

Recommendation 34: Repeal certain Title 10 sections and note sections, create a new Part V under Subtitle A of Title 10, and redesignate sections in Subtitles B-D to make room for Part V to support a more logical organization and greater ease of use.

Problem

With passage of the Armed Services Procurement Act of 1947 all of the laws governing DoD acquisition were contained within an organized, logical structure. In the 60 years since Title 10 was enacted, the acquisition-related part of the Code (Part IV, Service, Supply, and Procurement, of Subtitle A, General Military Law), has dramatically expanded, with the addition of new sections. Further disrupting the once organized structure are the myriad *note* sections for numerous provisions, including permanent or temporary requirements as well as specific reporting requirements. This statutory language is included within the Code but are set forth in note sections under existing sections of law. For example, the FY 2018 NDAA included 35 new defense acquisition-related provisions that became note sections. In the last three NDAs alone, Congress enacted 265 new acquisition-related provisions, with many being included as *notes* or assigned statutory designations such as; 10 U.S.C. § 2313b. The abundant note sections have rendered Title 10 difficult to navigate even for experienced acquisition personnel.

Background

Title 10, enacted into positive law August 10, 1956, details the specific laws governing the Military Services and provides organizational structure for DoD. The title was originally divided into five subtitles, A through E, with defense acquisition statutes primarily found in Subtitle A, General Military Law under Part IV, Service, Supply, and Procurement. In the 1956 codification, the acquisition-related statutes were mainly codified in three chapters: Chapter 137, Procurement Generally (derived from the Armed Services Procurement Act of 1947); Chapter 139, Research and Development; and Chapter 141, Miscellaneous Procurement Provisions. A Subtitle E was added in 1994.

In the past 60 years, the original three chapters have grown dramatically, with Chapter 141 growing from six to 36 sections. Congress created several new chapters, including Chapter 140, Procurement of Commercial Items; Chapter 142, Procurement Technical Assistance Cooperative Agreement Program; Chapter 144, Major Defense Acquisition Programs; Chapter 146, Contracting for Performance of Civilian Commercial or Industrial Type Functions; Chapter 149, Defense Acquisition System; and Chapter 144B, Weapon Systems Development and Related Matters. Title 10, Subtitle A, Part IV now includes 34 chapters. These chapters have generally been inserted where there is room within the existing structure of Part IV of Subtitle A, rather than where they might fit logically or thematically.

Designating new chapters within Part IV of Subtitle A is increasingly problematic. It is now almost always necessary for the section number of a new section to be in the form of a number-and-letter combination (e.g., 2410q or 2466a) rather than the traditional numeric designation. This designation form, though legally sufficient, hinders usability and may lead to confusion of similar citations (e.g., 2304(a) versus 2304a).

There are 20 iterations of Section 2410 (2410, 2410a, 2410b . . . 2410s). In addition to the organization problems created by the growth of the number of actual sections, is the accumulation of almost

350 *notes*. Section 2304, for example, concerns Competition Requirements; however, that section includes 55 *notes* with titles ranging from Matters Relating to Reverse Auctions to Competition for Procurement of Small Arms Supplied to Iraq and Afghanistan. The FY 2018 NDAA resulted in addition of 35 new defense acquisition *notes*.

These provisions cover a wide variety of subjects and are increasingly organized primarily in sequence of enactment rather than by similarity of subject matter. Many defense provisions of law that apply to defense acquisition are not found in Title 10 itself, but are provisions of the annual defense authorization acts or other statutes, which are set forth in the Code as confusing “note” sections. These provisions, especially when they are permanent, are not as useful as they would be if they were provisions of the Code itself.

Discussion

Despite the trend toward electronic research, the current cumbersome statutory structure for acquisition-related statutes hinders the acquisition community, both inside and outside DoD, from easily identifying related sections and appropriate definitions, and prevents understanding of the statutes in their proper context. As indicated above, the structure originally provided for defense acquisition-related statutes has been overwhelmed by the volume of amendments. The Office of the Law Revision Counsel noted “[o]ver time, some areas of law outgrow their original boundaries due to the enactment of new laws and amendments. . . . As a result, the Code becomes less organized, harder to navigate, and less reflective of the underlying structure of the statutes.”¹ In the overview to the Discussion Draft of the Accelerating the Pace of Acquisition Reform Act of 2018, introduced by Representative Mac Thornberry, (R-TX), Chairman of the House Armed Services Committee (HASC), the committee described the acquisition-related statutes in Title 10 as “cumbersome and incoherent.”² The committee further stated that “[a] focused effort is needed to rationalize the body of acquisition law provided to DoD.”³ Indeed, the task is not so much to *reorganize* the defense acquisition laws as to *organize* them.

Congress, in the conference report to the FY 2018 NDAA, encouraged such a comprehensive reorganization by noting, in regard to the conference report’s recommended repeal of an obsolete provision: “this first, relatively narrow repeal of an outdated program in title 10 . . . should encourage a future, wider effort to reorganize and optimize the entirety of acquisition law.”⁴ This statement encourages a once-in-a-generation opportunity for reorganization, or organization, of Title 10.

As a starting point, the Section 809 Panel undertook a review of all the *note* sections for possible codification of such notes or their potential repeal. As a result the panel recommended the potential repeal of 100 note sections and three Title 10 sections.

¹ “Editorial Reclassification,” U.S. House of Representatives, Office of Law Revision Counsel, accessed June 2, 2018, <http://uscode.house.gov/editorialreclassification/reclassification.html>.

² House Armed Services Committee, *Accelerating the Pace of Acquisition Reform Act of 2018: Discussion Draft Overview*, 1, accessed June 2, 2018, https://armedservices.house.gov/sites/republicans.armedservices.house.gov/files/wysiwyg_uploaded/FY19%20Reform%20Bill%20Summary%20Memo_FINAL%5B1%5D.pdf.

³ *Ibid.*

⁴ FY 2018 NDAA, Conference Report to Accompany H.R. 2810, H. Rept. 115-404, 889.

The provisions recommended for repeal (a) required the Department to issue regulations (or directives or guidance, etc.) or (b) have now expired, or (c) are otherwise obsolete. The purpose of repealing these provisions would be to remove provisions from Title 10 that may unnecessarily constrain the Secretary of Defense's authority, and to reduce the volume of statutory provisions with which those working with defense acquisition statutes must contend. The panel shared its list with DoD to ensure repealing these provisions would do no harm. DoD agreed with the majority, though not all, of the panel's recommendations. As with the recommendations to repeal various statutory offices included in *Volume 1* of the panel's *Final Report*, repealing a requirement neither invalidates the policy nor discourages its continuation. Though the repeal allows the Secretary of Defense greater opportunity to make revisions as circumstances warrant, or for other interested parties to revisit and recommend possible changes as well, a risk exists that repeal of a select number of note sections with ongoing policy implications may lead some to mistakenly believe those policies are no longer operative. Consequently, in situations for which DoD has already implemented, or is about to implement, policies consistent with the NDAA sections identified in the notes proposed here for repeal, DoD should, to the maximum extent practicable, issue an affirmative statement or guidance to the organizations affected indicating the policies remain in place.

To align with the legislative cycle for consideration of the annual defense authorization bill, the Section 809 Panel submitted its recommendations for potential repeals in transmissions to Congress in February and March. The majority of recommendations were initially incorporated in the legislative discussion draft of the Accelerating the Pace of Acquisition Reform Act of 2018. The FY 2019 NDAA, as approved by HASC, includes most, but not all, of the Section 809 Panel's recommended statutory repeals.⁵

As a next step, the Section 809 Panel is developing a comprehensive restructuring of the Title 10 acquisition-related provisions that would be accomplished through creation of a new Part V, Acquisition within Subtitle A, General Military Matters.⁶ Such a reorganization would require redesignating many existing provisions of law, which would create a short-term inconvenience; similar efforts have proven worthwhile.⁷ In the context of reclassifying certain provisions codified in Title 50, the Office of the Law Revision Counsel noted, "The short-term inconvenience of adjusting to new Code citations is greatly outweighed by the benefit of making much needed long-term improvements in the organizational structure."⁸ Enactment of Title 41, Public Contracts, into *positive law* by Pub. L. No. 111-350 is a recent example that is particularly relevant for the acquisition community.

Adding a new Part V at the end of Subtitle A will offer substantial advantages in terms of organizing acquisition statutes and making them proximate to other relevant provisions of Subtitle A. Because there is currently no room for a new Part V between the end of Part IV and the beginning of Subtitle B, the panel's proposal would, entail redesignation of the chapters and sections of subtitles B, C, and D, relating to the three Military Services, so as to make room for the new part V. This proposal presumes

⁵ See FY 2019 NDAA, H.R. 5515, Sec. 812.

⁶ The framework for this reorganization is also included in the HASC approved FY 2019 NDAA. Ibid at Sec. 801.

⁷ See Ibid at Secs. 806, 807, and 808.

⁸ "Editorial Reclassification, Title 50, United States Code, Brief Summary of Changes," U.S. House of Representatives, Office of Law Revision Counsel, accessed June 2, 2018, <http://uscode.house.gov/editorialreclassification/t50/index.html>.

that future growth in Title 10 will generally be in subtitle A and that there will be relatively little growth in the military department subtitles. This proposal presents an opportunity to create room for not only a new Part V of Subtitle A on defense acquisition but also for additional growth in subtitle A, as well as for possible reorganization of other subjects within Subtitle A. As a technical matter, the redesignation of chapters and sections of Subtitles B, C, and D could be accomplished in a transparent manner that ensures there are no substantive changes and uses drafting techniques that minimize the number of complex amendatory provisions.

The task of restructuring these statutes would require substantial effort, rather than simply moving each existing section of law into the newly created structure. This effort includes breaking up some long sections of code into more manageable sections and making technical updates. The proposed reorganization and technical updates would restore much of the parallelism between the acquisition-related provisions of Title 10 with the corresponding provisions of Title 41, standardizing the governments *face to industry* for contractors doing business with both DoD and other federal agencies. This effort would achieve what the Packard Commission called for almost 40 year ago: “Congress should work with the Administration to recodify all Federal statutes involving procurement...[s]uch codification should aim not only at consolidation, but more importantly, at simplification and consistency.”⁹

Conclusions

Organizing the defense acquisition statutes into a restructured, rationalized form would reduce the overcrowding, reflect more clearly the underlying structure of these statutes, and provide substantial benefits in terms of a structure that is more intuitive and easier to navigate. This effort would be especially beneficial for the thousands of attorneys across DoD who advise commanders, program managers, and contracting officers on acquisition authorities. Confusing notes and cumbersome statutory structure can create a barrier to entry for innovative firms unfamiliar with the federal acquisition process, firms DoD seeks to leverage to ensure technological dominance and enhanced lethality across the joint force inside the curve of near-peer competitors and nonstate actors.

This logical restructuring would be achieved by adding a new Part V at the end of Subtitle A and placing all of the defense-acquisition related statutes into that new part. An initial step, aimed at decluttering the code, was a review of all relevant note sections for possible repeal or codification. Subsequently, the Section 809 Panel recommended repealing sections and notes that either required DoD to issue regulations, had expired by their own terms, or were otherwise obsolete. With these recommendations, the Section 809 Panel is not expressing a view on the merits of the policies promoted by these provisions. Rather, in recommending the repeal of the statutory requirement for a regulation, the Section 809 Panel is recommending that the Secretary of Defense be allowed to revise the regulation as circumstances warrant

The Section 809 Panel’s primary recommendation is to create a rational statutory structure. HASC Chairman Mac Thornberry describes this project in the summary to his proposed FY 2019 NDAA as

⁹ President’s Blue Ribbon Commission on Defense Management, *A Quest for Excellence: Final Report to the President*, June 1986, xxv, accessed June 2, 2018, <https://assets.documentcloud.org/documents/2695411/Packard-Commission.pdf>.

“a historic clarification of the acquisition process.”¹⁰ Future recommendations by the Section 809 Panel will fully address the chapter structure within this new Part V, and restructure some sections to restore the parallelism with current Title 41 provision. This effort is not intended to make substantive changes to the existing acquisition statutes, but would provide a more logical framework within which comprehensive statutory recommendations could be nested. This project ultimately will involve substantial effort on the part of Congress and DoD.

