requirement to implement a pro-
22 gram under this section shall be at the discretion of the
23 Secretary of Defense.

1 **SEC. 104. REQUIREMENTS FOR THE ACQUISITION OF SERV-**
2 **ICES.**

3 (a) **PROCESS REQUIRED.**—The Secretary of Defense
4 shall ensure that each military department establishes a
5 process for identifying, assessing, and approving require-
6 ments for the acquisition of services, and that com-
7 manders of unified combatant commands and other offi-
8 cers identified or designated as joint qualified officers have
9 an opportunity to participate in the process of each mili-
10 tary department to provide input on joint requirements
11 for the acquisition of services.

12 (b) **GUIDANCE AND PLAN REQUIRED.**—The Chief of
13 Staff of the Army, the Chief of Naval Operations, the
14 Chief of Staff of the Air Force, and the Commandant of
15 the Marine Corps shall—

16 (1) issue and maintain guidance relating to
17 each process established under subsection (a); and

18 (2) develop a plan to implement each process
19 established under subsection (a).

20 (c) **MATTERS REQUIRED IN GUIDANCE.**—The guid-
21 ance issued under subsection (b) shall establish, in relation
22 to a process for identifying, assessing, and approving re-
23 quirements for the acquisition of services, the following:

24 (1) Organization of such process.

25 (2) The level of command responsibility re-
26 quired for identifying and validating requirements

1 for the acquisition of services in accordance with the
2 categories established under section 2330(a)(1)(C)
3 of title 10, United States Code.

4 (3) The composition of billets necessary to oper-
5 ate such process.

6 (4) The training required for personnel engaged
7 in such process.

8 (5) The relationship between doctrine and such
9 process.

10 (6) Methods of obtaining input on joint require-
11 ments for the acquisition of services.

12 (7) Procedures for coordinating with the acqui-
13 sition process.

14 (8) Considerations relating to opportunities for
15 strategic sourcing.

16 (d) MATTERS REQUIRED IN IMPLEMENTATION
17 PLAN.—Each plan required under subsection (b) shall
18 provide for initial implementation of a process for identi-
19 fying, assessing, and approving requirements for the ac-
20 quisition of services not later than 180 days after the date
21 of the enactment of this Act and shall provide for full im-
22 plementation of such process at the earliest date prac-
23 ticable.

24 (e) CONSISTENCY WITH JOINT GUIDANCE.—When-
25 ever, at any time, guidance is issued by the Chairman of

1 the Joint Chiefs of Staff relating to requirements for the
2 acquisition of services, each process established under sub-
3 section (a) shall be revised in accordance with such joint
4 guidance.

5 (f) DEFINITION.—The term “requirements for the
6 acquisition of services” means objectives to be achieved
7 through acquisitions primarily involving the procurement
8 of services.

9 **SEC. 105. JOINT EVALUATION TASK FORCES.**

10 (a) TASK FORCES REQUIRED.—For each joint mili-
11 tary requirement involving a materiel solution for which
12 the Chairman of the Joint Requirements Oversight Coun-
13 cil is the validation authority, the Chairman shall des-
14 ignate a commander of a unified combatant command to
15 provide a joint evaluation task force to participate in such
16 materiel solution. Such task force shall—

17 (1) come from a military unit or units des-
18 ignated by the combatant commander concerned;

19 (2) be selected based on the relevance of such
20 materiel solution to the mission of the unit; and

21 (3) participate consistent with its operational
22 obligations.

23 (b) RESPONSIBILITIES.—A task force provided pur-
24 suant to subsection (a) shall, for the materiel solution con-
25 cerned—

- 1 (1) provide input to the analysis of alternatives;
- 2 (2) participate in testing (including limited user
- 3 tests and prototype testing);
- 4 (3) provide input on a concept of operations
- 5 and doctrine;
- 6 (4) provide end user feedback to the resource
- 7 sponsor; and
- 8 (5) participate, through the combatant com-
- 9 mander concerned, in any alteration of the require-
- 10 ment for such solution.

11 (c) ADMINISTRATIVE SUPPORT.—The resource spon-

12 sor for the joint military requirement shall provide admin-

13 istrative support to the joint evaluation task force for pur-

14 poses of carrying out this section.

15 (d) DEFINITIONS.—In this section:

16 (1) RESOURCE SPONSOR.—The term “resource

17 sponsor” means the organization responsible for all

18 common documentation, periodic reporting, and

19 funding actions required to support the capabilities

20 development and acquisition process for the materiel

21 solution.

22 (2) MATERIEL SOLUTION.—The term “materiel

23 solution” means the development, acquisition, pro-

24 curement, or fielding of a new item, or of a modi-

1 fication to an existing item, necessary to equip, oper-
2 ate, maintain, and support military activities.

3 **SEC. 106. REVIEW OF DEFENSE ACQUISITION GUIDANCE.**

4 (a) REVIEW OF GUIDANCE.—The Secretary of De-
5 fense shall review the acquisition guidance of the Depart-
6 ment of Defense, including, at a minimum, the guidance
7 contained in Department of Defense Instruction 5000.02
8 entitled “Operation of the Defense Acquisition System”.

9 (b) MATTERS CONSIDERED.—The review performed
10 under subsection (a) shall consider—

11 (1) the extent to which it is appropriate to
12 apply guidance primarily relating to the acquisition
13 of weapon systems to acquisitions not involving
14 weapon systems (including the acquisition of com-
15 mercial goods and commodities, commercial and
16 military unique services, and information tech-
17 nology);

18 (2) whether long-term sustainment and energy
19 efficiency of weapon systems is appropriately empha-
20 sized;

21 (3) whether appropriate mechanisms exist to
22 communicate information relating to the mission
23 needs of the Department of Defense to the industrial
24 base in a way that allows the industrial base to
25 make appropriate investments in infrastructure, ca-

1 capacity, and technology development to help meet
2 such needs;

3 (4) the extent to which earned value manage-
4 ment should be required on acquisitions not involv-
5 ing the acquisition of weapon systems and whether
6 measures of quality and technical performance
7 should be included in any earned value management
8 system;

9 (5) the extent to which it is appropriate to
10 apply processes primarily relating to the acquisition
11 of weapon systems to the acquisition of information
12 technology systems, consistent with the requirement
13 to develop an alternative process for such systems
14 contained in section 804 of the National Defense
15 Authorization Act for Fiscal Year 2010 (Public Law
16 111–84; 123 Stat. 2401; 10 U.S.C. 2225 note); and

17 (6) such other matters as the Secretary con-
18 siders appropriate.

19 (c) REPORT.—Not later than 270 days after the date
20 of the enactment of this Act, the Secretary of Defense
21 shall submit to the Committees on Armed Services of the
22 Senate and of the House of Representatives a report de-
23 tailing any changes in the acquisition guidance of the De-
24 partment of Defense identified during the review required

1 by subsection (a), and any actions taken, or planned to
2 be taken, to implement such changes.

3 **SEC. 107. REQUIREMENT TO INCLUDE REFERENCES TO**
4 **SERVICES ACQUISITION THROUGHOUT THE**
5 **FEDERAL ACQUISITION REGULATION.**

6 (a) FINDINGS.—Congress finds the following:

7 (1) The acquisition of services can be extremely
8 complex, and program management skills, tools, and
9 processes need to be applied to services acquisitions.

10 (2) An emphasis on the concept of “services”
11 throughout the Federal Acquisition Regulation
12 would enhance and support the procurement and
13 project management community in all aspects of the
14 acquisition planning process, including requirements
15 development, assessment of reasonableness, and
16 post-award management and oversight.

17 (b) REQUIREMENT FOR CHANGES TO FAR.—The
18 Federal Acquisition Regulation shall be revised to provide,
19 throughout the Regulation, appropriate references to serv-
20 ices acquisition that are in addition to references provided
21 in part 37 (which relates specifically to services acquisi-
22 tion).

23 (c) DEADLINE.—This section shall be carried out
24 within 270 days after the date of the enactment of this
25 Act.

1 **SEC. 108. PROCUREMENT OF MILITARY PURPOSE NON-**
2 **DEVELOPMENTAL ITEMS.**

3 (a) IN GENERAL.—

4 (1) PROCUREMENT OF MILITARY PURPOSE
5 NONDEVELOPMENTAL ITEMS.—Chapter 141 of title
6 10, United States Code, is amended by adding at
7 the end the following new section:

8 **“§ 2410r. Military purpose nondevelopmental items**

9 “(a) DEFINITIONS.—In this section:

10 “(1) The term ‘military purpose nondevelop-
11 mental item’ means an item—

12 “(A) developed exclusively at private ex-
13 pense;

14 “(B) that meets a validated military re-
15 quirement, as certified in writing by the respon-
16 sible program manager;

17 “(C) for which delivery of an initial lot of
18 production-representative items may be made
19 within nine months after contract award; and

20 “(D) for which the unit cost is less than
21 \$10,000,000.

22 “(2) The term ‘item’ has the meaning provided
23 in section 2302(3) of this title.

24 “(b) REQUIREMENTS.—The Secretary of Defense
25 shall ensure that, with respect to a contract for the acqui-

1 sition of a military purpose nondevelopmental item, the
2 following requirements apply:

3 “(1) The contract shall be awarded using com-
4 petitive procedures in accordance with section 2304
5 of this title.

6 “(2) Certain contract clauses, as specified in
7 regulations prescribed under subsection (c), shall be
8 included in each such contract.

9 “(3) The type of contract used shall be a firm,
10 fixed price type contract.

11 “(4) Nothing in the contract shall further re-
12 strict or otherwise affect the rights in technical data
13 of the Government, the contractor, or any subcon-
14 tractor of the contractor for items developed by the
15 contractor or any such subcontractor exclusively at
16 private expense, as prescribed in regulations imple-
17 menting section 2320(a)(2)(B) of this title.

18 “(c) REGULATIONS.—The Secretary of Defense shall
19 prescribe regulations to carry out this section. Such regu-
20 lations shall be included in regulations of the Department
21 of Defense prescribed as part of the Federal Acquisition
22 Regulation. At a minimum, the regulations shall include—

23 “(1) a list of contract clauses to be included in
24 each contract for the acquisition of a military pur-
25 pose nondevelopmental item;

1 “(2) definitions for the terms ‘developed’ and
2 ‘exclusively at private expense’ that—

3 “(A) are consistent with the definitions de-
4 veloped for such terms in accordance with
5 2320(a)(3) of this title; and

6 “(B) also exclude an item developed in
7 part or in whole with—

8 “(i) foreign government funding; or

9 “(ii) foreign or Federal Government
10 loan financing at nonmarket rates; and

11 “(3) standards for evaluating the reasonable-
12 ness of price for the military purpose nondevelop-
13 mental item, in lieu of certified cost or pricing
14 data.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions at the beginning of such chapter is amended
17 by adding at the end the following new item:

“2410r. Military purpose nondevelopmental items.”.

18 (b) COST OR PRICING DATA EXCEPTION.—Section
19 2306a(b)(1) of title 10, United States Code, is amended—

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

22 (2) by striking the period at the end of sub-
23 paragraph (C) and inserting “; or”; and

24 (3) by adding at the end the following new sub-
25 paragraph:

1 “(D) for the acquisition of a military pur-
 2 pose nondevelopmental item, as defined in sec-
 3 tion 2410r of this title, if the contracting officer
 4 determines in writing that—

5 “(i) the contract, subcontract or modi-
 6 fication will be a firm, fixed price type con-
 7 tract; and

8 “(ii) the offeror has submitted suffi-
 9 cient information to evaluate, through
 10 price analysis, the reasonableness of the
 11 price for the military purpose nondevelop-
 12 mental item.”.

13 (c) EFFECTIVE DATE.—Section 2410r of title 10,
 14 United States Code, as added by subsection (a), and the
 15 amendment made by subsection (b), shall apply with re-
 16 spect to contracts entered into after the date that is 120
 17 days after the date of the enactment of this Act.

18 **TITLE II—DEFENSE**
 19 **ACQUISITION WORKFORCE**

20 **SEC. 201. ACQUISITION WORKFORCE EXCELLENCE.**

21 (a) IN GENERAL.—

22 (1) ACQUISITION WORKFORCE EXCELLENCE.—
 23 Subchapter I of chapter 87 of title 10, United States
 24 Code, is amended by inserting after section 1701 the
 25 following new section:

1 **“§ 1701a. Management for acquisition workforce ex-**
2 **cellence**

3 “(a) PURPOSE.—The purpose of this chapter is to re-
4 quire the Department of Defense to develop and manage
5 a highly skilled professional acquisition workforce—

6 “(1) in which excellence and contribution to
7 mission is rewarded;

8 “(2) which has the technical expertise and busi-
9 ness skills to ensure the Department receives the
10 best value for the expenditure of public resources;

11 “(3) which serves as a model for performance
12 management of employees of the Department; and

13 “(4) which is managed in a manner that com-
14 plements and reinforces the performance manage-
15 ment of the defense acquisition system pursuant to
16 chapter 149 of this title.

17 “(b) PERFORMANCE MANAGEMENT.—In order to
18 achieve the purpose set forth in subsection (a), the Sec-
19 retary of Defense shall—

20 “(1) use the full authorities provided in sub-
21 sections (a) through (d) of section 9902 of title 5,
22 including flexibilities related to performance manage-
23 ment and hiring and to training of managers;

24 “(2) require managers to develop performance
25 plans for individual members of the acquisition
26 workforce in order to give members an under-

1 standing of how their performance contributes to
2 their organization’s mission and the success of the
3 defense acquisition system (as defined in section
4 2545 of this title);

5 “(3) to the extent appropriate, use the lessons
6 learned from the acquisition demonstration project
7 carried out under section 1762 of this title related
8 to contribution-based compensation and appraisal,
9 and how those lessons may be applied within the
10 General Schedule system;

11 “(4) develop attractive career paths;

12 “(5) encourage continuing education and train-
13 ing;

14 “(6) develop appropriate procedures for warn-
15 ings during performance evaluations and due process
16 for members of the acquisition workforce who con-
17 sistently fail to meet performance standards;

18 “(7) take full advantage of the Defense Civilian
19 Leadership Program established under section 1112
20 of the National Defense Authorization Act for Fiscal
21 Year 2010 (Public Law 111–84; 123 Stat. 2496; 10
22 U.S.C. 1580 note prec.);

23 “(8) use the authorities for highly qualified ex-
24 perts under section 9903 of title 5, to hire experts
25 who are skilled acquisition professionals to—

1 “(A) serve in leadership positions within
2 the acquisition workforce to strengthen manage-
3 ment and oversight;

4 “(B) provide mentors to advise individuals
5 within the acquisition workforce on their career
6 paths and opportunities to advance and excel
7 within the acquisition workforce; and

8 “(C) assist with the design of education
9 and training courses and the training of indi-
10 viduals in the acquisition workforce; and

11 “(9) use the authorities for expedited security
12 clearance processing pursuant to section 1564 of
13 this title.

14 “(c) NEGOTIATIONS.—Any action taken by the Sec-
15 retary under this section, or to implement this section,
16 shall be subject to the requirements of chapter 71 of title
17 5.

18 “(d) REGULATIONS.—Any rules or regulations pre-
19 scribed pursuant to this section shall be deemed an agency
20 rule or regulation under section 7117(a)(2) of title 5, and
21 shall not be deemed a Government-wide rule or regulation
22 under section 7117(a)(1) of such title.”.

23 (2) CLERICAL AMENDMENT.—The table of sec-
24 tions at the beginning of such subchapter is amend-

1 ed by inserting after the item relating to section
2 1701 the following new item:

“1701a. Management for acquisition workforce excellence.”.

3 (b) **AUTHORITY TO APPOINT HIGHLY QUALIFIED**
4 **EXPERTS ON PART-TIME BASIS.**—Section 9903(b)(1) of
5 title 5, United States Code, is amended by inserting “,
6 on a full-time or part-time basis,” after “positions in the
7 Department of Defense” the first place it appears.

8 **SEC. 202. AMENDMENTS TO THE ACQUISITION WORKFORCE**
9 **DEMONSTRATION PROJECT.**

10 (a) **CODIFICATION INTO TITLE 10.**—

11 (1) **IN GENERAL.**—Chapter 87 of title 10,
12 United States Code, is amended by inserting after
13 section 1761 the following new section:

14 **“§ 1762. Demonstration project relating to certain ac-**
15 **quisition personnel management policies**
16 **and procedures**

17 “(a) **COMMENCEMENT.**—The Secretary of Defense is
18 encouraged to carry out a demonstration project, the pur-
19 pose of which is to determine the feasibility or desirability
20 of one or more proposals for improving the personnel man-
21 agement policies or procedures that apply with respect to
22 the acquisition workforce of the Department of Defense
23 and supporting personnel assigned to work directly with
24 the acquisition workforce.

1 “(b) TERMS AND CONDITIONS.—(1) Except as other-
2 wise provided in this subsection, any demonstration
3 project described in subsection (a) shall be subject to sec-
4 tion 4703 of title 5 and all other provisions of such title
5 that apply with respect to any demonstration project
6 under such section.

7 “(2) Subject to paragraph (3), in applying section
8 4703 of title 5 with respect to a demonstration project
9 described in subsection (a)—

10 “(A) ‘180 days’ in subsection (b)(4) of such
11 section shall be deemed to read ‘120 days’;

12 “(B) ‘90 days’ in subsection (b)(6) of such sec-
13 tion shall be deemed to read ‘30 days’; and

14 “(C) subsection (d)(1) of such section shall be
15 disregarded.

16 “(3) Paragraph (2) shall not apply with respect to
17 a demonstration project unless—

18 “(A) for each organization or team partici-
19 pating in the demonstration project—

20 “(i) at least one-third of the workforce par-
21 ticipating in the demonstration project consists
22 of members of the acquisition workforce; and

23 “(ii) at least two-thirds of the workforce
24 participating in the demonstration project con-
25 sists of members of the acquisition workforce

1 and supporting personnel assigned to work di-
2 rectly with the acquisition workforce; and

3 “(B) the demonstration project commences be-
4 fore October 1, 2007.

5 “(c) LIMITATION ON NUMBER OF PARTICIPANTS.—
6 The total number of persons who may participate in the
7 demonstration project under this section may not exceed
8 120,000.

9 “(d) EFFECT OF REORGANIZATIONS.—The applica-
10 bility of paragraph (2) of subsection (b) to an organization
11 or team shall not terminate by reason that the organiza-
12 tion or team, after having satisfied the conditions in para-
13 graph (3) of such subsection when it began to participate
14 in a demonstration project under this section, ceases to
15 meet one or both of the conditions set forth in subpara-
16 graph (A) of such paragraph (3) as a result of a reorga-
17 nization, restructuring, realignment, consolidation, or
18 other organizational change.

19 “(e) ASSESSMENT.—(1) The Secretary of Defense
20 shall designate an independent organization to review the
21 acquisition workforce demonstration project described in
22 subsection (a).

23 “(2) Such assessment shall include:

24 “(A) A description of the workforce included in
25 the project.