Implementation

Legislative Branch

- Repeal certain Title 10 sections and *notes* as described in the Section 809 Panel’s recommendations (submitted on February 26, 2018, and March 23, 2018) and codify the remaining *notes* in the new Part V.
- Create a new Part V under Subtitle A of Title 10, and redesignate sections in Subtitles B-D to make room for Part V.

Executive Branch

- There are no Executive Branch changes required for this recommendation.

Implications for Other Agencies

- There are no cross-agency implications for this recommendation.

¹⁰ House Armed Services Committee, *National Defense Authorization Act for FY 2019, Chairman’s Mark Summary*, 9, accessed June 2, 2018, https://armedservices.house.gov/sites/republicans.armedservices.house.gov/files/wysiwyg_uploaded/Chairman%27s%20Mark%20Summary%20FY19%20NDAA.pdf.

Recommendation 34

Recommendation Packages
Previously Submitted on
February 26, 2018
and
March 23, 2018

Advisory Panel on Streamlining and Codifying Acquisition Regulations

Section 809 Panel Recommendations for Repeal of Certain Title 10 “Note” Sections

February 26, 2018



February 26, 2018

The Honorable Mac Thornberry
Chairman
Committee on Armed Services
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Section 809 panel, as part of its “streamlining” mandate, recommends that the attached list of 71 provisions of law be repealed. These provisions relate to defense acquisition and are carried in the U.S. Code as “note” sections under various provisions of title 10. Also attached is draft legislation to carry out these repeals and a document with the text of the provisions of law proposed for repeal.

The bulk of these provisions are sections from annual National Defense Authorization Acts (NDAAs), but a few are from other laws, such as the Federal Acquisition Streamlining Act of 1994 (FASA) and the Weapon Systems Acquisition Reform Act of 2009 (WSARA).

These provisions either (1) required the Department to issue regulations (directives or guidance, etc.); (2) have now expired by their own terms; or (3) are otherwise obsolete.

The panel shared its list with the Department of Defense (DoD) to ensure that repealing these provisions would do “no harm.” Those items with which DoD had concerns are noted in the attached chart.

The panel would like to note that, with respect to any recommendation in the attachment for repeal of a statutory requirement for issuance of a regulation, the panel is not expressing a view on the merits of the policies covered by the required regulation. Rather, in recommending repeal of the statutory requirement for the regulation, the panel is recommending that the Secretary of Defense be allowed to revise the regulation as circumstances warrant. Repeal of the statutory requirement for the regulation would allow the Secretary to revise, or rescind, the regulation, but would not require it. The decision to retain, or not retain, the regulation would be up to the Secretary.

The panel is continuing to review title 10 “note” provisions with the expectation of recommending repeal of additional items in the future.

The panel is submitting these recommendations at this time, rather than waiting to include them in Volume 2 of the panel's report in June of this year, in order to provide the committees the fullest opportunity to consider them for inclusion in the NDAA for Fiscal Year 2019.

Sincerely,

Michael D. Madsen, Colonel, USAF (ret)
Executive Director
Section 809 Panel

Enclosures:
As stated

cc:
The Honorable Adam Smith
Ranking Member

Title 10 "Note" Sections Recommended for Repeal by Section 809 Panel

	A	B	C	D	E
	USC Section	NDAA Cite	Title	Description	NOTES
1	10 USC 195 note	FY98 NDAA, PL 105-85, §387(c), Nov. 18, 1997	Authority to Procure Services From Government Publishing Office	Enacted in 1997 – allowed DOD to obtain printing services directly from GPO rather than the Defense Automated Printing Service	
2	10 USC 2223a note	FY15 NDAA, PL 113-291, §801, Dec 19, 2014	Modular Open Systems Approaches in Acquisition Programs	Enacted in Dec 2014 – required DOD to develop a plan on standards and architectures for open systems; required submission of plan to Congress by 2016. All deadlines have passed.	
3	10 USC 2223a note	FY14 NDAA, PL 113-66, §938, Dec 26, 2013	Supervision of the Acquisition of Cloud Computing Capabilities	Enacted in Dec 2013 – required the SecDef (through AT&L) to supervise and review certain elements of the acquisition of cloud computing capabilities. Implementation deadline has passed.	
4	10 USC 2223a note	FY13 NDAA, PL 112-239, §934, Jan 2, 2013	Competition in Connection with DOD Tactical Datalink systems	Enacted in Jan 2013 – required an inventory (by 2013) of tactical datalinks in use and development, along with an assessment of vulnerabilities; required submission of plan for competition of the datalinks (if feasible) to congressional defense committees in the FY2015 budget submission. All deadlines have passed.	
5	10 USC 2223a note	FY12 NDAA, PL 112-81, §2867, Dec 31, 2011	Data Servers and Centers	Enacted in Dec 2011 – prohibited use of funds for a data server farm or data server centers unless approved by CIO and performance plan was in place; by 2012, required submission of a defense wide plan to congressional defense committees	
6	10 USC 2223a note	FY11 NDAA, PL 111-383, §215, Jan 7, 2011	Demonstration & Pilot Projects on Cybersecurity	Enacted in Jan 2011 – authorized demonstration projects to assess feasibility and advisability of using various business models to identify innovative commercial technologies to address cybersecurity requirements; required annual reports to be submitted to Congress with budget submission	

Title 10 "Note" Sections Recommended for Repeal by Section 809 Panel

A	B	C	D	E
USC Section	NDAAs Cite	Title	Description	NOTES
1				
10 USC 2223a note	FY10 NDA, PL 111-84, §804, Oct 28, 2009	Implementation of New Acquisition Process for IT Systems	Enacted in Oct 2009 – required development & implementation of a new acquisition process for IT systems (based on recommendations of DSB Task Force March 2009 report); required submission of report to SASC/HASC within 270 days	
8				
10 2223a note	FY08 NDA, PL 110-181, §881, Jan 28, 2008	Clearinghouse for Rapid Identification & Dissemination of Commercial Info Technologies	Enacted in Jan 2008 – required establishment of a clearinghouse (within 180 days) to assess and set priorities for significant IT needs of DOD using readily available IT (with emphasis on commercial-of-the-shelf); required submission of report to congressional defense committees by 2008	
9				
10 USC 2302 note	FY17 NDA, PL 114-328, §814(a), Dec 23, 2016	Procurement of Personal Protective Equipment	Enacted in Dec 2016 – required revision of DFARS (within 90 days) to prohibit reverse auctions and LPTA if quality level would result in casualties; established preference for best value contracting methods	
10				
10 USC 2302 note	FY16 NDA, PL 114-92, §881, Nov 25, 2015	Consideration of Potential Program Cost Increases and Schedule Delays Resulting from Oversight of Defense Acquisition Programs	Enacted in Nov 2015 – broad statement to ensure that policies, procedures & activities of defense acquisition oversight do not result in unnecessary increased costs or schedule delays	
11				
10 USC 2302 note	FY13 NDA, PL 112-239, §804, Jan 2, 2013	DOD Policy on Contractor Profits	Enacted in Jan 2013 – required review of DFARS profit guidelines to ensure appropriate link between contractor profit and contractor performance, and modify such guidelines (if necessary) within 180 days	DoD says, "Bears further scrutiny" (01-11-2018)
12				
10 USC 2302 note	FY13 NDA, PL 112-239, §843, Jan. 2, 2013	Responsibility Within Department of Defense for Operational Contract Support	Enacted in Jan 2013 – required development and issuance of guidance (within one year) regarding chain of authority for policy, planning & execution of operational contract support	
13				

Title 10 "Note" Sections Recommended for Repeal by Section 809 Panel

A	B	C	D	E
USC Section	NDAA Cite	Title	Description	NOTES
1 10 USC 2302 note 14	FY13 NDAA, PL 112-239, §844, Jan. 2, 2013	Data Collection on Contract Support for Future Overseas Contingency Operations Involving Combat Operations	Enacted in Jan 2013 – required DOD, State & USAID to issue guidance (within one year) on data collection of contract support (including total number and value of contracts) for future operations outside the US that involve combat operations; GAO report required and submitted to relevant committees within 2 years	
10 USC 2302 note 15	FY12 NDAA, PL 112-81, §818(g), Dec. 31, 2011	Detection and Avoidance of Counterfeit Electronic Parts: Information Sharing	Enacted in Dec 2011 – required an assessment of DOD acquisition systems and policies to detect and avoid counterfeit electronic parts; required issuance or revision of guidance (within 180 days) after assessment; also required DFARS revision (within 270 days), including contractor and supplier responsibilities. (This section was terminated by P. L. 114-125, §302(b), Feb. 24, 2016, 130 Stat. 150)	
10 USC 2302 note 16	FY11 NDAA, PL 111-383, §127, Jan. 7, 2011	Contracts for Commercial Imaging Satellite Capacities	Enacted in Jan 2011 – required that commercial imaging contracts (after Dec 31, 2010) have an imaging telescope with an aperture not less than 1.5 meters	
10 USC 2302 note 17	FY08 NDAA, P L 110-181, §815(b), Jan. 28, 2008	Sales of Commercial Items to Nongovernmental Entities	Enacted in Jan 2008 – required modification of DFARS (within 180 days) to clarify that terms 'general public' & 'nongovernmental entities' do not include Federal, State, local, or foreign governments	DoD says, "needs more study" (01-11-2018)
10 USC 2302 note 18	FY07 NDAA, PL 109-364, §812, Oct. 17, 2006	Pilot Program on Time-Certain Development in Acquisition of Major Weapon Systems	Enacted in Oct 2006 – allowed DOD to conduct pilot program for selected major weapons systems (focused on disciplined decision making, emphasizing technological maturity & appropriate trade-offs); required submission of annual report to congressional defense committees. Pgm expired 9/30/12	
10 USC 2302 note 19	FY06 NDAA, PL 109-163, §806, Jan. 6, 2006	Congressional Notification of Cancellation of Major Automated Information Systems	Enacted in Jan 2006 – required notification to congressional defense committees not less than 60 days before cancelling (or making a change to) a fielded (or approved to be fielded) major automated information system.	14

Title 10 "Note" Sections Recommended for Repeal by Section 809 Panel

A	B	C	D	E
USC Section	NDAA Cite	Title	Description	NOTES
1	10 USC 2302 note	FY06 NDAA, PL 109-163, §817, Jan. 6, 2006	Joint Policy on Contingency Contracting	Enacted in Jan 2006 – required development of joint policy (within one year) for contingency contracting during combat operations and post operations; required submission of interim and final reports to SASC/HASC
20	10 USC 2302 note	FY05 NDAA, PL 108-375, §141, Oct. 28, 2004	Development Of Deployable Systems To Include Consideration Of Force Protection In Asymmetric Threat Environments	Enacted in Oct 2004 – required revision of DOD regulations, directives and guidance (within 120 days) to assess warfighter survivability and system suitability against asymmetric threats
21	10 USC 2302 note	FY05 NDAA, PL 108-375, §802, Oct. 28, 2004	Internal Controls for Department of Defense Procurements Through GSA Client Support Centers	Enacted in Oct 28, 2004 – required DOD IG and GSA IG joint review (by March 2005) of policies, procedures and internal controls of GSA client support centers to ensure compliance with DOD procurement requirements
22	10 USC 2302 note	FY04 NDAA, PL 108-136, §801(b), Nov. 24, 2003	Data Review [Consolidation of Contract Requirements]	Enacted in Nov 2003 – required revision of data collection systems to ensure identification of procurement involving contract consolidations over \$5million
23	10 USC 2302 note	FY04 NDAA, PL 108-136, §805(a), Nov. 24, 2003	Competitive Award of Contracts for Reconstruction Activities in Iraq	Enacted in Nov 2003 – broad statement requiring DOD to comply with chapter 137 and other applicable procurement laws (including full and open competition) and regulations in awarding contracts for reconstruction activities in Iraq
24	10 USC 2302 note	FY03 NDAA, PL 107-314, §352, Dec. 2, 2002	Policy Regarding Acquisition Of Information Assurance And Information Assurance-Enabled Information Technology Products	Enacted in Dec 2002 – required SecDef to develop policy (and implement uniformly throughout DOD) to limit acquisition of information assurance technology products to those products that have been evaluated & validated using certain criteria

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	USC Section	NDAA Cite	Title	Description	NOTES
1	10 USC 2302 note	FY93 NDAA, PL 102-484, §326, Oct. 23, 1992	Elimination of Use of Class I Ozone-Depleting Substances in Certain Military Procurement Contracts	Enacted in Oct 1992 – prohibited inclusion in any contract (after June 1993) of any specification requiring use of Class I Ozone depleting substances; required submission of reports to SASC/HASC for a specified period	
26	10 USC 2302 note	FY90 DOD APPROP, PL 101-165, §9004, Nov. 21, 1989	Equitable Participation of American Small and Minority-Owned Business in Furnishing Of Commodities and Services	Enacted in Nov 1989 – beginning in 1989 (and every year thereafter), required DOD to assist American small and minority businesses furnishing commodities and services (partly by increasing internal resources and making information available)	
27	10 USC 2302 note	FY86 DoD Auth, PL 99-145, §913, Nov. 8, 1985	Minimum Percentage Of Competitive Procurements	Enacted in Nov 1985 – required SecDef to establish a goal for a certain percentage of competitive procurements	
28	10 USC 2304 note	FY09 NDAA, PL 110-417, §802, Oct. 14, 2008	Implementation of Statutory Requirements Regarding the National Technology And Industrial Base	Enacted in Oct 2008 – required SecDef to issue guidance (within 270 days) regarding the national technology and industrial base in the development and implementation of plans for major weapons acquisition programs	
29	10 USC 2304 note	FY08 NDAA, PL 110-181, §821, Jan. 28, 2008	Plan for Restricting Government-Unique Contract Clauses on Commercial Contracts	Enacted in Oct 2008 – required AT&L to develop & implement plan to minimize govt.-unique clauses in commercial contracts	
30	10 USC 2304 note	FY07 NDAA, PL 109-364, §813, Oct. 17, 2006	Panel on Contracting Integrity	Enacted in Oct 2006 – required SecDef to establish a contracting integrity panel & recommend changes to laws, regulations to eliminate areas of vulnerability for waste, fraud & abuse; required submission of annual report to cong. defense committees. Panel ceased operations on 12/31/2011.	

Title 10 "Note" Sections Recommended for Repeal by Section 809 Panel

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USC Section	NDAA Cite	Title	Description	NOTES
1 10 USC 2304 note	FY98 NDAA, PL 105-85, §391, Nov 18, 1997	Warranty Claims Recovery Pilot Program	Enacted in Nov 1997 – authorized SecDef to conduct a pilot program to use commercial sources to improve claims collection under aircraft engine warranties; required report to Congress by 2006 (with recommendation on whether program should be permanent). Expired 9/30/2006	
32 10 USC 2304 note	PL 99-500, §927(b), Oct. 18, 1986 (and PL 99-591; PL 99-661)	Deadline for Prescribing Regulations	Enacted in Oct 1986 – required SecDef to issue regulations (within 180 days) to implement 2304(i), which required regs on negotiation of prices using other than competitive procedures	
33 10 USC 2304 note	FY87 NDAA, PL 99-661, §1222, Nov 14, 1986	One-year Security Guard Prohibition	Enacted in Nov 1986 – prohibited expenditure of funds (before Oct 1987) for security guard functions at any US military installation or facility (with certain exceptions). This was a one-year prohibition. A permanent provision was enacted in 10 USC 2465.	
34 10 USC 2304a note	FY10 NDAA, PL 111-84, §814(b), Oct. 28, 2009	Congressional Intelligence Committees [Task or Delivery Order Contracts]	Enacted in Oct 2009 – required notification to congressional intelligence committees of task or delivery order contracts for intelligence activities (at same time as that provided to SASC/HASC). The requirement for the report to SASC/HASC was repealed by sec. 809(b) of P.L. 112-81.	
35 10 USC 2304b note	FY07 NDAA, PL 109-364, §834, Oct. 17, 2006	Waivers to Extend Task Order Contracts for Advisory and Assistance Services	Enacted in Oct 2006 – allowed extension of task order contracts for technical or engineering services for no more than 10 years (in 5 year options); required submission of report (by April 2007) to SASC/HASC, and a GAO review. Expired 12/31/2011.	
36 10 USC 2306a note	FY99 NDAA, PL 105-261, §803, Oct. 17, 1998	Defense Commercial Pricing Management Improvement	Enacted in Oct 1998 – required revision of FAR to clarify methods and procedures used for determining price reasonableness; also required SecDef to implement procedures on commercial price trend analysis; and exempt commercial items	

Title 10 "Note" Sections Recommended for Repeal by Section 809 Panel

	A	B	C	D	E
	USC Section	NDAAs Cite	Title	Description	NOTES
1	10 USC 2315 note	FY95 NDAA, PL 103-337, §1075, Oct. 5, 1994	Limitation Regarding Telecommunications Requirements	Enacted in Oct 1994 – prohibited expenditure of funds to meet DOD telecommunication requirements through FTS-2000	DoD says, "further scrutiny needed" (01-11-2018).
38					
39	10 USC 2320 note	FY11 NDAA, PL 111-383, §824(a), Jan. 17, 2011	Guidance Relating to Rights in Technical Data	Enacted in Jan 2011 – required SecDef to review (within 180 days) guidance of military departments to ensure consistency with AT&L technical data guidance	
40	10 USC 2324 note	FY95 NDAA, PL 103-337, §818, Oct. 5, 1994	Payment of Restructuring Costs Under Defense Contracts	Enacted in Oct 1994 – required SecDef to prescribe regulations (by Jan 1, 1995) on allowability of restructuring costs; required submission of reports to Congress (in 1995, 1996 & 1997), and a GAO review	
41	10 USC 2326 note	FY10 NDAA, PL 111-84, §812, Oct. 28, 2009	Revision of Defense Supplement Relating to Payment of Costs Prior to Definitization	Enacted in Oct 2009 – required SecDef to revise DFARS (within 180 days) on limitations related to undefinitized contract actions	
42	10 USC 2326 note	PL 99-500, §908, Oct. 18, 1986 (and PL 99-591; PL 99-661)	Limitation on funds for Undefinitized Contractual Actions; Oversight by Inspector General; Waiver Authority	Enacted in Oct 1986 – required SecDef and Secretaries of military departments to determine total funds obligated for contractual actions and undefinitized contractual actions for specified 6-month periods (ending March 31, 1989); required periodic audit by IG (with submission of audit report to Congress)	
43	10 USC 2330 note	FY08 NDAA, PL 110-181, §805, Jan. 28, 2008	Procurement of Commercial Services	Enacted in Jan 2008 – required SecDef to modify DFARS (within 180 days) for procurement of commercial services; modifications would address treatment regarding "of a type" and "time and material" for commercial item acquisitions	

Title 10 "Note" Sections Recommended for Repeal by Section 809 Panel

A	B	C	D	E
USC Section	NDAA Cite	Title	Description	NOTES
1	10 USC 2330 note	Requirement for Program Review Structure; Comp Gen Review	Enacted in Dec 2001 – required SecDef to issue and implement policy (within 180 days) on procurement of services and a program review structure similar to procurement of weapons systems; required GAO review	
44	FY02 NDAA, PL 107-107, §801(d)-(f), Dec. 28, 2001	Performance Goals for Procurement of Services	Enacted in Dec 2001 – established objective for DOD to achieve efficiencies (through goals) in multiple award contracts for procurement of services; required submission of annual report (through 2011) to congressional committees	
45	10 USC 2330 note	Report on Weapons Capabilities of Defeat Hardened Targets	Enacted in Dec 2002 – required a report (starting in 2009 and submitted every 2 years) by SecDef, SecEnergy & DNI to congressional committees on R&D/ procurement activities to develop weapons & capabilities to defeat hardened and buried targets. Expired in 2013.	
46	10 USC 2358 note	Pilot Program for Revitalizing Labs & Test Centers of DOD	Enacted in Dec 2002 – authorized SecDef to conduct pilot program (in coordination with a similar pilot program) to improve efficiency in performance of R&D, test & evaluation functions (including employing/retaining/shaping appropriate workforce); required submission of reports to Congress. Expired.	
47	10 USC 2358 note	Campuses Barring Military Recruiters; Cessation of Payments; Notification of Secretary Of Defense	Enacted in Sept 1972 – prohibited use of funds at educational institutions that barred DOD from recruiting for the armed forces. Superseded by 10 USC 983	
48	10 USC 2358 note	Performance Review Process	Enacted in Oct 1999 – required SecDef to develop (within 180 days) a performance review process for rating quality & relevance of work performed at DOD labs	
49	10 USC 2364 note	Coordination of Research Activities of DOD	Enacted in Nov 1986 – general statement of findings on need for centralized coordination among research facilities to ensure awareness of emerging technologies and avoid duplication	16
50	10 USC 2364 note			

Title 10 "Note" Sections Recommended for Repeal by Section 809 Panel

	A	B	C	D	E
	USC Section	NDAAs Cite	Title	Description	NOTES
1					
51	10 USC 2366a note	FY08 NDAA, PL 110-181, §943, Jan 28, 2008	Review of DOD Acquisition Directives	Enacted in Jan 2008 – required SecDef review (within 180 days) of DOD5000.1 & other guidance related to Milestone A approval	
52	10 USC 2366b note	FY09 NDAA, PL 110-417, §1047(d), Oct. 14, 2008	Formal Review Process for Bandwidth Requirements	Enacted in Oct 2008 – required SecDef & DNI to establish review process to ensure bandwidths will meet requirements of major acquisition programs; required annual report to SASC/HASC (ending in 2021)	DoD says, "Keep" (01-11-2018).
53	10 USC 2377 note	FY16 NDAA, PL 114-92, §844(b), Nov. 25, 2015	Incorporation Into Management Certification Training Mandate	Enacted in Nov 2015 – required Joint Chiefs to ensure that market research training is part of management certification training for Joint Capabilities Integration Development System	
54	10 USC 2399 note	FY90 NDAA, PL 101-189, §801, Nov. 29, 1989	Assessment of Risk in Concurrent Development of Major Defense Acquisition Systems	Enacted in Nov 1989 – required SecDef to develop guidelines for concurrency in MDAPs; required report to Congress by 1990	
55	10 USC 2410p note	FY07 NDAA, PL 109-364, §807, Oct 17, 2006	Update of Regulations on Lead System Integrators	Enacted in Oct 2006 – required SecDef to update acquisition regulations (by Dec 31, 2006) related to lead system integrators to conform with recent NDAA amendments	
56	10 USC 2430 note	FY08 NDAA, PL 110-181, §908(d), Jan. 28, 2008	Duties of Principal Military Deputies	Enacted in Jan 2008 – described duties of principal deputies related to MDAPs (trade-offs in cost, schedule & performance)	DoD says, "Keep" (01-11-2018).
57	10 USC 2430 note	FY94 NDAA, PL 103-160, §837, Nov 30, 1993	Efficient Contracting Processes	Enacted in Nov 1993 – required SecDef to waive regulations not required by statute that affect efficiency in contracting	
58	10 USC 2430 note	FY94 NDAA, PL 103-160, §838, Nov 30, 1993	Contract Admin – Performance Based Contract Management	Enacted in Nov 1993 – required SecDef to define payment milestones on basis of quantitative results	20

Title 10 "Note" Sections Recommended for Repeal by Section 809 Panel

A	B	C	D	E
USC Section	NDAA Cite	Title	Description	NOTES
1				
10 USC 2458 note	FY10 NDAA, PL 111-84, §328, Oct. 28, 2009	Improvement of Inventory Management Practices	Enacted in Oct 2009 – required SecDef to submit report (within 270 days) to congressional defense committees of a plan to improve inventory management practices within DLA & military departments (to reduce storage of items in excess of requirements)	
59				
10 USC 2461 note	FY05 NDAA, PL 108-375, §325, Oct 28, 2004	Pilot Program for Purchase of Certain Municipal Services	Enacted in Oct 2004 – authorized military department to conduct pilot program to purchase certain municipal services (e.g., library, refuse collection/disposal, facilities maintenance & repair); required congressional notification before start of any program. Expired on 9/30/2012	
60				
10 USC 2461 note	FY04 NDAA, PL 108-136, §336, Nov 24, 2003	Pilot Program for Best Value Source Selection for IT Services	Enacted in Nov 2003 – authorized SecDef to conduct pilot program using best value criterion for selection of IT services (allowing examination of performance by civilian & contractors); required GAO review. Expired on 9/30/2008	
61				
10 USC 2461 note	FY96 NDAA, PL 104-106, §353(a), Feb 10, 1996	Private Sector Operation of Certain Payroll, Finance & Accounting	Enacted in Feb 1996 – required SecDef to submit to Congress (by Oct 1996) a plan for private sector performance of DOD payroll functions; required implementation of plan if costs would not exceed costs of performance by federal employees; required report to Congress on other accounting & finance services that could be performed by private sector	
62				
10 USC 2461 note	FY96 NDAA, PL 104-106, §356, Feb 10, 1996	Program for Improved Travel Process for Department of Defense	Enacted in Feb 1996 – authorized SecDef to develop a plan & conduct a program to improve DOD travel processes; required report to SASC/HASC within one year. Expired in 1998	
63				
10 USC 2500 note	FY93 NDAA, PL 102-484, §4101, Oct 23, 1992	Congressional Findings	Enacted in Oct 1992 – general statement of findings related to collapse of communism & post-Cold War defense build down	
64				