1 “(B) An explanation of the flexibilities used in
2 the project to appoint individuals to the acquisition
3 workforce and whether those appointments are based
4 on competitive procedures and recognize veteran’s
5 preferences.

6 “(C) An explanation of the flexibilities used in
7 the project to develop a performance appraisal sys-
8 tem that recognizes excellence in performance and
9 offers opportunities for improvement.

10 “(D) The steps taken to ensure that such sys-
11 tem is fair and transparent for all employees in the
12 project.

13 “(E) How the project allows the organization to
14 better meet mission needs.

15 “(F) An analysis of how the flexibilities in sub-
16 paragraphs (B) and (C) are used, and what barriers
17 have been encountered that inhibit their use.

18 “(G) Whether there is a process for—

19 “(i) ensuring ongoing performance feed-
20 back and dialogue among supervisors, man-
21 agers, and employees throughout the perform-
22 ance appraisal period; and

23 “(ii) setting timetables for performance ap-
24 praisals.

1 “(H) The project’s impact on career progres-
2 sion.

3 “(I) The project’s appropriateness or inappro-
4 priateness in light of the complexities of the work-
5 force affected.

6 “(J) The project’s sufficiency in terms of pro-
7 viding protections for diversity in promotion and re-
8 tention of personnel.

9 “(K) The adequacy of the training, policy
10 guidelines, and other preparations afforded in con-
11 nection with using the project.

12 “(L) Whether there is a process for ensuring
13 employee involvement in the development and im-
14 provement of the project.

15 “(3) The first such assessment under this subsection
16 shall be completed not later than September 30, 2011, and
17 subsequent assessments shall be completed every two
18 years thereafter until the termination of the project. The
19 Secretary shall submit to the covered congressional com-
20 mittees a copy of the assessment within 30 days after re-
21 ceipt by the Secretary of the assessment.

22 “(f) COVERED CONGRESSIONAL COMMITTEES.—In
23 this section, the term ‘covered congressional committees’
24 means—

1 “(1) the Committees on Armed Services of the
2 Senate and the House of Representatives;

3 “(2) the Committee on Homeland Security and
4 Governmental Affairs of the Senate; and

5 “(3) the Committee on Oversight and Govern-
6 ment Reform of the House of Representatives.

7 “(g) TERMINATION OF AUTHORITY.—The authority
8 to conduct a demonstration program under this section
9 shall terminate on September 30, 2017.

10 “(h) CONVERSION.—Within six months after the au-
11 thority to conduct a demonstration project under this sec-
12 tion is terminated as provided in subsection (g), employees
13 in the project shall convert to the civilian personnel system
14 created pursuant to section 9902 of title 5.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions at the beginning of subchapter V of chapter 87
17 of title 10, United States Code, is amended by in-
18 serting after the item relating to section 1761 the
19 following new item:

 “1762. Demonstration project relating to certain acquisition personnel manage-
 ment policies and procedures.”.

20 (b) CONFORMING REPEAL.—Section 4308 of the Na-
21 tional Defense Authorization Act for Fiscal Year 1996
22 (Public Law 104–106; 10 U.S.C. 1701 note) is repealed.

1 **SEC. 203. INCENTIVE PROGRAMS FOR CIVILIAN AND MILI-**
2 **TARY PERSONNEL IN THE ACQUISITION**
3 **WORKFORCE.**

4 (a) IN GENERAL.—Chapter 87 of title 10, United
5 States Code, is amended by inserting after section 1762,
6 as added by section 202, the following new section:

7 **“§ 1763. Incentive programs for civilian and military**
8 **personnel in the acquisition workforce**

9 “(a) CIVILIAN ACQUISITION WORKFORCE INCEN-
10 TIVES.—The Secretary of Defense, acting through the
11 Under Secretary of Defense for Acquisition, Technology,
12 and Logistics, shall provide for an enhanced system of in-
13 centives for the encouragement of excellence in the acqui-
14 sition workforce by providing rewards for employees who
15 contribute to achieving the agency’s performance goals.
16 The system of incentives shall include provisions that—

17 “(1) relate salary increases, bonuses, and
18 awards to performance and contribution to the agen-
19 cy mission (including the extent to which the per-
20 formance of personnel in such workforce contributes
21 to achieving the goals and standards established for
22 acquisition programs pursuant to section 2545 of
23 this title);

24 “(2) provide for consideration, in personnel
25 evaluations and promotion decisions, of the extent to
26 which the performance of personnel in such work-

1 force contributes to achieving such goals and stand-
2 ards;

3 “(3) use the Department of Defense Civilian
4 Workforce Incentive Fund established pursuant to
5 section 9902(a) of title 5; and

6 “(4) provide opportunities for career broad-
7 ening experiences for high performers.

8 “(b) MILITARY ACQUISITION WORKFORCE INCEN-
9 TIVES.—The Secretaries of the military departments shall
10 fully use and enhance incentive programs that reward in-
11 dividuals, through recognition certificates or cash awards,
12 for suggestions of process improvements that contribute
13 to improvements in efficiency and economy and a better
14 way of doing business.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of subchapter V of chapter 87 of title
17 10, United States Code, is amended by inserting after the
18 item relating to section 1762, as added by section 202,
19 the following new item:

“1763. Incentive programs for civilian and military personnel in the acquisition
workforce.”.

20 **SEC. 204. CAREER DEVELOPMENT FOR CIVILIAN AND MILI-**
21 **TARY PERSONNEL IN THE ACQUISITION**
22 **WORKFORCE.**

23 (a) CAREER PATHS.—

1 (1) AMENDMENT.—Chapter 87 of title 10,
2 United States Code, is amended by inserting after
3 section 1722a the following new section:

4 **“§ 1722b. Special requirements for civilian employees**
5 **in the acquisition field**

6 “(a) REQUIREMENT FOR POLICY AND GUIDANCE RE-
7 GARDING CIVILIAN PERSONNEL IN ACQUISITION.—The
8 Secretary of Defense, acting through the Under Secretary
9 of Defense for Acquisition, Technology, and Logistics,
10 shall establish policies and issue guidance to ensure the
11 proper development, assignment, and employment of civil-
12 ian members of the acquisition workforce to achieve the
13 objectives specified in subsection (b).

14 “(b) OBJECTIVES.—Policies established and guidance
15 issued pursuant to subsection (a) shall ensure, at a min-
16 imum, the following:

17 “(1) A career path in the acquisition field that
18 attracts the highest quality civilian personnel, from
19 either within or outside the Federal Government.

20 “(2) A deliberate workforce development strat-
21 egy that increases attainment of key experiences
22 that contribute to a highly qualified acquisition
23 workforce.

24 “(3) Sufficient opportunities for promotion and
25 advancement in the acquisition field.

1 “(4) A sufficient number of qualified, trained
2 members eligible for and active in the acquisition
3 field to ensure adequate capacity, capability, and ef-
4 fective succession for acquisition functions, including
5 contingency contracting, of the Department of De-
6 fense.

7 “(5) A deliberate workforce development strat-
8 egy that ensures diversity in promotion, advance-
9 ment, and experiential opportunities commensurate
10 with the general workforce outlined in this section.

11 “(c) INCLUSION OF INFORMATION IN ANNUAL RE-
12 PORT.—The Secretary of Defense shall include in the re-
13 port to Congress required under section 115b(d) of this
14 title the following information related to the acquisition
15 workforce for the period covered by the report (which shall
16 be shown for the Department of Defense as a whole and
17 separately for the Army, Navy, Air Force, Marine Corps,
18 Defense Agencies, and Office of the Secretary of Defense):

19 “(1) The total number of persons serving in the
20 Acquisition Corps, set forth separately for members
21 of the armed forces and civilian employees, by grade
22 level and by functional specialty.

23 “(2) The total number of critical acquisition po-
24 sitions held, set forth separately for members of the
25 armed forces and civilian employees, by grade level

1 and by other appropriate categories (including by
2 program manager, deputy program manager, and di-
3 vision head positions). For each such category, the
4 report shall specify the number of civilians holding
5 such positions compared to the total number of posi-
6 tions filled.

7 “(3) The number of employees to whom the re-
8 quirements of subsections (b)(2)(A) and (b)(2)(B) of
9 section 1732 of this title did not apply because of
10 the exceptions provided in paragraphs (1) and (2) of
11 section 1732(c) of this title, set forth separately by
12 type of exception.

13 “(4) The number of program managers and
14 deputy program managers who were reassigned after
15 completion of a major milestone occurring closest in
16 time to the date on which the person has served in
17 the position for four years (as required under section
18 1734(b) of this title), and the proportion of those re-
19 assignments to the total number of reassignments of
20 program managers and deputy program managers,
21 set forth separately for program managers and dep-
22 uty program managers. The Secretary also shall in-
23 clude the average length of assignment served by
24 program managers and deputy program managers so
25 reassigned.

1 “(5) The number of persons, excluding those
2 reported under paragraph (4), in critical acquisition
3 positions who were reassigned after a period of three
4 years or longer (as required under section 1734(a)
5 of this title), and the proportion of those reassign-
6 ments to the total number of reassignments of per-
7 sons, excluding those reported under paragraph (4),
8 in critical acquisition positions.

9 “(6) The number of times a waiver authority
10 was exercised under section 1724(d), 1732(d),
11 1734(d), or 1736(e) of this title or any other provi-
12 sion of this chapter (or other provision of law) which
13 permits the waiver of any requirement relating to
14 the acquisition workforce, and in the case of each
15 such authority, the reasons for exercising the au-
16 thority. The Secretary may present the information
17 provided under this paragraph by category or group-
18 ing of types of waivers and reasons.”.

19 (2) CLERICAL AMENDMENT.—The table of sec-
20 tions at the beginning of subchapter II of chapter 87
21 of title 10, United States Code, is amended by in-
22 sserting after the item relating to section 1722a the
23 following new item:

“1722b. Special requirements for civilian employees in the acquisition field.”.

24 (b) CAREER EDUCATION AND TRAINING.—Chapter
25 87 of title 10, United States Code, is amended in section

1 1723 by redesignating subsection (b) as subsection (c) and
2 inserting after subsection (a) the following new subsection:

3 “(b) CAREER PATH REQUIREMENTS.—For each ca-
4 reer path, the Secretary of Defense, acting through the
5 Under Secretary of Defense for Acquisition, Technology,
6 and Logistics shall establish requirements for the comple-
7 tion of course work and related on-the-job training and
8 demonstration of qualifications in the critical acquisition-
9 related duties and tasks of the career path. The Secretary
10 of Defense, acting through the Under Secretary, shall
11 also—

12 “(1) encourage individuals in the acquisition
13 workforce to maintain the currency of their acquisi-
14 tion knowledge and generally enhance their knowl-
15 edge of related acquisition management disciplines
16 through academic programs and other self-develop-
17 mental activities; and

18 “(2) develop key work experiences, including
19 the creation of a program sponsored by the Depart-
20 ment of Defense that facilitates the periodic inter-
21 action between individuals in the acquisition work-
22 force and the end user in such end user’s environ-
23 ment to enhance the knowledge base of such work-
24 force, for individuals in the acquisition workforce so
25 that the individuals may gain in-depth knowledge

1 and experience in the acquisition process and become
2 seasoned, well-qualified members of the acquisition
3 workforce.”.

4 **SEC. 205. RECERTIFICATION AND TRAINING REQUIRE-**
5 **MENTS.**

6 (a) CONTINUING EDUCATION.—Section 1723 of title
7 10, United States Code, as amended by section 204, is
8 further amended by amending subsection (a) to read as
9 follows:

10 “(a) QUALIFICATION REQUIREMENTS.—(1) The Sec-
11 retary of Defense shall establish education, training and
12 experience requirements for each acquisition position,
13 based on the level of complexity of duties carried out in
14 the position. In establishing such requirements, the Sec-
15 retary shall ensure the availability and sufficiency of train-
16 ing in all areas of acquisition, including additional training
17 courses with an emphasis on services contracting, market
18 research strategies (including assessments of local con-
19 tracting capabilities), long-term sustainment strategies,
20 information technology, and rapid acquisition.

21 “(2) In establishing such requirements for positions
22 other than critical acquisition positions designated pursu-
23 ant to section 1733 of this title, the Secretary may state
24 the requirements by categories of positions.

1 “(3) The Secretary of Defense, acting through the
2 Under Secretary of Defense for Acquisition, Technology,
3 and Logistics, shall establish requirements for continuing
4 education and periodic renewal of an individual’s certifi-
5 cation. Any requirement for a certification renewal shall
6 not require a renewal more often than once every five
7 years.”.

8 (b) STANDARDS FOR TRAINING.—

9 (1) IN GENERAL.—Subchapter IV of Chapter
10 87 of title 10, United States Code, is amended by
11 adding at the end the following new section:

12 **“§ 1748. Guidance and standards for acquisition**
13 **workforce training**

14 “(a) FULFILLMENT STANDARDS.—The Secretary of
15 Defense, acting through the Under Secretary of Defense
16 for Acquisition, Technology, and Logistics, shall develop
17 fulfillment standards, and implement and maintain a pro-
18 gram, for purposes of the training requirements of sec-
19 tions 1723, 1724, and 1735 of this title. Such fulfillment
20 standards shall consist of criteria for determining whether
21 an individual has demonstrated competence in the areas
22 that would be taught in the training courses required
23 under those sections. If an individual meets the appro-
24 priate fulfillment standard, the applicable training re-
25 quirement is fulfilled.

1 “(b) GUIDANCE AND STANDARDS RELATING TO CON-
2 TRACTS FOR TRAINING.—The Secretary of Defense shall
3 develop appropriate guidance and standards to ensure that
4 the Department of Defense will continue, where appro-
5 priate and cost-effective, to enter into contracts for the
6 training requirements of sections 1723, 1724, and 1735
7 of this title, while maintaining appropriate control over the
8 content and quality of such training.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-
10 tions at the beginning of such subchapter is amend-
11 ed by adding at the end the following new item:

“1748. Guidance and standards for acquisition workforce training.”.

12 (3) DEADLINE FOR FULFILLMENT STAND-
13 ARDS.—The fulfillment standards required under
14 section 1748(a) of title 10, United States Code, as
15 added by paragraph (1), shall be developed not later
16 than 90 days after the date of the enactment of this
17 Act.

18 (4) CONFORMING REPEAL.—Section 853 of
19 Public Law 105–85 (111 Stat. 1851) is repealed.

20 **SEC. 206. INFORMATION TECHNOLOGY ACQUISITION**
21 **WORKFORCE.**

22 (a) IN GENERAL.—

23 (1) INFORMATION TECHNOLOGY.—Subchapter
24 II of chapter 87 of title 10, United States Code, is

1 amended by adding at the end the following new sec-
2 tion:

3 **“§ 1725. Information technology acquisition positions**

4 “(a) PLAN REQUIRED.—The Secretary of Defense
5 shall develop and carry out a plan to strengthen the part
6 of the acquisition workforce that specializes in information
7 technology. The plan shall include the following:

8 “(1) Defined targets for billets devoted to infor-
9 mation technology acquisition.

10 “(2) Specific certification requirements for indi-
11 viduals in the acquisition workforce who specialize in
12 information technology acquisition.

13 “(3) Defined career paths for individuals in the
14 acquisition workforce who specialize in information
15 technology acquisitions.

16 “(b) DEFINITIONS.—In this section:

17 “(1) The term ‘information technology’ has the
18 meaning provided such term in section 11101 of title
19 40 and includes information technology incorporated
20 into a major weapon system.

21 “(2) The term ‘major weapon system’ has the
22 meaning provided such term in section 2379(f) of
23 this title.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions at the beginning of such subchapter is amend-
3 ed by adding at the end the following new item:

“1725. Information technology acquisition positions.”.

4 (b) DEADLINE.—The Secretary of Defense shall de-
5 velop the plan required under section 1725 of title 10,
6 United States Code, as added by subsection (a), not later
7 than 180 days after the date of the enactment of this Act.

8 **SEC. 207. DEFINITION OF ACQUISITION WORKFORCE.**

9 Section 101(a) of title 10, United States Code, is
10 amended by inserting after paragraph (17) the following
11 new paragraph:

12 “(18) The term ‘acquisition workforce’ means
13 the persons serving in acquisition positions within
14 the Department of Defense, as designated pursuant
15 to section 1721(a) of this title.”.

16 **SEC. 208. DEFENSE ACQUISITION UNIVERSITY CUR-**
17 **RICULUM REVIEW.**

18 (a) CURRICULUM REVIEW.—Not later than 1 year
19 after the date of the enactment of this Act, the Under
20 Secretary of Defense for Acquisition, Technology, and Lo-
21 gistics shall lead a review of the curriculum offered by the
22 Defense Acquisition University to ensure it adequately
23 supports the training and education requirements of ac-
24 quisition professionals, particularly in service contracting,
25 long term sustainment strategies, information technology,

1 and rapid acquisition. The review shall also involve the
2 service acquisition executives of each military department.

3 (b) ANALYSIS OF FUNDING REQUIREMENTS FOR
4 TRAINING.—Following the review conducted under sub-
5 section (a), the Secretary of Defense shall analyze the
6 most recent future-years defense program to determine
7 the amounts of estimated expenditures and proposed ap-
8 propriations necessary to support the training require-
9 ments of the amendments made by section 205 of this Act,
10 including any new training requirements determined after
11 the review conducted under subsection (a). The Secretary
12 shall identify any additional funding needed for such
13 training requirements in the separate chapter on the de-
14 fense acquisition workforce required in the next annual
15 strategic workforce plan under 115b of title 10, United
16 States Code.

17 (c) REQUIREMENT FOR ONGOING CURRICULUM DE-
18 VELOPMENT WITH CERTAIN SCHOOLS.—

19 (1) REQUIREMENT.—Section 1746 of title 10,
20 United States Code, is amended by adding at the
21 end the following new subsection:

22 “(c) CURRICULUM DEVELOPMENT.—The President
23 of the Defense Acquisition University shall work with the
24 relevant professional schools and degree-granting institu-
25 tions of the Department of Defense and military depart-

1 ments to ensure that best practices are used in curriculum
2 development to support acquisition workforce positions.”.

3 (2) AMENDMENT TO SECTION HEADING.—(A)

4 The heading of section 1746 of such title is amended
5 to read as follows:

6 **“§ 1746. Defense Acquisition University”.**

7 (B) The item relating to section 1746 in the
8 table of sections at the beginning of subchapter IV
9 of chapter 87 of such title is amended to read as fol-
10 lows:

“1746. Defense Acquisition University.”.

11 **SEC. 209. COST ESTIMATING INTERNSHIP AND SCHOLAR-**
12 **SHIP PROGRAMS.**

13 (a) PURPOSE.—The purpose of this section is to re-
14 quire the Department of Defense to develop internship
15 and scholarship programs in cost estimating to underscore
16 the importance of cost estimating, as a core acquisition
17 function, to the acquisition process.

18 (b) REQUIREMENT.—The Secretary of Defense shall
19 develop intern and scholarship programs in cost esti-
20 mating for purposes of improving education and training
21 in cost estimating and providing an opportunity to meet
22 any certification requirements in cost estimating.