Title 10 "Note" Sections Recommended for Repeal by Section 809 Panel

A	B	C	D	E	
USC Section	NDAA Cite	Title	Description	NOTES	
1	10 USC 2501 note	FY09 NDAA, PL 110-417, §256, Oct. 14, 2008	Executive Agent for Printed Circuit Board Technology	Enacted in Oct 2008 – requires SecDef to designate (within 90 days) a senior official to be executive agent for printed circuit board technology (including funding strategies & assessment of vulnerabilities)	DoD says, "may be needed" (01-11-2018).
65	10 USC 2501 note	FY95 NDAA, PL 103-337, §1118, Oct. 5, 1994	Documentation for Awards for Cooperative Agreements or Other Transactions Under Defense Technology Reinvestment Programs	Enacted in Oct 1994 – required explanation (at time of award of cooperative agreement or other transaction) on how award advances & enhances a national security objective	
66	10 USC 2521 note	FY08 NDAA, PL 110-181, §238(b), Jan 28, 2008	Initial Development and Submission of Plan	Enacted in Jan 2008 – required SecDef to develop a 5-year strategic plan for manufacturing technology; required report to SASC/HASC (by 2010)	
67	10 USCS 2521 note	FY04 NDAA, PL 108-136, §823, Nov. 24, 2003	Technical Assistance Relating to Machine Tools	Enacted in Nov 2003 – required SecDef to publish in Federal Register information on govt. contracting for machine tools	
68	10 USC 2533b note	FY11 NDAA, PL 111-383, §823, Jan 7, 2011	Review of Regulatory Definition of Specialty Metals	Enacted in Jan 2011 – required SecDef to review DFARS (within 270 days) to ensure compliance with specialty metals statute	
69	10 USC 2533b note	FY08 NDAA, PL 110-181, §804(h), Jan 28, 2008	Revision of Domestic Nonavailability	Enacted in Jan 2008 – required review (within 180 days) of any domestic nonavailability determination to ensure statutory compliance	
70	10 USC 2533b note	FY07 NDAA, PL 109-364, §842(b), Oct 17, 2006	One Time Waiver of Specialty Metal Domestic Requirement	Enacted in Oct 2006 – allowed acceptance of specialty metal if incorporated into product before Oct 2006 (and contractor has a plan for future compliance); required publication of waiver in FedBizOps. Waiver authority expired in 2010	
71	10 USC 4551 note	FY01 NDAA, PL 106-398, §343, Oct 30, 2000	Arsenal Support Program Initiative	Enacted in Oct 2000 – requires SecArmy to conduct demonstration program to maintain viability of Army arsenals (allowed commercial use of arsenals and loan guarantees). Applies during FY01 thru FY12.	22

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

NDAA “Note” Sections for Possible Repeal

[This document sets out the current text of the title 10 “note” sections that are in the package of provisions approved by the Section 809 Panel to be recommended to Congress for repeal.]

[Provisions of law are set forth below by order of title 10 section numbers to which a provision is classified as a “note”. Within provisions classified as “notes” under a particular section of title 10, provisions are set forth in the same order they appear in the Code, in chronological order with the most recent first.]

[The number at the beginning of each item below is keyed to the accompanying spreadsheet and corresponds to the row number on the spreadsheet for that item. (Note that on the spreadsheet Row 1 is a header, so the first item is on Row 2 and accordingly the first item below is numbered as 2.)]

2. Section 387(c) of the National Defense Authorization Act for Fiscal Year 1998, P.L. 105-85 (10 U.S.C. 195 note), provided:

“SEC. 387. COMPETITIVE PROCUREMENT OF PRINTING AND DUPLICATING SERVICES.

(a) [amended sec. 351 of P. L. 104-106]

(b) [amended sec. 351 of P. L. 104-106]

“(c) AUTHORITY TO PROCURE SERVICES FROM GOVERNMENT PRINTING [NOW PUBLISHING] OFFICE.—

Consistent with section 501 of title 44, United States Code, the Secretary of a military department or head of a Defense Agency may contract directly with the Government Printing Office [now Government Publishing Office] for printing and duplication services otherwise available through the Defense Automated Printing Service.”

3. Section 801 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015, P.L. 113–291, Dec. 19, 2014 (10 U.S.C. 2223a note), provided:

“SEC. 801. MODULAR OPEN SYSTEMS APPROACHES IN ACQUISITION PROGRAMS.

“(a) PLAN FOR MODULAR OPEN SYSTEMS APPROACH THROUGH DEVELOPMENT AND ADOPTION OF STANDARDS AND ARCHITECTURES.—Not later than January 1, 2016, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives detailing a plan to develop standards and define architectures necessary to enable open systems approaches in the key mission areas of the Department of Defense with respect to which the Under Secretary determines that such standards and architectures would be feasible and cost effective.

“(b) CONSIDERATION OF MODULAR OPEN SYSTEMS APPROACHES.—

“(1) REVIEW OF ACQUISITION GUIDANCE.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall review current acquisition guidance, and modify such guidance as necessary, to-

“(A) ensure that acquisition programs include open systems approaches in the product design and acquisition of information technology systems to the maximum extent practicable; and

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(B) for any information technology system not using an open systems approach, ensure that written justification is provided in the contract file for the system detailing why an open systems approach was not used.

"(2) ELEMENTS.—The review required in paragraph (1) shall-

"(A) consider whether the guidance includes appropriate exceptions for the acquisition of-

"(i) commercial items; and

"(ii) solutions addressing urgent operational needs;

"(B) determine the extent to which open systems approaches should be addressed in analysis of alternatives, acquisition strategies, system engineering plans, and life cycle sustainment plans; and

"(C) ensure that increments of acquisition programs consider the extent to which the increment will implement open systems approaches as a whole.

"(3) DEADLINE FOR REVIEW.—The review required in this subsection shall be completed no later than 180 days after the date of the enactment of this Act [Dec. 19, 2014].

"(c) TREATMENT OF ONGOING AND LEGACY PROGRAMS.—

"(1) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act [Dec. 19, 2014], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report covering the matters specified in paragraph (2).

"(2) MATTERS COVERED.—Subject to paragraph (3), the report required in this subsection shall-

"(A) identify all information technology systems that are in development, production, or deployed status as of the date of the enactment of this Act, that are or were major defense acquisition programs or major automated information systems, and that are not using an open systems approach;

"(B) identify gaps in standards and architectures necessary to enable open systems approaches in the key mission areas of the Department of Defense, as determined pursuant to the plan submitted under subsection (a); and

"(C) outline a process for potential conversion to an open systems approach for each information technology system identified under subparagraph (A).

"(3) LIMITATIONS.—The report required in this subsection shall not include information technology systems-

"(A) having a planned increment before fiscal year 2021 that will result in conversion to an open systems approach; and

"(B) that will be in operation for fewer than 15 years after the date of the enactment of this Act.

"(d) DEFINITIONS.—In this section:

"(1) INFORMATION TECHNOLOGY.—The term 'information technology' has the meaning given the term in section 11101(6) of title 40, United States Code.

"(2) OPEN SYSTEMS APPROACH.—The term 'open systems approach' means, with respect to an information technology system, an integrated business and technical strategy that-

"(A) employs a modular design and uses widely supported and consensus-based standards for key interfaces;

"(B) is subjected to successful validation and verification tests to ensure key interfaces comply with widely supported and consensus-based standards; and

"(C) uses a system architecture that allows components to be added, modified, replaced, removed, or supported by different vendors throughout the lifecycle of the system to afford opportunities for enhanced competition and innovation while yielding-

"(i) significant cost and schedule savings; and

"(ii) increased interoperability."

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

4. Section 938 of the National Defense Authorization Act for Fiscal Year 2014, P. L. 113–66, Dec. 26, 2013 (**10 U.S.C. 2223a note**), provided:

“SEC. 938. SUPERVISION OF THE ACQUISITION OF CLOUD COMPUTING CAPABILITIES.

"(a) SUPERVISION.—

"(1) IN GENERAL.—The Secretary of Defense shall, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense for Intelligence, the Chief Information Officer of the Department of Defense, and the Chairman of the Joint Requirements Oversight Council, supervise the following:

"(A) Review, development, modification, and approval of requirements for cloud computing solutions for data analysis and storage by the Armed Forces and the Defense Agencies, including requirements for cross-domain, enterprise-wide discovery and correlation of data stored in cloud and non-cloud computing databases, relational and non-relational databases, and hybrid databases.

"(B) Review, development, modification, approval, and implementation of plans for the competitive acquisition of cloud computing systems or services to meet requirements described in subparagraph (A), including plans for the transition from current computing systems to systems or services acquired.

"(C) Development and implementation of plans to ensure that the cloud systems or services acquired pursuant to subparagraph (B) are interoperable and universally accessible and usable through attribute-based access controls.

"(D) Integration of plans under subparagraphs (B) and (C) with enterprise-wide plans of the Armed Forces and the Department of Defense for the Joint Information Environment and the Defense Intelligence Information Environment.

"(2) DIRECTION.—The Secretary shall provide direction to the Armed Forces and the Defense Agencies on the matters covered by paragraph (1) by not later than March 15, 2014.

"(b) INTEGRATION WITH INTELLIGENCE COMMUNITY EFFORTS.—The Secretary shall coordinate with the Director of National Intelligence to ensure that activities under this section are integrated with the Intelligence Community Information Technology Enterprise in order to achieve interoperability, information sharing, and other efficiencies.

"(c) LIMITATION.—The requirements of subparagraphs (B), (C), and (D) of subsection (a)(1) shall not apply to a contract for the acquisition of cloud computing capabilities in an amount less than \$1,000,000.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or affect the authorities or responsibilities of the Director of National Intelligence under section 102A of the National Security Act of 1947 (50 U.S.C. 3024)."

5. Section 934 of the National Defense Authorization Act for Fiscal Year 2013, P.L. 112–239, Jan. 2, 2013, as amended (**10 U.S.C. 2223a note**), provided:

“SEC. 934. COMPETITION IN CONNECTION WITH DEPARTMENT OF DEFENSE TACTICAL DATA LINK SYSTEMS.

"(a) COMPETITION IN CONNECTION WITH TACTICAL DATA LINK SYSTEMS.—Not later than December 1, 2013, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall-

"(1) develop an inventory of all tactical data link systems in use and in development in the Department of Defense, including interfaces and waveforms and an assessment of vulnerabilities to such systems in anti-access or area-denial environments;

"(2) conduct an analysis of each data link system contained in the inventory under paragraph (1) to determine whether-

"(A) the upgrade, new deployment, or replacement of such system should be open to competition; or

"(B) the data link should be converted to an open architecture, or a different data link standard should be adopted to enable such competition;

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(3) for each data link system for which competition is determined advisable under subparagraph (A) or (B) of paragraph (2), develop a plan to achieve such competition, including a plan to address any policy, legal, programmatic, or technical barriers to such competition; and

"(4) for each data link system for which competition is determined not advisable under paragraph (2), prepare an explanation for such determination.

"(b) EARLIER ACTIONS.—If the Under Secretary completes any portion of the plan described in subsection (a)(3) before December 1, 2013, the Secretary may commence action on such portion of the plan upon completion of such portion, including publication of such portion of the plan.