23 (c) IMPLEMENTATION.—Such programs shall be es-
24 tablished not later than 270 days after the date of the

1 enactment of this Act and shall be implemented for a 4-
2 year period following establishment of the programs.

3 **SEC. 210. PROHIBITION ON PERSONAL SERVICES CON-**
4 **TRACTS FOR SENIOR MENTORS.**

5 (a) PROHIBITION.—The Secretary of Defense shall
6 prohibit the award of a contract for personal services by
7 any component of the Department of Defense for the pur-
8 pose of obtaining the services of a senior mentor.

9 (b) INTERPRETATION.—Nothing in this section shall
10 be interpreted to prohibit the employment of a senior men-
11 tor as a highly qualified expert pursuant to section 9903
12 of title 5, United States Code, subject to the pay and term
13 limitations of that section. A senior mentor employed as
14 a highly qualified expert shall be required to submit a fi-
15 nancial disclosure report and comply with all conflict of
16 interest laws and regulations applicable to other Federal
17 employees with similar conditions of service.

18 (c) DEFINITIONS.—In this section:

19 (1) The term “contract for personal services”
20 means a contract awarded under the authority of
21 section 129b(a) of title 10, United States Code, or
22 section 3109 of title 5, United States Code.

23 (2) The term “component of the Department of
24 Defense” means a military department, a defense

1 agency, a Department of Defense field activity, a
2 unified combatant command, or the joint staff.

3 (3) The term “senior mentor” means any per-
4 son—

5 (A)(i) who has served as a general or flag
6 officer in the Armed Forces; or

7 (ii) who has served in a position at a level
8 at or above the level of the senior executive
9 service;

10 (B) has retired within the 10 years pre-
11 ceeding the award of a contract; and

12 (C) who serves as a mentor, teacher, train-
13 er, or advisor to government personnel on mat-
14 ters pertaining to the former official duties of
15 such person.

16 **TITLE III—FINANCIAL** 17 **MANAGEMENT**

18 **SEC. 301. INCENTIVES FOR ACHIEVING AUDITABILITY.**

19 (a) PREFERENTIAL TREATMENT AUTHORIZED.—The
20 Under Secretary of Defense (Comptroller) shall ensure
21 that any component of the Department of Defense that
22 the Under Secretary determines has financial statements
23 validated as ready for audit earlier than September 30,
24 2017, shall receive preferential treatment, as the Under
25 Secretary determines appropriate—

1 (1) in financial matter matters, including—

2 (A) consistent with the need to fund ur-
3 gent warfighter requirements and operational
4 needs, priority in the release of appropriated
5 funds to such component;

6 (B) relief from the frequency of financial
7 reporting of such component in cases in which
8 such reporting is not required by law;

9 (C) relief from departmental obligation and
10 expenditure thresholds to the extent that such
11 thresholds establish requirements more restric-
12 tive than those required by law; or

13 (D) such other measures as the Under
14 Secretary considers appropriate; and

15 (2) in the availability of personnel management
16 incentives, including—

17 (A) the size of the bonus pool available to
18 the financial and business management work-
19 force of the component;

20 (B) the rates of promotion within the fi-
21 nancial and business management workforce of
22 the component;

23 (C) awards for excellence in financial and
24 business management; or

1 (D) the scope of work assigned to the fi-
2 nancial and business management workforce of
3 the component.

4 (b) INCLUSION OF INFORMATION IN REPORT.—The
5 Under Secretary shall include information on any measure
6 initiated pursuant to this section in the next semiannual
7 report pursuant to section 1003(b) of the National De-
8 fense Authorization Act for Fiscal Year 2010 (Public Law
9 111–84; 123 Stat. 2439; 10 U.S.C. 2222 note) after such
10 measure is initiated.

11 (c) EXPIRATION.—This section shall expire on Sep-
12 tember 30, 2017.

13 (d) DEFINITION.—In this section, the term “compo-
14 nent of the Department of Defense” means any organiza-
15 tion within the Department of Defense that is required
16 to submit an auditable financial statement to the Sec-
17 retary of Defense.

18 **SEC. 302. MEASURES REQUIRED AFTER FAILURE TO**
19 **ACHIEVE AUDITABILITY.**

20 (a) IN GENERAL.—The Secretary of Defense shall
21 ensure that corrective measures are immediately taken to
22 address the failure of a component of the Department of
23 Defense to achieve a financial statement validated as
24 ready for audit by September 30, 2017.

1 (b) MEASURES REQUIRED.—Not later than 180 days
2 after the date of the enactment of this Act, the Secretary
3 shall develop and issue guidance detailing measures to be
4 taken in accordance with subsection (a). Such measures
5 shall include—

6 (1) the development of a remediation plan to
7 ensure the component can achieve a financial state-
8 ment validated as ready for audit within 1 year;

9 (2) additional reporting requirements that may
10 be necessary to mitigate financial risk to the compo-
11 nent;

12 (3) delaying the release of appropriated funds
13 to such component, consistent with the need to fund
14 urgent warfighter requirements and operational
15 needs, until such time as the Secretary is assured
16 that the component will achieve a financial state-
17 ment validated as ready for audit within 1 year;

18 (4) specific consequences for key personnel in
19 order to ensure accountability within the leadership
20 of the component; and

21 (5) such other measures as the Secretary con-
22 siders appropriate.

23 (c) DEFINITION.—The term “component” of the De-
24 partment of Defense means any organization within the

1 Department of Defense that is required to submit an
2 auditable financial statement to the Secretary of Defense.

3 **SEC. 303. REVIEW OF OBLIGATION AND EXPENDITURE**
4 **THRESHOLDS.**

5 (a) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that—

7 (1) Department of Defense program managers
8 should be encouraged to place a higher priority on
9 seeking the best value for the Government than on
10 meeting arbitrary benchmarks for spending; and

11 (2) actions to carry out paragraph (1) should
12 be supported by the Department's leadership at
13 every level.

14 (b) POLICY REVIEW.—Not later than 180 days after
15 the date of the enactment of this Act, the Chief Manage-
16 ment Officer of the Department of Defense, in coordina-
17 tion with the Chief Management Officer of each military
18 department, shall review and update as necessary all rel-
19 evant policy and instruction regarding obligation and ex-
20 penditure benchmarks to ensure that such guidance does
21 not inadvertently prevent achieving the best value for the
22 Government in the obligation and expenditure of funds.

23 (c) PROCESS REVIEW.—Not later than 1 year after
24 the date of the enactment of this Act, the Chief Manage-
25 ment Officer, in coordination with the Chief Management

1 Officer of each military department, the Director of the
2 Office of Performance Assessment and Root Cause Anal-
3 ysis, the Under Secretary of Defense (Comptroller), and
4 the Comptrollers of the military departments, shall con-
5 duct a comprehensive review of the use and value of obli-
6 gation and expenditure benchmarks and propose new
7 benchmarks or processes for tracking financial perform-
8 ance, including, as appropriate—

9 (1) increased reliance on individual obligation
10 and expenditure plans for measuring program finan-
11 cial performance;

12 (2) mechanisms to improve funding stability
13 and to increase the predictability of the release of
14 funding for obligation and expenditure; and

15 (3) streamlined mechanisms for a program
16 manager to submit an appeal for funding changes
17 and to have such appeal evaluated promptly.

18 (d) TRAINING.—The Under Secretary of Defense for
19 Acquisition, Technology, and Logistics and the Under Sec-
20 retary of Defense (Comptroller) shall ensure that as part
21 of the training required for program managers and busi-
22 ness managers, an emphasis is placed on obligating and
23 expending appropriated funds in a manner that achieves
24 the best value for the Government and that the purpose

1 and limitations of obligation and expenditure benchmarks
2 are made clear.

3 **SEC. 304. DISCLOSURE AND TRACEABILITY OF THE COST**
4 **OF DEPARTMENT OF DEFENSE HEALTH CARE**
5 **CONTRACTS.**

6 (a) DISCLOSURE REQUIREMENT.—The Secretary of
7 Defense shall require—

8 (1) an offeror that submits a bid or proposal in
9 response to an invitation for bids or a request for
10 proposals issued by a component of the Department
11 of Defense for a health care contract to submit with
12 the bid or proposal a disclosure of the additional
13 cost, if any, contained in such bid or proposal associ-
14 ated with compliance with the Patient Protection
15 and Affordable Care Act (Public Law 111–148) and
16 the Health Care and Education Reconciliation Act of
17 2010 (Public Law 111–152); and

18 (2) a contractor for a health care contract
19 awarded following the date of the enactment of this
20 Act to disclose on an annual basis the additional
21 cost, if any, incurred for such contract associated
22 with compliance with the Patient Protection and Af-
23 fordable Care Act (Public Law 111–148) and the
24 Health Care and Education Reconciliation Act of
25 2010 (Public Law 111–152).

1 (b) REPORT.—

2 (1) REQUIREMENT.—Not later than April 1,
3 2011, and each April 1st thereafter until April 1,
4 2016, the Secretary of Defense shall submit to the
5 Committee on Armed Services of the Senate and the
6 Committee on Armed Services of the House of Rep-
7 resentatives a detailed report on the additional cost
8 to the Department of Defense associated with com-
9 pliance with the Patient Protection and Affordable
10 Care Act (Public Law 111–148) and the Health
11 Care and Education Reconciliation Act of 2010
12 (Public Law 111–152).

13 (2) MATTERS COVERED.—The report required
14 by paragraph (1) shall include—

15 (A) the projected costs of compliance for
16 all health care contracts awarded during the
17 preceding year, as disclosed in a bid or proposal
18 in accordance with subsection (a)(1);

19 (B) for all other health care contracts, the
20 incurred cost of compliance for the preceding
21 year, as disclosed in accordance with subsection
22 (a)(2); and

23 (C) any additional costs to the Department
24 of Defense necessary to comply with such Acts.

1 (c) HEALTH CARE CONTRACT DEFINED.—In this
2 section, the term “health care contract” means a contract
3 in an amount greater than the simplified acquisition
4 threshold for the acquisition of any of the following:

5 (1) Medical supplies.

6 (2) Health care services and administration, in-
7 cluding the services of medical personnel.

8 (3) Durable medical equipment.

9 (4) Pharmaceuticals.

10 (5) Health care-related information technology.

11 **TITLE IV—INDUSTRIAL BASE**

12 **SEC. 401. EXPANSION OF THE INDUSTRIAL BASE.**

13 (a) PROGRAM TO EXPAND INDUSTRIAL BASE RE-
14 QUIRED.—The Secretary of Defense shall establish a pro-
15 gram to expand the industrial base of the Department of
16 Defense to increase the Department’s access to innovation
17 and the benefits of competition. The program shall be lim-
18 ited to firms within the national technology and industrial
19 base (as defined in section 2500(1) of title 10, United
20 States Code).

21 (b) IDENTIFYING AND COMMUNICATING WITH NON-
22 TRADITIONAL SUPPLIERS.—The program established
23 under subsection (a) shall use tools and resources available
24 within the Federal Government and available from the pri-
25 vate sector, to provide a capability for identifying and

1 communicating with nontraditional suppliers, including
2 commercial firms and firms of all business sizes, that are
3 engaged in markets of importance to the Department of
4 Defense.

5 (c) OUTREACH TO LOCAL FIRMS NEAR DEFENSE IN-
6 STALLATIONS.—The program established under sub-
7 section (a) shall include outreach, using procurement tech-
8 nical assistance centers, to notify firms of all business
9 sizes in the vicinity of Department of Defense installations
10 of opportunities to obtain contracts and subcontracts to
11 perform work at such installations.

12 (d) INDUSTRIAL BASE REVIEW.—The program re-
13 quired by subsection (a) shall include a continuous effort
14 to review the industrial base supporting the Department
15 of Defense, including the identification of markets of im-
16 portance to the Department of Defense.

17 (e) DEFINITION.—In this section:

18 (1) NONTRADITIONAL SUPPLIERS.—The term
19 “nontraditional suppliers” means firms that have re-
20 ceived contracts from the Department of Defense
21 with a total value of not more than \$100,000 in the
22 previous 5 years.

23 (2) MARKETS OF IMPORTANCE TO THE DE-
24 PARTMENT OF DEFENSE.—The term “markets of
25 importance to the Department of Defense” means

1 industrial sectors in which the Department of De-
2 fense spends more than \$500,000,000 annually.

3 (3) PROCUREMENT TECHNICAL ASSISTANCE
4 CENTER.—The term “procurement technical assist-
5 ance center” means a center operating under a coop-
6 erative agreement with the Defense Logistics Agency
7 to provide procurement technical assistance pursu-
8 ant to the authority provided in chapter 142 of title
9 10, United States Code.

10 **SEC. 402. COMMERCIAL PRICING ANALYSIS.**

11 Section 803(c) of the Strom Thurmond National De-
12 fense Authorization Act for Fiscal Year 1999 (Public Law
13 105–261; 10 U.S.C. 2306a note) is amended to read as
14 follows:

15 “(c) COMMERCIAL PRICE TREND ANALYSIS.—

16 “(1) The Secretary of Defense shall develop and
17 implement procedures that, to the maximum extent
18 practicable, provide for the collection and analysis of
19 information on price trends for categories of exempt
20 commercial items described in paragraph (2).

21 “(2) A category of exempt commercial items re-
22 ferred to in paragraph (1) consists of exempt com-
23 mercial items that are in a single Federal Supply
24 Group or Federal Supply Class, are provided by a
25 single contractor, or are otherwise logically grouped

1 for the purpose of analyzing information on price
2 trends.

3 “(3) The analysis of information on price
4 trends under paragraph (1) shall include, in any cat-
5 egory in which significant escalation in prices is
6 identified, a more detailed examination of the causes
7 of escalation for such prices within the category and
8 whether such price escalation is consistent across the
9 Department of Defense.

10 “(4) The head of a Department of Defense
11 agency or the Secretary of a military department
12 shall take appropriate action to address any unjusti-
13 fied escalation in prices being paid for items pro-
14 cured by that agency or military department as iden-
15 tified in an analysis conducted pursuant to para-
16 graph (1).

17 “(5) Not later than April 1 of each of year, the
18 Secretary of Defense shall submit to the Committee
19 on Armed Services of the Senate and the Committee
20 on Armed Services of the House of Representatives
21 a report on the analyses of price trends that were
22 conducted for categories of exempt commercial items
23 during the preceding fiscal year under the proce-
24 dures prescribed pursuant to paragraph (1). The re-
25 port shall include a description of the actions taken

1 to identify and address any unjustified price esca-
2 lation for the categories of items.

3 “(6) This subsection shall not be in effect on
4 and after April 1, 2013.”.

5 **SEC. 403. CONTRACTOR AND GRANTEE DISCLOSURE OF DE-**
6 **LINQUENT FEDERAL TAX DEBTS.**

7 (a) REQUIREMENT.—

8 (1) IN GENERAL.—Chapter 37 of title 31,
9 United States Code, is amended by adding at the
10 end of subchapter II the following new section:

11 **“§ 3720F. Contractor and grantee disclosure of delin-**
12 **quent Federal tax debts**

13 “(a) REQUIREMENT RELATING TO CONTRACTS.—

14 The head of any executive agency that issues an invitation
15 for bids or a request for proposals for a contract in an
16 amount greater than the simplified acquisition threshold
17 shall require each person that submits a bid or proposal
18 to submit with the bid or proposal a form—

19 “(1) certifying that the person does not have a
20 seriously delinquent tax debt; and

21 “(2) authorizing the Secretary of the Treasury
22 to disclose to the head of the agency information
23 strictly limited to verifying whether the person has
24 a seriously delinquent tax debt.

1 “(b) REQUIREMENT RELATING TO GRANTS.—The
2 head of any executive agency that offers a grant in excess
3 of an amount equal to the simplified acquisition threshold
4 may not award such grant to any person unless such per-
5 son submits with the application for such grant a form—

6 “(1) certifying that the person does not have a
7 seriously delinquent tax debt; and

8 “(2) authorizing the Secretary of the Treasury
9 to disclose to the head of the executive agency infor-
10 mation strictly limited to verifying whether the per-
11 son has a seriously delinquent tax debt.

12 “(c) FORM FOR RELEASE OF INFORMATION.—The
13 Secretary of the Treasury shall make available to all exec-
14 utive agencies a standard form for the certification and
15 authorization described in subsections (a) and (b).

16 “(d) DEFINITIONS.—In this section:

17 “(1) CONTRACT.—The term ‘contract’ means a
18 binding agreement entered into by an executive
19 agency for the purpose of obtaining property or serv-
20 ices, but does not include—

21 “(A) a contract for property or services
22 that is intended to be entered into through the
23 use of procedures other than competitive proce-
24 dures by reason of section 2304(c)(2) of this
25 title; or

1 “(B) a contract designated by the head of
2 the agency as necessary to the national security
3 of the United States.

4 “(2) EXECUTIVE AGENCY.—The term ‘executive
5 agency’ has the meaning given that term in section
6 4(1) of the Office of Federal Procurement Policy
7 Act (41 U.S.C. 403(1)).

8 “(3) PERSON.—The term ‘person’ includes—

9 “(A) an individual;

10 “(B) a partnership; and

11 “(C) a corporation.

12 “(4) SERIOUSLY DELINQUENT TAX DEBT.—The
13 term ‘seriously delinquent tax debt’—

14 “(A) means any Federal tax liability—

15 “(i) that exceeds \$3,000;

16 “(ii) that has been assessed by the
17 Secretary of the Treasury and not paid;

18 and

19 “(iii) for which a notice of lien has
20 been filed in public records; and

21 “(B) does not include any Federal tax li-
22 ability—

23 “(i) being paid in a timely manner
24 under an offer-in-compromise or install-

25 ment agreement;

1 “(ii) with respect to which collection
2 due process proceedings are not completed;
3 or

4 “(iii) with respect to which collection
5 due process proceedings are completed and
6 no further payment is required.

7 “(5) SIMPLIFIED ACQUISITION THRESHOLD.—
8 The term ‘simplified acquisition threshold’ has the
9 meaning given that term in section 4(11) of the Of-
10 fice of Federal Procurement Policy Act (41 U.S.C.
11 403(11)).

12 “(e) REGULATIONS.—The Administrator for Federal
13 Procurement Policy, in consultation with the Secretary of
14 the Treasury, shall promulgate regulations that—

15 “(1) treat corporations and partnerships as
16 having a seriously delinquent tax debt if such cor-
17 poration or partnership is controlled (directly or in-
18 directly) by persons who have a seriously delinquent
19 tax debt;

20 “(2) provide for the proper application of sub-
21 sections (a)(2) and (b)(2) in the case of corporations
22 and partnerships; and

23 “(3) provide for the proper application of sub-
24 section (a) to first-tier subcontractors that are iden-

1 tified in a bid or proposal and are a significant part
2 of a bid or proposal team.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions at the beginning of chapter 37 of such title is
5 amended by adding after the item relating to section
6 3720E the following new item:

“3720F. Contractor and grantee disclosure of delinquent Federal tax debts.”.