"(c) REPORT.—At the same time the budget of the President for fiscal year 2015 is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, the Under Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the plans described in paragraph (3) of subsection (a), including any explanation prepared under paragraph (4) of such subsection."

6. Section 2867 of the National Defense Authorization Act for Fiscal Year 2012, P.L. 112–81, Dec. 31, 2011, as amended (10 U.S.C. 2223a note), provided:

“SEC. 2867. DATA SERVERS AND CENTERS.

"(a) LIMITATIONS ON OBLIGATION OF FUNDS.—

"(1) LIMITATIONS.—

"(A) BEFORE PERFORMANCE PLAN.—During the period beginning on the date of the enactment of this Act [Dec. 31, 2011] and ending on May 1, 2012, a department, agency, or component of the Department of Defense may not obligate funds for a data server farm or data center unless approved by the Chief Information Officer of the Department of Defense or the Chief Information Officer of a component of the Department to whom the Chief Information Officer of the Department has specifically delegated such approval authority.

"(B) UNDER PERFORMANCE PLAN.—After May 1, 2012, a department, agency, or component of the Department may not obligate funds for a data center, or any information systems technology used therein, unless that obligation is in accordance with the performance plan required by subsection (b) and is approved as described in subparagraph (A).

"(2) REQUIREMENTS FOR APPROVALS.—

"(A) BEFORE PERFORMANCE PLAN.—An approval of the obligation of funds may not be granted under paragraph (1)(A) unless the official granting the approval determines, in writing, that existing resources of the agency, component, or element concerned cannot affordably or practically be used or modified to meet the requirements to be met through the obligation of funds.

"(B) UNDER PERFORMANCE PLAN.—An approval of the obligation of funds may not be granted under paragraph (1)(B) unless the official granting the approval determines that-

"(i) existing resources of the Department do not meet the operation requirements to be met through the obligation of funds; and

"(ii) the proposed obligation is in accordance with the performance standards and measures established by the Chief Information Officer of the Department under subsection (b).

"(3) REPORTS.—Not later than 30 days after the end of each calendar quarter, each Chief Information Officer of a component of the Department who grants an approval under paragraph (1) during such calendar quarter shall submit to the Chief Information Officer of the Department a report on the approval or approvals so granted during such calendar quarter.

"(b) PERFORMANCE PLAN FOR REDUCTION OF RESOURCES REQUIRED FOR DATA SERVERS AND CENTERS.—

"(1) COMPONENT PLANS.—

"(A) IN GENERAL.—Not later than January 15, 2012, the Secretaries of the military departments and the heads of the Defense Agencies shall each submit to the Chief Information Officer of the Department a plan for the department or agency concerned to achieve the following:

"(i) A reduction in the square feet of floor space devoted to information systems technologies, attendant support technologies, and operations within data centers.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(ii) A reduction in the use of all utilities necessary to power and cool information systems technologies and data centers.

"(iii) An increase in multi-organizational utilization of data centers, information systems technologies, and associated resources.

"(iv) A reduction in the investment for capital infrastructure or equipment required to support data centers as measured in cost per megawatt of data storage.

"(v) A reduction in the number of commercial and government developed applications running on data servers and within data centers.

"(vi) A reduction in the number of government and vendor provided full-time equivalent personnel, and in the cost of labor, associated with the operation of data servers and data centers.

"(B) SPECIFICATION OF REQUIRED ELEMENTS.—The Chief Information Officer of the Department shall specify the particular performance standards and measures and implementation elements to be included in the plans submitted under this paragraph, including specific goals and schedules for achieving the matters specified in subparagraph (A).

"(2) DEFENSE-WIDE PLAN.—

"(A) IN GENERAL.—Not later than April 1, 2012, the Chief Information Officer of the Department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a performance plan for a reduction in the resources required for data centers and information systems technologies Department-wide. The plan shall be based upon and incorporate appropriate elements of the plans submitted under paragraph (1).

"(B) ELEMENTS.—The performance plan required under this paragraph shall include the following:

"(i) A Department-wide performance plan for achieving the matters specified in paragraph (1)(A), including performance standards and measures for data centers and information systems technologies, goals and schedules for achieving such matters, and an estimate of cost savings anticipated through implementation of the plan.

"(ii) A Department-wide strategy for each of the following:

"(I) Desktop, laptop, and mobile device virtualization.

"(II) Transitioning to cloud computing.

"(III) Migration of Defense data and government-provided services from Department-owned and operated data centers to cloud computing services generally available within the private sector that provide a better capability at a lower cost with the same or greater degree of security.

"(IV) Utilization of private sector-managed security services for data centers and cloud computing services.

"(V) A finite set of metrics to accurately and transparently report on data center infrastructure (space, power and cooling): age, cost, capacity, usage, energy efficiency and utilization, accompanied with the aggregate data for each data center site in use by the Department in excess of 100 kilowatts of information technology power demand.

"(VI) Transitioning to just-in-time delivery of Department-owned data center infrastructure (space, power and cooling) through use of modular data center technology and integrated data center infrastructure management software.

"(3) RESPONSIBILITY.—The Chief Information Officer of the Department shall discharge the responsibility for establishing performance standards and measures for data centers and information systems technologies for purposes of this subsection. Such responsibility may not be delegated.

"(c) EXCEPTIONS.—

"(1) INTELLIGENCE COMPONENTS.—The Chief Information Officer of the Department and the Chief Information Officer of the Intelligence Community may jointly exempt from the applicability of this section such intelligence components of the Department of Defense (and the programs and activities thereof) that are funded through the National Intelligence Program (NIP) as the Chief Information Officers consider appropriate.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(2) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION PROGRAMS.—The Chief Information Officer of the Department may exempt from the applicability of this section research, development, test, and evaluation programs that use authorization of appropriations for the High Performance Computing Modernization Program (Program Element 0603461A) if the Chief Information Officer determines that the exemption is in the best interest of national security."

7. Section 215 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, P.L. 111–383, Jan. 7, 2011 (10 U.S.C. 2223a note), provided:

“SEC. 215. DEMONSTRATION AND PILOT PROJECTS ON CYBERSECURITY.

"(a) DEMONSTRATION PROJECTS ON PROCESSES FOR APPLICATION OF COMMERCIAL TECHNOLOGIES TO CYBERSECURITY REQUIREMENTS.—

"(1) PROJECTS REQUIRED.—The Secretary of Defense and the Secretaries of the military departments shall jointly carry out demonstration projects to assess the feasibility and advisability of using various business models and processes to rapidly and effectively identify innovative commercial technologies and apply such technologies to Department of Defense and other cybersecurity requirements.

"(2) SCOPE OF PROJECTS.—Any demonstration project under paragraph (1) shall be carried out in such a manner as to contribute to the cyber policy review of the President and the Comprehensive National Cybersecurity Initiative.

"(b) PILOT PROGRAMS ON CYBERSECURITY REQUIRED.—The Secretary of Defense shall support or conduct pilot programs on cybersecurity with respect to the following areas:

"(1) Threat sensing and warning for information networks worldwide.

"(2) Managed security services for cybersecurity within the defense industrial base, military departments, and combatant commands.

"(3) Use of private processes and infrastructure to address threats, problems, vulnerabilities, or opportunities in cybersecurity.

"(4) Processes for securing the global supply chain.

"(5) Processes for threat sensing and security of cloud computing infrastructure.

"(c) REPORTS.—

"(1) REPORTS REQUIRED.—Not later than 240 days after the date of the enactment of this Act [Jan. 7, 2011], and annually thereafter at or about the time of the submittal to Congress of the budget of the President for a fiscal year (as submitted pursuant to section 1105(a) of title 31, United States Code), the Secretary of Defense shall, in coordination with the Secretary of Homeland Security, submit to Congress a report on any demonstration projects carried out under subsection (a), and on the pilot projects carried out under subsection (b), during the preceding year.

"(2) ELEMENTS.—Each report under this subsection shall include the following:

"(A) A description and assessment of any activities under the demonstration projects and pilot projects referred to in paragraph (1) during the preceding year.

"(B) For the pilot projects supported or conducted under subsection (b)(2)-

"(i) a quantitative and qualitative assessment of the extent to which managed security services covered by the pilot project could provide effective and affordable cybersecurity capabilities for components of the Department of Defense and for entities in the defense industrial base, and an assessment whether such services could be expanded rapidly to a large scale without exceeding the ability of the Federal Government to manage such expansion; and

"(ii) an assessment of whether managed security services are compatible with the cybersecurity strategy of the Department of Defense with respect to conducting an active, in-depth defense under the direction of United States Cyber Command.

"(C) For the pilot projects supported or conducted under subsection (b)(3)-

"(i) a description of any performance metrics established for purposes of the pilot project, and a description of any processes developed for purposes of accountability and governance under any partnership under the pilot project; and

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(ii) an assessment of the role a partnership such as a partnership under the pilot project would play in the acquisition of cyberspace capabilities by the Department of Defense, including a role with respect to the development and approval of requirements, approval and oversight of acquiring capabilities, test and evaluation of new capabilities, and budgeting for new capabilities.

"(D) For the pilot projects supported or conducted under subsection (b)(4)-

"(i) a framework and taxonomy for evaluating practices that secure the global supply chain, as well as practices for securely operating in an uncertain or compromised supply chain;

"(ii) an assessment of the viability of applying commercial practices for securing the global supply chain; and

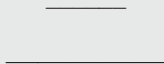
"(iii) an assessment of the viability of applying commercial practices for securely operating in an uncertain or compromised supply chain.

"(E) For the pilot projects supported or conducted under subsection (b)(5)-

"(i) an assessment of the capabilities of Federal Government providers to offer secure cloud computing environments; and

"(ii) an assessment of the capabilities of commercial providers to offer secure cloud computing environments to the Federal Government.

"(3) FORM.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex."



8. Section 804 of the National Defense Authorization Act for Fiscal Year 2010, P.L. 111–84, Oct. 28, 2009 (10 U.S.C. 2223a note), provided:

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

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

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

"(2) be designed to include-

"(A) early and continual involvement of the user;

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

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

"(D) a modular, open-systems approach.

"(b) REPORT TO CONGRESS.—Not later than 270 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the new acquisition process developed pursuant to subsection (a). The report required by this subsection shall, at a minimum-

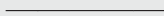
"(1) describe the new acquisition process;

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

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

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

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



[TEXT OF PROVISIONS IN REPEAL PACKAGE]

9. Section 881 of the National Defense Authorization Act for Fiscal Year 2008, P.L. 110–181, Jan. 28, 2008 (**10 U.S.C. 2223a note**), provided:

“SEC. 881. CLEARINGHOUSE FOR RAPID IDENTIFICATION AND DISSEMINATION OF COMMERCIAL INFORMATION TECHNOLOGIES.

"(a) **REQUIREMENT TO ESTABLISH CLEARINGHOUSE.**—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense, acting through the Assistant Secretary of Defense for Networks and Information Integration, shall establish a clearinghouse for identifying, assessing, and disseminating knowledge about readily available information technologies (with an emphasis on commercial off-the-shelf information technologies) that could support the warfighting mission of the Department of Defense.

"(b) **RESPONSIBILITIES.**—The clearinghouse established pursuant to subsection (a) shall be responsible for the following:

"(1) Developing a process to rapidly assess and set priorities and needs for significant information technology needs of the Department of Defense that could be met by commercial technologies, including a process for-

"(A) aligning priorities and needs with the requirements of the commanders of the combatant command; and

"(B) proposing recommendations to the commanders of the combatant command of feasible technical solutions for further evaluation.

"(2) Identifying and assessing emerging commercial technologies (including commercial off-the-shelf technologies) that could support the warfighting mission of the Department of Defense, including the priorities and needs identified pursuant to paragraph (1).

"(3) Disseminating information about commercial technologies identified pursuant to paragraph (2) to commanders of combatant commands and other potential users of such technologies.

"(4) Identifying gaps in commercial technologies and working to stimulate investment in research and development in the public and private sectors to address those gaps.

"(5) Enhancing internal data and communications systems of the Department of Defense for sharing and retaining information regarding commercial technology priorities and needs, technologies available to meet such priorities and needs, and ongoing research and development directed toward gaps in such technologies.

"(6) Developing mechanisms, including web-based mechanisms, to facilitate communications with industry regarding the priorities and needs of the Department of Defense identified pursuant to paragraph (1) and commercial technologies available to address such priorities and needs.