7 (b) REVISION OF FEDERAL ACQUISITION REGULA-
8 TION.—Not later than 90 days after the final promulga-
9 tion of regulations under section 3720F(e) of title 31,
10 United States Code, as added by subsection (a), the Fed-
11 eral Acquisition Regulation shall be revised to incorporate
12 the requirements of section 3720F of such title.

13 **SEC. 404. INDEPENDENCE OF CONTRACT AUDITS AND BUSI-**
14 **NESS SYSTEM REVIEWS.**

15 (a) DEFENSE CONTRACT AUDIT AGENCY GENERAL
16 COUNSEL.—

17 (1) IN GENERAL.—Subchapter II of chapter 8
18 of title 10, United States Code, is amended by add-
19 ing at the end the following new section:

20 **“§ 204. Defense Contract Audit Agency general coun-**
21 **sel**

22 “(a) GENERAL COUNSEL.—The Director of the De-
23 fense Contract Audit Agency shall appoint a General
24 Counsel of the Defense Contract Audit Agency.

1 “(b) DUTIES.—(1) The General Counsel shall per-
 2 form such functions as the Director may prescribe and
 3 shall serve at the discretion of the Director.

4 “(2) Notwithstanding section 140(b) of this title, the
 5 General Counsel shall be the chief legal officer of the De-
 6 fense Contract Audit Agency.

7 “(3) The Defense Contract Audit Agency shall be the
 8 exclusive legal client of the General Counsel.

9 “(c) OFFICE OF THE GENERAL COUNSEL.—There is
 10 established an Office of the General Counsel within the
 11 Defense Contract Audit Agency. The Director may ap-
 12 point to the Office to serve as staff of the General Counsel
 13 such legal counsel as the Director determines is appro-
 14 priate.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
 16 tions at the beginning of subchapter II of chapter 8
 17 of such title is amended by adding at the end the
 18 following new item:

“204. Defense Contract Audit Agency general counsel.”.

19 (b) CRITERIA FOR BUSINESS SYSTEM REVIEWS.—

20 (1) IN GENERAL.—Chapter 131 of title 10,
 21 United States Code, is amended by inserting after
 22 section 2222 the following new section:

23 **“§ 2222a. Criteria for business system reviews**

24 “(a) CRITERIA FOR BUSINESS SYSTEM REVIEWS.—
 25 The Secretary of Defense shall ensure that any contractor

1 business system review carried out by a military depart-
2 ment, a Defense Agency, or a Department of Defense
3 Field Activity—

4 “(1) complies with generally accepted govern-
5 ment auditing standards issued by the Comptroller
6 General;

7 “(2) is performed by an audit team that does
8 not engage in any other official activity (audit-re-
9 lated or otherwise) involving the contractor con-
10 cerned;

11 “(3) is performed in a time and manner con-
12 sistent with a documented assessment of risk to the
13 Federal Government; and

14 “(4) involves testing on a representative sample
15 of transactions sufficient to fully examine the integ-
16 rity of the contractor business system concerned.

17 “(b) CONTRACTOR BUSINESS SYSTEM REVIEW DE-
18 FINED.—In this section, the term ‘contractor business sys-
19 tem review’ means an audit of policies, procedures, and
20 internal controls relating to accounting and management
21 systems of a contractor.”.

22 (2) CLERICAL AMENDMENT.—The table of sec-
23 tions at the beginning of chapter 131 of such title
24 is amended by inserting after the item relating to
25 section 2222 the following new item:

“2222a. Criteria for business system reviews.”.

1 (c) CONTRACT AUDIT GUIDANCE.—Not later than
2 180 days after the date of the enactment of this Act, the
3 Secretary of Defense shall issue guidance relating to con-
4 tract audits carried out by a military department, a de-
5 fense agency, or a Department of Defense field activity
6 that are not contractor business system reviews, as de-
7 scribed under section 2222a of title 10, United States
8 Code, that—

9 (1) requires that such audits comply with gen-
10 erally accepted government auditing standards
11 issued by the Comptroller General and are per-
12 formed in a time and manner consistent with a doc-
13 umented assessment of risk to the Federal Govern-
14 ment;

15 (2) establishes guidelines for discussions of the
16 scope of the audit with the contractor concerned
17 that ensure that such scope is not improperly influ-
18 enced by the contractor;

19 (3) provides for withholding of contract pay-
20 ments when necessary to compel the submission of
21 documentation from the contractor; and

22 (4) requires that the results of contract audits
23 performed on behalf of an agency of the Department
24 of Defense be shared with other Federal agencies
25 upon request, without reimbursement.

1 (d) EFFECTIVE DATES.—

2 (1) SECTION 204.—Section 204 of title 10,
3 United States Code, as added by subsection (a),
4 shall take effect on the date of the enactment of this
5 Act.

6 (2) SECTION 2222A.—Section 2222a of title 10,
7 United States Code, as added by subsection (b),
8 shall take effect 180 days after the date of the en-
9 actment of this Act.

10 **SEC. 405. BLUE RIBBON PANEL ON ELIMINATING BARRIERS**

11 **TO CONTRACTING WITH THE DEPARTMENT**

12 **OF DEFENSE.**

13 (a) REQUIREMENT TO ESTABLISH.—The Secretary
14 of Defense shall establish a panel consisting of owners of
15 large and small businesses that are not traditional defense
16 suppliers, for purposes of creating a set of recommenda-
17 tions on eliminating barriers to contracting with the De-
18 partment of Defense and its defense supply centers.

19 (b) MEMBERS.—The panel shall consist of nine mem-
20 bers, of whom—

21 (1) three shall be appointed by the Secretary of
22 the Army;

23 (2) three shall be appointed by the Secretary of
24 the Navy; and

1 (3) three shall be appointed by the Secretary of
2 the Air Force.

3 (c) APPOINTMENT DEADLINE.—Members shall be
4 appointed to the panel not later than 180 days after the
5 date of the enactment of this Act.

6 (d) DUTIES.—The panel shall be responsible for de-
7 veloping a set of recommendations on eliminating barriers
8 to contracting with the Department of Defense and its de-
9 fense supply centers.

10 (e) REPORT.—Not later than 1 year after the date
11 of the enactment of this Act, the panel shall submit to
12 Congress a report containing its recommendations.

13 **SEC. 406. INCLUSION OF THE PROVIDERS OF SERVICES**
14 **AND INFORMATION TECHNOLOGY IN THE NA-**
15 **TIONAL TECHNOLOGY AND INDUSTRIAL**
16 **BASE.**

17 (a) REVISED DEFINITIONS.—Section 2500 of title
18 10, United States Code, is amended—

19 (1) in paragraph (1), by striking “or mainte-
20 nance” and inserting “integration, services, or infor-
21 mation technology”;

22 (2) in paragraph (4), by striking “or produc-
23 tion” and inserting “production, integration, serv-
24 ices, or information technology”;

1 (3) in paragraph (9)(A), by striking “and man-
2 ufacturing” and inserting “manufacturing, integra-
3 tion, services, and information technology”; and

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

6 “(15) The term ‘integration’ means the process
7 of providing systems engineering and technical direc-
8 tion for a system for the purpose of achieving capa-
9 bilities that satisfy program requirements.”.

10 (b) REVISED OBJECTIVES.—Section 2501(a) of such
11 title is amended—

12 (1) in paragraph (1), by striking “Supplying
13 and equipping” and inserting “Supplying, equipping,
14 and supporting”;

15 (2) in paragraph (2), by striking “and logistics
16 for” and inserting “logistics, and other activities in
17 support of”;

18 (3) in paragraph (4), by striking “and produce”
19 and inserting “, produce, and support”; and

20 (4) by redesignating paragraph (6) as para-
21 graph (8) and inserting after paragraph (5) the fol-
22 lowing new paragraphs:

23 “(6) Providing for the generation of services ca-
24 pabilities that are not core functions of the armed

1 forces and that are critical to military operations
2 within the national technology and industrial base.

3 “(7) Providing for the development, production,
4 and integration of information technology within the
5 national technology and industrial base.”.

6 (c) REVISED ASSESSMENTS.—Section 2505(b)(4) of
7 such title is amended by inserting after “of this title)”
8 the following “or major automated information systems
9 (as defined in section 2445a of this title)”.

10 (d) REVISED POLICY GUIDANCE.—Section 2506(a)
11 of such title is amended by striking “budget allocation,
12 weapons” and inserting “strategy, management, budget
13 allocation,”.

14 **SEC. 407. CONSTRUCTION OF ACT ON COMPETITION RE-**
15 **QUIREMENTS FOR THE ACQUISITION OF**
16 **SERVICES.**

17 Nothing in this Act or the amendments made by this
18 Act shall be construed to affect the competition require-
19 ments of section 2304 of title 10, United States Code, with
20 respect to the acquisition of services.

21 **SEC. 408. ACQUISITION SAVINGS PROGRAM.**

22 (a) PROGRAM REQUIRED.—

23 (1) IN GENERAL.—The Secretary of Defense,
24 acting through the Under Secretary of Defense for
25 Acquisition, Technology, and Logistics, shall carry

1 out a program to provide opportunities to provide
2 cost-savings on nondevelopmental items.

3 (2) SAVINGS.—The program, to be known as
4 the Acquisition Savings Program, shall provide any
5 person or activity within or outside the Department
6 of Defense with the opportunity to offer a proposal
7 to provide savings in excess of 15 percent, to be
8 known as an acquisition savings proposal, for cov-
9 ered contracts.

10 (3) SUNSET.—The program shall cease to be
11 required on September 30, 2013.