"(7) Assisting in the development of guides to help small information technology companies with promising technologies to understand and navigate the funding and acquisition processes of the Department of Defense.

"(8) Developing methods to measure how well processes developed by the clearinghouse are being utilized and to collect data on an ongoing basis to assess the benefits of commercial technologies that are procured on the recommendation of the clearinghouse.

"(c) **PERSONNEL.**—The Secretary of Defense, acting through the Assistant Secretary of Defense for Networks and Information Integration, shall provide for the hiring and support of employees (including detailees from other components of the Department of Defense and from other Federal departments or agencies) to assist in identifying, assessing, and disseminating information regarding commercial technologies under this section.

"(d) **REPORT TO CONGRESS.**—Not later than one year after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the implementation of this section."

10. Section 814(a) of the National Defense Authorization Act for Fiscal Year 2017, P.L. 114–328, Dec. 23, 2016 (**10 U.S.C. 2302 note**), provided:

“SEC. 814. PROCUREMENT OF PERSONAL PROTECTIVE EQUIPMENT.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(a) LIMITATION.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2016], the Defense Federal Acquisition Regulation Supplement shall be revised--

"(1) to prohibit the use by the Department of Defense of reverse auctions or lowest price technically acceptable contracting methods for the procurement of personal protective equipment or an aviation critical safety item (as defined in section 2319(g) of this title) if the level of quality or failure of the equipment or item could result in combat casualties; and

"(2) to establish a preference for the use of best value contracting methods for the procurement of such equipment or item."

(b) CONFORMING AMENDMENT.—[repealed sec. 884 of the FY16 NDAA]

11. Section 881 of the National Defense Authorization Act for Fiscal Year 2016, P.L. 114–92, Nov. 25, 2015 (10 U.S.C. 2302 note), provided:

“SEC. 881. CONSIDERATION OF POTENTIAL PROGRAM COST INCREASES AND SCHEDULE DELAYS RESULTING FROM OVERSIGHT OF DEFENSE ACQUISITION PROGRAMS.

"(a) AVOIDANCE OF UNNECESSARY COST INCREASES AND SCHEDULE DELAYS.—The Director of Operational Test and Evaluation, the Deputy Chief Management Officer, the Director of the Defense Contract Management Agency, the Director of the Defense Contract Audit Agency, the Inspector General of the Department of Defense, and the heads of other defense audit, testing, acquisition, and management agencies shall ensure that policies, procedures, and activities implemented by their offices and agencies in connection with defense acquisition program oversight do not result in unnecessary increases in program costs or cost estimates or delays in schedule or schedule estimates.

"(b) CONSIDERATION OF PRIVATE SECTOR BEST PRACTICES.—In considering potential cost increases and schedule delays as a result of oversight efforts pursuant to subsection (a), the officials described in such subsection shall consider private sector best practices with respect to oversight implementation."

12. Section 804 of the National Defense Authorization Act for Fiscal Year 2013, P.L. 112–239, Jan. 2, 2013 (10 U.S.C. 2302 note), provided:

“SEC. 804. DEPARTMENT OF DEFENSE POLICY ON CONTRACTOR PROFITS.

"(a) REVIEW OF GUIDELINES ON PROFITS.—The Secretary of Defense shall review the profit guidelines in the Department of Defense Supplement to the Federal Acquisition Regulation in order to identify any modifications to such guidelines that are necessary to ensure an appropriate link between contractor profit and contractor performance. In conducting the review, the Secretary shall obtain the views of experts and interested parties in Government and the private sector.

"(b) MATTERS TO BE CONSIDERED.—In conducting the review required by subsection (a), the Secretary shall consider, at a minimum, the following:

"(1) Appropriate levels of profit needed to sustain competition in the defense industry, taking into account contractor investment and cash flow.

"(2) Appropriate adjustments to address contract and performance risk assumed by the contractor, taking into account the extent to which such risk is passed on to subcontractors.

"(3) Appropriate incentives for superior performance in delivering quality products and services in a timely and cost-effective manner, taking into account such factors as prime contractor cost reduction, control of overhead costs, subcontractor cost reduction, subcontractor management, and effective competition (including the use of small business) at the subcontract level.

"(c) MODIFICATION OF GUIDELINES.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary shall modify the profit guidelines described in subsection (a) to make such changes as the Secretary determines to be appropriate based on the review conducted pursuant to that subsection."

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

13. Section 843 of the National Defense Authorization Act for Fiscal Year 2013, P.L. 112–239, Jan. 2, 2013 (**10 U.S.C. 2302 note**), provided:

“SEC. 843. RESPONSIBILITY WITHIN DEPARTMENT OF DEFENSE FOR OPERATIONAL CONTRACT SUPPORT.

"(a) GUIDANCE REQUIRED.—Not later than one year after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall develop and issue guidance establishing the chain of authority and responsibility within the Department of Defense for policy, planning, and execution of operational contract support.

"(b) ELEMENTS.—The guidance under subsection (a) shall, at a minimum—

"(1) specify the officials, offices, and components of the Department within the chain of authority and responsibility described in subsection (a);

"(2) identify for each official, office, and component specified under paragraph (1)—

"(A) requirements for policy, planning, and execution of contract support for operational contract support, including, at a minimum, requirements in connection with-

"(i) coordination of functions, authorities, and responsibilities related to operational contract support, including coordination with relevant Federal agencies;

"(ii) assessments of total force data in support of Department force planning scenarios, including the appropriateness of and necessity for the use of contractors for identified functions;

"(iii) determinations of capability requirements for nonacquisition community operational contract support, and identification of resources required for planning, training, and execution to meet such requirements; and

"(iv) determinations of policy regarding the use of contractors by function, and identification of the training exercises that will be required for operational contract support (including an assessment [of] whether or not such exercises will include contractors); and

"(B) roles, authorities, responsibilities, and lines of supervision for the achievement of the requirements identified under subparagraph (A); and

"(3) ensure that the chain of authority and responsibility described in subsection (a) is appropriately aligned with, and appropriately integrated into, the structure of the Department for the conduct of overseas contingency operations, including the military departments, the Joint Staff, and the commanders of the unified combatant commands."

14. Section 844 of the National Defense Authorization Act for Fiscal Year 2013, P.L. 112–239, Jan. 2, 2013 (**10 U.S.C. 2302 note**), provided:

“SEC. 844. DATA COLLECTION ON CONTRACT SUPPORT FOR FUTURE OVERSEAS CONTINGENCY OPERATIONS INVOLVING COMBAT OPERATIONS.

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall each issue guidance regarding data collection on contract support for future contingency operations outside the United States that involve combat operations.

"(b) ELEMENTS.—The guidance required by subsection (a) shall ensure that the Department of Defense, the Department of State, and the United States Agency for International Development take the steps necessary to ensure that each agency has the capability to collect and report, at a minimum, the following data regarding such contract support:

"(1) The total number of contracts entered into as of the date of any report.

"(2) The total number of such contracts that are active as of such date.

"(3) The total value of contracts entered into as of such date.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(4) The total value of such contracts that are active as of such date.

"(5) An identification of the extent to which the contracts entered into as of such date were entered into using competitive procedures.

"(6) The total number of contractor personnel working under contracts entered into as of the end of each calendar quarter during the one-year period ending on such date.

"(7) The total number of contractor personnel performing security functions under contracts entered into as of the end of each calendar quarter during the one-year period ending on such date.

"(8) The total number of contractor personnel killed or wounded under any contracts entered into.

"(c) COMPTROLLER GENERAL REVIEW AND REPORT.—

"(1) REVIEW.—The Comptroller General of the United States shall review the data system or systems established to track contractor data pursuant to subsections (a) and (b). The review shall, with respect to each such data system, at a minimum—

"(A) identify each such data system and assess the resources needed to sustain such system;

"(B) determine if all such data systems are interoperable, use compatible data standards, and meet the requirements of section 2222 of title 10, United States Code; and

"(C) make recommendations on the steps that the Department of Defense, the Department of State, and the United States Agency for International Development should take to ensure that all such data systems—

"(i) meet the requirements of the guidance issued pursuant to subsections (a) and (b);

"(ii) are interoperable, use compatible data standards, and meet the requirements of section 2222 of such title; and

"(iii) are supported by appropriate business processes and rules to ensure the timeliness and reliability of data.

"(2) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General shall submit a report on the review required by paragraph (1) to the following committees:

"(A) The congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

"(B) The Committee on Foreign Relations and the Committee on Homeland Security and Governmental Affairs of the Senate.

"(C) The Committee on Foreign Affairs and the Committee on Oversight and Government Reform of the House of Representatives."

15. Section 818(g) of the National Defense Authorization Act for Fiscal Year 2012, P. L. 112–81 (10 U.S.C. 2302 note), as amended, provides:

“SEC. 818. DETECTION AND AVOIDANCE OF COUNTERFEIT ELECTRONIC PARTS.

"(a) ASSESSMENT OF DEPARTMENT OF DEFENSE POLICIES AND SYSTEMS.—***

"(g) INFORMATION SHARING.—

"(1) IN GENERAL.—If United States Customs and Border Protection suspects a product of being imported in violation of section 42 of the Lanham Act [15 U.S.C. 1124], and subject to any applicable bonding requirements, the Secretary of the Treasury may share information appearing on, and unredacted samples of, products and their packaging and labels, or photographs of such products, packaging, and labels, with the rightholders of the trademarks suspected of being copied or simulated for purposes of determining whether the products are prohibited from importation pursuant to such section.

"(2) SUNSET.—This subsection shall expire on the date of the enactment of the Customs Facilitation and Trade Enforcement Reauthorization Act of 2012.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(3) LANHAM ACT DEFINED.—In this subsection, the term 'Lanham Act' means the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes', approved July 5, 1946 (commonly referred to as the 'Trademark Act of 1946' or the 'Lanham Act') [15 U.S.C. 1051 et seq.]"

P. L. 114–125, §302(b), Feb. 24, 2016, 130 Stat. 150, provided that: "Notwithstanding paragraph (2) of section 818(g) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1496; 10 U.S.C. 2302 note) [set out above], paragraph (1) of that section shall have no force or effect on or after the date of the enactment of this Act [Feb. 24, 2016]."

16. Section 127 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, P.L. 111–383, Jan. 7, 2011 (10 U.S.C. 2302 note), provided:

“SEC. 127. CONTRACTS FOR COMMERCIAL IMAGING SATELLITE CAPACITIES.

"(a) TELESCOPE REQUIREMENTS UNDER CONTRACTS AFTER 2010.—Except as provided in subsection (b), any contract for additional commercial imaging satellite capability or capacity entered into by the Department of Defense after December 31, 2010, shall require that the imaging telescope providing such capability or capacity under such contract has an aperture of not less than 1.5 meters.

"(b) WAIVER.—The Secretary of Defense may waive the limitation in subsection (a) if-

"(1) the Secretary submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] written certification that the waiver is in the national security interests of the United States; and

"(2) a period of 30 days has elapsed following the date on which the certification under paragraph (1) is submitted.

"(c) CONTINUATION OF CURRENT CONTRACTS.—The limitation in subsection (a) may not be construed to prohibit or prevent the Secretary of Defense from continuing or maintaining current commercial imaging satellite capability or capacity in orbit or under contract by December 31, 2010."

17. Section 815(b) of the National Defense Authorization Act for Fiscal Year 2008, P.L. 110–181, Jan. 28, 2008 (10 U.S.C. 2302 note), provided:

“SEC. 815. CLARIFICATION OF RULES REGARDING THE PROCUREMENT OF COMMERCIAL ITEMS.

(a) [amended 10 U.S.C. 2379 & 2321(f)]

"(b) SALES OF COMMERCIAL ITEMS TO NONGOVERNMENTAL ENTITIES.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall modify the regulations of the Department of Defense on the procurement of commercial items in order to clarify that the terms 'general public' and 'nongovernmental entities' in such regulations do not include the Federal Government or a State, local, or foreign government."

18. Section 812 of the John Warner National Defense Authorization Act for Fiscal Year 2007, P.L. 109-364, Oct. 17, 2006 (10 U.S.C. 2302 note), as amended, provides:

“SEC. 812. PILOT PROGRAM ON TIME-CERTAIN DEVELOPMENT IN ACQUISITION OF MAJOR WEAPON SYSTEMS.

"(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a pilot program on the use of time-certain development in the acquisition of major weapon systems.

"(b) PURPOSE OF PILOT PROGRAM.—The purpose of the pilot program authorized by subsection (a)

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

is to assess the feasibility and advisability of utilizing time-certain development in the acquisition of major weapon systems in order to deliver new capabilities to the warfighter more rapidly through—

- "(1) disciplined decision-making;
- "(2) emphasis on technological maturity; and
- "(3) appropriate trade-offs between—
 - "(A) cost and system performance; and
 - "(B) program schedule.

"(c) INCLUSION OF SYSTEMS IN PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense may include a major weapon system in the pilot program only if—

"(A) the major weapon system meets the criteria under paragraph (2) in accordance with that paragraph; and

"(B) the Milestone Decision Authority nominates such program to the Secretary of Defense for inclusion in the program.

"(2) CRITERIA.—For purposes of paragraph (1) a major weapon system meets the criteria under this paragraph only if the Milestone Decision Authority determines, in consultation with the service acquisition executive for the military department carrying out the acquisition program for the system and one or more combatant commanders responsible for fielding the system, that—

"(A) the certification requirements of section 2366b of title 10, United States Code (as amended by section 805 of this Act), have been met, and no waivers have been granted from such requirements;

"(B) a preliminary design has been reviewed using systems engineering, and the system, as so designed, will meet battlefield needs identified by the relevant combatant commanders after appropriate requirements analysis;

"(C) a representative model or prototype of the system, or key subsystems, has been demonstrated in a relevant environment, such as a well-simulated operational environment;

"(D) an independent cost estimate has been conducted and used as the basis for funding requirements for the acquisition program for the system;

"(E) the budget of the military department responsible for carrying out the acquisition program for the system provides the funding necessary to execute the product development and production plan consistent with the requirements identified pursuant to subparagraph (D);

"(F) an appropriately qualified program manager has entered into a performance agreement with the Milestone Decision Authority that establishes expected parameters for the cost, schedule, and performance of the acquisition program for the system, consistent with a business case for such acquisition program;

"(G) the service acquisition executive and the program manager have developed a strategy to ensure stability in program management until, at a minimum, the delivery of the initial operational capability under the acquisition program for the system has occurred;

"(H) the service acquisition executive, the relevant combatant commanders, and the program manager have agreed that no additional requirements that would be inconsistent with the agreed-upon program schedule will be added during the development phase of the acquisition program for the system; and

"(I) a planned initial operational capability will be delivered to the relevant combatant commanders within a defined period of time as prescribed in regulations by the Secretary of Defense.

"(3) TIMING OF DECISION.—The decision whether to include a major weapon system in the pilot program shall be made at the time of milestone approval for the acquisition program for the system.

"(d) LIMITATION ON NUMBER OF WEAPONS SYSTEMS IN PILOT PROGRAM.—The number of major weapon systems included in the pilot program at any time may not exceed six major weapon systems.

"(e) LIMITATION ON COST OF WEAPONS SYSTEMS IN PILOT PROGRAM.—The Secretary of Defense may include a major weapon system in the pilot program only if, at the time a major weapon system is proposed for inclusion, the total cost for system design and development of the weapon system, as set forth in the cost estimate referred to in subsection c)(2)(D), does not exceed \$1,000,000,000 during the period covered by the current future-years defense program.

"(f) SPECIAL FUNDING AUTHORITY.—

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(1) **AUTHORITY FOR RESERVE ACCOUNT.**—Notwithstanding any other provision of law, the Secretary of Defense may establish a special reserve account utilizing funds made available for the major weapon systems included in the pilot program.

"(2) **ELEMENTS.**—The special reserve account may include—

"(A) funds made available for any major weapon system included in the pilot program to cover termination liability;

"(B) funds made available for any major weapon system included in the pilot program for award fees that may be earned by contractors; and

"(C) funds appropriated to the special reserve account.

"(3) **AVAILABILITY OF FUNDS.**—Funds in the special reserve account may be used, in accordance with guidance issued by the Secretary for purposes of this section, for the following purposes:

"(A) To cover termination liability for any major weapon system included in the pilot program.

"(B) To pay award fees that are earned by any contractor for a major weapon system included in the pilot program.

"(C) To address unforeseen contingencies that could prevent a major weapon system included in the pilot program from meeting critical schedule or performance requirements.

"(4) **REPORTS ON USE OF FUNDS.**—Not later than 30 days after the use of funds in the special reserve account for the purpose specified in paragraph (3)(C), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of funds in the account for such purpose. The report shall set forth the purposes for which the funds were used and the reasons for the use of the funds for such purposes.

"(5) **RELATIONSHIP TO APPROPRIATIONS.**—Nothing in this subsection may be construed as extending any period of time for which appropriated funds are made available.

"(g) **ADMINISTRATION OF PILOT PROGRAM.**—The Secretary of Defense shall prescribe policies and procedures on the administration of the pilot program. Such policies and procedures shall—

"(1) provide for the use of program status reports based on earned value data to track progress on a major weapon system under the pilot program against baseline estimates applicable to such system at each systems engineering technical review point; and

"(2) grant authority, to the maximum extent practicable, to the program manager for the acquisition program for a major weapon system to make key program decisions and trade-offs, subject to management reviews only if cost or schedule deviations exceed the baselines for such acquisition program by 10 percent or more.

"(h) **REMOVAL OF WEAPONS SYSTEMS FROM PILOT PROGRAM.**—The Secretary of Defense shall remove a major weapon system from the pilot program if—

"(1) the weapon system receives Milestone C approval; or

"(2) the Secretary determines that the weapon system is no longer in substantial compliance with the criteria in subsection (c)(2) or is otherwise no longer appropriate for inclusion in the pilot program.

"(i) **EXPIRATION OF AUTHORITY TO INCLUDE ADDITIONAL SYSTEMS IN PILOT PROGRAM.**—

"(1) **EXPIRATION.**—A major weapon system may not be included in the pilot program after **September 30, 2012.**

"(2) **RETENTION OF SYSTEMS.**—A major weapon system included in the pilot program before the date specified in paragraph (1) in accordance with the requirements of this section may remain in the pilot program after that date.

"(j) **ANNUAL REPORT.**—

"(1) **IN GENERAL.**—Not later than one year after including the first major weapon system in the pilot program, and annually thereafter, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program, and the major weapon systems included in the pilot program, during the one-year period ending on the date of such report.

"(2) **ELEMENTS.**—Each report under this subsection shall include—

"(A) a description of progress under the pilot program, and on each major weapon system included in the pilot program, during the period covered by such report;

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(B) a description of the use of all funds in the special reserve account established under subsection (f); and

"(C) such other matters as the Secretary considers appropriate.

"(k) MAJOR WEAPON SYSTEM DEFINED.—In this section, the term 'major weapon system' means a weapon system that is treatable as a major system under section 2302(5) of title 10, United States Code."

19. Section 806 of the National Defense Authorization Act for Fiscal Year 2006, P.L. 109–163, Jan. 6, 2006 (10 U.S.C. 2302 note), provided:

“SEC. 806. CONGRESSIONAL NOTIFICATION OF CANCELLATION OF MAJOR AUTOMATED INFORMATION SYSTEMS.

"(a) REPORT REQUIRED.—The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] not less than 60 days before cancelling a major automated information system program that has been fielded or approved to be fielded, or making a change that will significantly reduce the scope of such a program, of the proposed cancellation or change.

"(b) CONTENT.—Each notification submitted under subsection (a) with respect to a proposed cancellation or change shall include—

"(1) the specific justification for the proposed cancellation or change;

"(2) a description of the impact of the proposed cancellation or change on the ability of the Department to achieve the objectives of the program proposed for cancellation or change;

"(3) a description of the steps that the Department plans to take to achieve those objectives; and

"(4) other information relevant to the change in acquisition strategy.

"(c) DEFINITIONS.—In this section:

"(1) The term 'major automated information system' has the meaning given that term in Department of Defense directive 5000.1.

"(2) The term 'approved to be fielded' means having received Milestone C approval."

20. Section 817 of the National Defense Authorization Act for Fiscal Year 2006, P.L. 109-163 (10 U.S.C. 2302 note), provides:

“SEC. 817. JOINT POLICY ON CONTINGENCY CONTRACTING.

"(a) JOINT POLICY.—

"(1) REQUIREMENT.—Not later than one year after the date of the enactment of this Act [Jan. 6, 2006], the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop a joint policy for contingency contracting during combat operations and post-conflict operations.

"(2) MATTERS COVERED.—The joint policy for contingency contracting required by paragraph (1) shall, at a minimum, provide for—

"(A) the designation of a senior commissioned officer in each military department with the responsibility for administering the policy;

"(B) the assignment of a senior commissioned officer with appropriate acquisition experience and qualifications to act as head of contingency contracting during combat operations, post-conflict operations, and contingency operations, who shall report directly to the commander of the combatant command in whose area of responsibility the operations occur;

"(C) an organizational approach to contingency contracting that is designed to ensure that each military department is prepared to conduct contingency contracting during combat operations and post-conflict operations;

"(D) a requirement to provide training (including training under a program to be created by the Defense Acquisition University) to contingency contracting personnel in—

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(i) the use of law, regulations, policies, and directives related to contingency contracting operations;

"(ii) the appropriate use of rapid acquisition methods, including the use of exceptions to competition requirements under section 2304 of title 10, United States Code, sealed bidding, letter contracts, indefinite delivery indefinite quantity task orders, set asides under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), undefinitized contract actions, and other tools available to expedite the delivery of goods and services during combat operations or post-conflict operations;

"(iii) the appropriate use of rapid acquisition authority, commanders' emergency response program funds, and other tools unique to contingency contracting; and

"(iv) instruction on the necessity for the prompt transition from the use of rapid acquisition authority to the use of full and open competition and other methods of contracting that maximize transparency in the acquisition process;

"(E) appropriate steps to ensure that training is maintained for such personnel even when they are not deployed in a contingency operation; and

"(F) such steps as may be needed to ensure jointness and cross-service coordination in the area of contingency contracting.

"(b) REPORTS.—

"(1) INTERIM REPORT.—

"(A) REQUIREMENT.—Not later than 270 days after the date of the enactment of this Act [Jan. 6, 2006], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives an interim report on contingency contracting.

"(B) MATTERS COVERED.—The report shall include discussions of the following:

"(i) Progress in the development of the joint policy under subsection (a).

"(ii) The ability of the Armed Forces to support contingency contracting.

"(iii) The ability of commanders of combatant commands to request contingency contracting support and the ability of the military departments and the acquisition support agencies to respond to such requests and provide such support, including the availability of rapid acquisition personnel for such support.

"(iv) The ability of the current civilian and military acquisition workforce to deploy to combat theaters of operations and to conduct contracting activities during combat and during post-conflict, reconstruction, or other contingency operations.

"(v) The effect of different periods of deployment on continuity in the acquisition process.

"(2) FINAL REPORT.—Not later than 18 months after the date of the enactment of this Act [Jan. 6, 2006], the Secretary of Defense shall submit to the committees listed in paragraph (1)(A) a final report on contingency contracting, containing a discussion of the implementation of the joint policy developed under subsection (a), including updated discussions of the matters covered in the interim report.

"(c) DEFINITIONS.—In this section:

"(1) CONTINGENCY CONTRACTING PERSONNEL.—The term 'contingency contracting personnel' means members of the Armed Forces and civilian employees of the Department of Defense who are members of the defense acquisition workforce and, as part of their duties, are assigned to provide support to contingency operations (whether deployed or not).

"(2) CONTINGENCY CONTRACTING.—The term 'contingency contracting' means all stages of the process of acquiring property or services by the Department of Defense during a contingency operation.

"(3) CONTINGENCY OPERATION.—The term 'contingency operation' has the meaning provided in section 101(13) of title 10, United States Code.

"(4) ACQUISITION SUPPORT AGENCIES.—The term 'acquisition support agencies' means Defense Agencies and Department of Defense Field Activities that carry out and provide support for acquisition-related activities."

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

21. Section 141 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, P.L. 108–375, Oct. 28, 2004 (**10 U.S.C. 2302 note**), provided:

“SEC. 141. DEVELOPMENT OF DEPLOYABLE SYSTEMS TO INCLUDE CONSIDERATION OF FORCE PROTECTION IN ASYMMETRIC THREAT ENVIRONMENTS.