12 (b) QUALIFYING ACQUISITION SAVINGS PRO-
13 POSALS.—A proposal shall qualify as an acquisition sav-
14 ings proposal for purposes of this section if it offers to
15 supply a nondevelopmental item that is identical to, or
16 equivalent to (under a performance specification or rel-
17 evant commercial standard), an item being procured under
18 a covered contract.

19 (c) REVIEW BY CONTRACTING OFFICER.—Each ac-
20 quisition savings proposal shall be reviewed by the con-
21 tracting officer for the covered contract concerned to de-
22 termine if such proposal qualifies under this section and
23 to calculate the savings provided by such proposal.

24 (d) ACTIONS UPON FAVORABLE REVIEW.—If the
25 contracting officer for a covered contract determines after

1 review of an acquisition savings proposal that the proposal
2 would provide an identical or equivalent nondevelopmental
3 item at a savings in excess of 15 percent, and that a con-
4 tract award to the offeror of the proposal would not result
5 in the violation of a minimum purchase agreement or oth-
6 erwise cause a breach of contract for the covered contract,
7 the contracting officer may make an award under the cov-
8 ered contract to the offeror of the acquisition savings pro-
9 posal or otherwise award a contract for the nondevelop-
10 mental item concerned to such offeror.

11 (e) ACTIONS UPON UNFAVORABLE REVIEW.—If a
12 contracting officer determines after review of an acquisi-
13 tion savings proposal that the proposal would not satisfy
14 the requirements of this section, the contracting officer
15 shall debrief the person or activity offering such proposal
16 within 30 days after completion of the review.

17 (f) REPORT.—Not later than March 1, 2013, the Sec-
18 retary of Defense shall submit to the Committees on
19 Armed Services of the Senate and House of Representa-
20 tives a report regarding the program, including the num-
21 ber of acquisition savings proposals submitted, the number
22 favorably reviewed, the cumulative savings, and any fur-
23 ther recommendations for the program.

24 (g) DEFINITIONS.—In this section:

1 (1) NONDEVELOPMENTAL ITEM.—The term
2 “nondevelopmental item” has the meaning provided
3 for such term in section 4 of the Office of Federal
4 Procurement Policy Act (41 U.S.C. 403).

5 (2) COVERED CONTRACT.—The term “covered
6 contract”—

7 (A) means an indefinite delivery indefinite
8 quantity contract for property as defined in sec-
9 tion 2304d(2) of title 10, United States Code;
10 and

11 (B) does not include any contract awarded
12 under an exception to competitive acquisition
13 authorized by the Small Business Act (15
14 U.S.C. 631 et seq.)

15 (3) PERFORMANCE SPECIFICATION.—The term
16 “performance specification” means a specification of
17 required item functional characteristics.

18 (4) COMMERCIAL STANDARD.—The term “com-
19 mercial standard” means a standard used in indus-
20 try promulgated by an accredited standards organi-
21 zations that is not a Federal entity.

1 **SEC. 409. SENSE OF CONGRESS REGARDING COMPLIANCE**
2 **WITH THE BERRY AMENDMENT, THE BUY**
3 **AMERICAN ACT, AND LABOR STANDARDS OF**
4 **THE UNITED STATES.**

5 In order to create jobs, level the playing field for do-
6 mestic manufacturers, and strengthen economic recovery,
7 it is the sense of Congress that the Department of Defense
8 should—

9 (1) ensure full contractor and subcontractor
10 compliance with the Berry Amendment (10 U.S.C.
11 2533a) and the Buy American Act (41 U.S.C. 10a
12 et seq.); and

13 (2) not procure products made by manufactur-
14 ers in the United States that violate labor standards
15 as defined under the laws of the United States.

16 **SEC. 410. INDUSTRIAL BASE COUNCIL AND FUND.**

17 (a) **INDUSTRIAL BASE COUNCIL.**—

18 (1) **IN GENERAL.**—Chapter 7 of title 10, United
19 States Code, is amended by adding at the end the
20 following new section:

21 **“§ 188. Industrial Base Council**

22 **“(a) COUNCIL ESTABLISHED.**—There is in the De-
23 partment of Defense an Industrial Base Council.

24 **“(b) MISSION.**—The mission of the Industrial Base
25 Council is to assist the Secretary in all matters pertaining
26 to the industrial base of the Department of Defense, in-

1 cluding matters pertaining to the national defense tech-
2 nology and industrial base included in chapter 148 of this
3 title.

4 “(c) MEMBERSHIP.—The following officials of the
5 Department of Defense shall be members of the Council:

6 “(1) The Chairman of the Council, who shall be
7 the Under Secretary of Defense for Acquisition,
8 Technology, and Logistics, the functions of which
9 may be delegated by the Under Secretary only to the
10 Principal Deputy Under Secretary of Defense for
11 Acquisition, Technology, and Logistics.

12 “(2) The Executive Director of the Council,
13 who shall be an official from within the Office of the
14 Under Secretary responsible for industrial base mat-
15 ters and who shall report directly to the Under Sec-
16 retary or the Principal Deputy Under Secretary.

17 “(3) Officials from within the Office of the Sec-
18 retary of Defense, as designated by the Secretary,
19 with direct responsibility for matters pertaining to
20 following areas:

21 “(A) Manufacturing.

22 “(B) Research and development.

23 “(C) Systems engineering and system inte-
24 gration.

25 “(D) Services.

1 “(E) Information Technology.

2 “(F) Sustainment and logistics.

3 “(4) The Director of the Defense Logistics
4 Agency.

5 “(5) Officials from the military departments, as
6 designated by the Secretary of each military depart-
7 ment, with responsibility for industrial base matters
8 relevant to the military department concerned.

9 “(d) DUTIES.—The Council shall assist the Secretary
10 in the following:

11 “(1) Providing input on industrial base matters
12 to strategy reviews, including quadrennial defense
13 reviews performed pursuant to section 118 of this
14 title.

15 “(2) Managing the industrial base.

16 “(3) Providing recommendations to the Sec-
17 retary on budget matters pertaining to the industrial
18 base.

19 “(4) Providing recommendations to the Sec-
20 retary on supply chain management and supply
21 chain vulnerability.

22 “(5) Providing input on industrial base matters
23 to defense acquisition policy guidance.

1 “(6) Issuing and revising the Department of
2 Defense technology and industrial base guidance re-
3 quired by section 2506 of this title.

4 “(7) Such other duties as are assigned by the
5 Secretary.

6 “(e) REPORTING OF ACTIVITIES.—The Secretary
7 shall include a section describing the activities of the
8 Council in the annual report to Congress required by sec-
9 tion 2505 of this title.”.

10 (2) CLERICAL AMENDMENT.—The table of sec-
11 tions at the beginning of such chapter is amended
12 by adding at the end the following new item:

“188. Industrial Base Council.”.

13 (b) INDUSTRIAL BASE FUND.—

14 (1) IN GENERAL.—Chapter 148 of title 10,
15 United States Code, is amended by adding at the
16 end the following new section:

17 **“§ 2508. Industrial Base Fund**

18 “(a) ESTABLISHMENT.—The Secretary of Defense
19 shall establish an Industrial Base Fund (in this section
20 referred to as the ‘Fund’).

21 “(b) CONTROL OF FUND.—The Fund shall be under
22 the control of the Industrial Base Council established pur-
23 suant to section 188 of this title.

1 “(c) AMOUNTS IN FUND.—The Fund shall consist of
2 amounts appropriated or otherwise made available to the
3 Fund.

4 “(d) USE OF FUND.—Subject to subsection (e), the
5 Fund shall be used—

6 “(1) to support the monitoring and assessment
7 of the industrial base required by this chapter;

8 “(2) to address critical issues in the industrial
9 base relating to urgent operation needs;

10 “(3) to support efforts to expand the industrial
11 base; and

12 “(4) to address supply chain vulnerabilities.

13 “(e) USE OF FUND SUBJECT TO APPROPRIATIONS.—
14 The authority of the Secretary of Defense to use the Fund
15 under this section in any fiscal year is subject to the avail-
16 ability of appropriations for that purpose.

17 “(f) EXPENDITURES.—The Secretary shall establish
18 procedures for expending monies in the Fund in support
19 of the uses identified in subsection (d), including the fol-
20 lowing:

21 “(1) Direct obligations from the Fund.

22 “(2) Transfers of monies from the Fund to rel-
23 evant appropriations of the Department of De-
24 fense.”.

1 by striking “proposals; and” at the end of clause (ii) and
2 all that follows through the end of the subparagraph and
3 inserting the following: “proposals and that must be as-
4 signed importance at least equal to all evaluation factors
5 other than cost or price when combined.”.

6 (b) WAIVER.—Section 2305(a)(3) of such title is fur-
7 ther amended by striking subparagraph (B) and inserting
8 the following:

9 “(B) The requirement of subparagraph (A)(ii) relat-
10 ing to assigning at least equal importance to evaluation
11 factors of cost or price may be waived by the head of the
12 agency. The authority to issue a waiver under this sub-
13 paragraph may not be delegated.”.

14 (c) REPORT.—Section 2305(a)(3) of such title is fur-
15 ther amended by adding at the end the following new sub-
16 paragraph:

17 “(C) Not later than 180 days after the end of each
18 fiscal year, the Secretary of Defense shall submit to Con-
19 gress, and post on a publicly available website of the De-
20 partment of Defense, a report containing a list of each

1 waiver issued by the head of an agency under subpara-
2 graph (B) during the preceding fiscal year.”.

Passed the House of Representatives April 28, 2010.

Attest: LORRAINE C. MILLER,
Clerk.