"(a) REQUIREMENT FOR SYSTEMS DEVELOPMENT.—The Secretary of Defense shall require that the Department of Defense regulations, directives, and guidance governing the acquisition of covered systems be revised to require that-

"(1) an assessment of warfighter survivability and of system suitability against asymmetric threats shall be performed as part of the development of system requirements for any such system; and

"(2) requirements for key performance parameters for force protection and survivability shall be included as part of the documentation of system requirements for any such system.

"(b) COVERED SYSTEMS.—In this section, the term 'covered system' means any of the following systems that is expected to be deployed in an asymmetric threat environment:

"(1) Any manned system.

"(2) Any equipment intended to enhance personnel survivability.

"(c) INAPPLICABILITY OF DEVELOPMENT REQUIREMENT TO SYSTEMS ALREADY THROUGH DEVELOPMENT.—The revisions pursuant subsection (a) to Department of Defense regulations, directives, and guidance shall not apply to a system that entered low-rate initial production before the date of the enactment of this Act [Oct. 28, 2004].

"(d) DEADLINE FOR POLICY REVISIONS.—The revisions required by subsection (a) to Department of Defense regulations, directives, and guidance shall be made not later than 120 days after the date of the enactment of this Act [Oct. 28, 2004]."

22. Section 802 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, P.L. 108–375, Oct. 28, 2004 (**10 U.S.C. 2302 note**), as amended, provided:

“SEC. 802. INTERNAL CONTROLS FOR DEPARTMENT OF DEFENSE PROCUREMENTS THROUGH GSA CLIENT SUPPORT CENTERS.

"(a) INITIAL INSPECTOR GENERAL REVIEW AND DETERMINATION.—(1) Not later than March 15, 2005, the Inspector General of the Department of Defense and the Inspector General of the General Services Administration shall jointly—

"(A) review—

"(i) the policies, procedures, and internal controls of each GSA Client Support Center;

and

"(ii) the administration of those policies, procedures, and internal controls; and

"(B) for each such Center, determine in writing whether—

"(i) the Center is compliant with defense procurement requirements;

"(ii) the Center is not compliant with defense procurement requirements, but the Center made significant progress during 2004 toward becoming compliant with defense procurement requirements; or

"(iii) neither of the conclusions stated in clauses (i) and (ii) is correct.

"(2) If the Inspectors General determine under paragraph (1) that the conclusion stated in clause (ii) or (iii) of subparagraph (B) of such paragraph is correct in the case of a GSA Client Support Center, those Inspectors General shall, not later than March 15, 2006, jointly—

"(A) conduct a second review regarding that GSA Client Support Center as described in paragraph (1)(A); and

"(B) determine in writing whether that GSA Client Support Center is or is not compliant with defense procurement requirements.

"(b) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a GSA Client Support Center is compliant with defense procurement requirements if the GSA Client Support Center's policies, procedures, and internal controls, and the manner in which they are administered, are adequate to ensure

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

compliance of that Center with the requirements of laws and regulations that apply to procurements of property and services made directly by the Department of Defense.

"(c) LIMITATIONS ON PROCUREMENTS THROUGH GSA CLIENT SUPPORT CENTERS.—(1) After March 15, 2005, and before March 16, 2006, no official of the Department of Defense may, except as provided in subsection (d) or (e), order, purchase, or otherwise procure property or services in an amount in excess of \$100,000 through any GSA Client Support Center for which a determination described in paragraph (1)(B)(iii) of subsection (a) has been made under that subsection.

"(2) After March 15, 2006, no official of the Department of Defense may, except as provided in subsection (d) or (e), order, purchase, or otherwise procure property or services in an amount in excess of \$100,000 through any GSA Client Support Center that has not been determined under this section as being compliant with defense procurement requirements.

"(d) EXCEPTION FROM APPLICABILITY OF LIMITATIONS.—(1) No limitation applies under subsection (c) with respect to the procurement of property and services from a particular GSA Client Support Center during any period that there is in effect a determination of the Under Secretary of Defense for Acquisition, Technology, and Logistics, made in writing, that it is necessary in the interest of the Department of Defense to continue to procure property and services through that GSA Client Support Center.

"(2) A written determination with respect to a GSA Client Support Center under paragraph (1) is in effect for the period, not in excess of one year, that the Under Secretary of Defense for Acquisition, Technology, and Logistics shall specify in the written determination. The Under Secretary may extend from time to time, for up to one year at a time, the period for which the written determination remains in effect.

"(e) TERMINATION OF APPLICABILITY OF LIMITATIONS.—Subsection (c) shall cease to apply to a GSA Client Support Center on the date on which the Inspector General of the Department of Defense and the Inspector General of the General Services Administration jointly determine that such Center is compliant with defense procurement requirements and notify the Secretary of Defense of that determination.

"(f) GSA CLIENT SUPPORT CENTER DEFINED.—In this section, the term 'GSA Client Support Center' means a Client Support Center of the Federal Acquisition Service of the General Services Administration."

23. Section 801(b) of the National Defense Authorization Act for Fiscal Year 2004, P.L. 108–136, Nov. 24, 2003 (10 U.S.C. 2302 note), provided:

“SEC. 801. CONSOLIDATION OF CONTRACT REQUIREMENTS.

(a) AMENDMENT TO TITLE 10.—[added sec. 2382 to title 10, U.S.C.]

(b) DATE REVIEW.—

"(1) The Secretary of Defense shall revise the data collection systems of the Department of Defense to ensure that such systems are capable of identifying each procurement that involves a consolidation of contract requirements within the department with a total value in excess of \$5,000,000.

"(2) The Secretary shall ensure that appropriate officials of the Department of Defense periodically review the information collected pursuant to paragraph (1) in cooperation with the Small Business Administration—

"(A) to determine the extent of the consolidation of contract requirements in the Department of Defense; and

"(B) to assess the impact of the consolidation of contract requirements on the availability of opportunities for small business concerns to participate in Department of Defense procurements, both as prime contractors and as subcontractors.

"(3) In this subsection:

"(A) The term 'consolidation of contract requirements' has the meaning given that term in [former] section 2382(c)(1) of title 10, United States Code, as added by subsection (a).

"(B) The term 'small business concern' means a business concern that is determined by the Administrator of the Small Business Administration to be a small-business concern by application of the standards prescribed under section 3(a) of the Small Business Act (15 U.S.C. 632(a))."

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

24. Section 805(a) of the National Defense Authorization Act for Fiscal Year 2004, P.L. 108–136, Nov. 24, 2003 (**10 U.S.C. 2302 note**), provided:

“SEC. 805. COMPETITIVE AWARD OF CONTRACTS FOR RECONSTRUCTION ACTIVITIES IN IRAQ.

"(a) **COMPETITIVE AWARD OF CONTRACTS.**—The Department of Defense shall fully comply with chapter 137 of title 10, United States Code, and other applicable procurement laws and regulations for any contract awarded for reconstruction activities in Iraq, and shall conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry.

(b) **REPORT.**—[omitted]"

25. Section 352 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, P.L. 107–314, §352, Dec. 2, 2002 (**10 U.S.C. 2302 note**), provided:

“SEC. 352. POLICY REGARDING ACQUISITION OF INFORMATION ASSURANCE AND INFORMATION ASSURANCE-ENABLED INFORMATION TECHNOLOGY PRODUCTS.

"(a) **ESTABLISHMENT OF POLICY.**—The Secretary of Defense shall establish a policy to limit the acquisition of information assurance and information assurance-enabled information technology products to those products that have been evaluated and validated in accordance with appropriate criteria, schemes, or programs.

"(b) **WAIVER.**—As part of the policy, the Secretary of Defense shall authorize specified officials of the Department of Defense to waive the limitations of the policy upon a determination in writing that application of the limitations to the acquisition of a particular information assurance or information assurance-enabled information technology product would not be in the national security interest of the United States.

"(c) **IMPLEMENTATION.**—The Secretary of Defense shall ensure that the policy is uniformly implemented throughout the Department of Defense."

26. Section 326 of the National Defense Authorization Act for Fiscal Year 1993, P.L. 102–484, Oct. 23, 1992 (**10 U.S.C. 2302 note**), as amended, provided:

“SEC. 326. ELIMINATION OF USE OF CLASS I OZONE-DEPLETING SUBSTANCES IN CERTAIN MILITARY PROCUREMENT CONTRACTS.

"(a) **ELIMINATION OF USE OF CLASS I OZONE-DEPLETING SUBSTANCES.**—(1) No Department of Defense contract awarded after June 1, 1993, may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard in the contract is approved by the senior acquisition official for the procurement covered by the contract. The senior acquisition official may grant the approval only if the senior acquisition official determines (based upon the certification of an appropriate technical representative of the official) that a suitable substitute for the class I ozone-depleting substance is not currently available.

"(2)(A)(i) Not later than 60 days after the completion of the first modification, amendment, or extension after June 1, 1993, of a contract referred to in clause (ii), the senior acquisition official (or the designee of that official) shall carry out an evaluation of the contract in order to determine-

"(I) whether the contract includes a specification or standard that requires the use of a class I ozone-depleting substance or can be met only through the use of such a substance; and

"(II) in the event of a determination that the contract includes such a specification or standard, whether the contract can be carried out through the use of an economically feasible substitute for the ozone-depleting substance or through the use of an economically feasible alternative technology for a technology involving the use of the ozone-depleting substance.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(ii) A contract referred to in clause (i) is any contract in an amount in excess of \$10,000,000 that-

"(I) was awarded before June 1, 1993; and

"(II) as a result of the modification, amendment, or extension described in clause (i), will expire more than 1 year after the effective date of the modification, amendment, or extension.

"(iii) A contract under evaluation under clause (i) may not be further modified, amended, or extended until the evaluation described in that clause is complete.

"(B) If the acquisition official (or designee) determines that an economically feasible substitute substance or alternative technology is available for use in a contract under evaluation, the appropriate contracting officer shall enter into negotiations to modify the contract to require the use of the substitute substance or alternative technology.

"(C) A determination that a substitute substance or technology is not available for use in a contract under evaluation shall be made in writing by the senior acquisition official (or designee).

"(D) The Secretary of Defense may, consistent with the Federal Acquisition Regulation, adjust the price of a contract modified under subparagraph (B) to take into account the use by the contractor of a substitute substance or alternative technology in the modified contract.

"(3) The senior acquisition official authorized to grant an approval under paragraph (1) and the senior acquisition official and designees authorized to carry out an evaluation and make a determination under paragraph (2) shall be determined under regulations prescribed by the Secretary of Defense. A senior acquisition official may not delegate the authority provided in paragraph (1).

"(4) Each official who grants an approval authorized under paragraph (1) or makes a determination under paragraph (2)(B) shall submit to the Secretary of Defense a report on that approval or determination, as the case may be, as follows:

"(A) Beginning on October 1, 1993, and continuing for 8 calendar quarters thereafter, by submitting a report on the approvals granted or determinations made under such authority during the preceding quarter not later than 30 days after the end of such quarter.

"(B) Beginning on January 1, 1997, and continuing for 4 years thereafter, by submitting a report on the approvals granted or determinations made under such authority during the preceding year not later than 30 days after the end of such year.

"(5) The Secretary shall promptly transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives each report submitted to the Secretary under paragraph (4). The Secretary shall transmit the report in classified and unclassified forms.

"(b) COST RECOVERY.—In any case in which a Department of Defense contract is modified or a specification or standard for such a contract is waived at the request of a contractor in order to permit the contractor to use in the performance of the contract a substitute for a class I ozone-depleting substance or an alternative technology for a technology involving the use of a class I ozone-depleting substance, the Secretary of Defense may adjust the price of the contract in a manner consistent with the Federal Acquisition Regulation.

"(c) DEFINITIONS.—In this section:

"(1) The term 'class I ozone-depleting substance' means any substance listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)).

"(2) The term 'Federal Acquisition Regulation' means the single Government-wide procurement regulation issued under section 1303(a) of title 41, United States Code."

27. Section 9004 of the Department of Defense Appropriations Act, 1990, P.L. 101–165, Nov. 21, 1989 (10 U.S.C. 2302 note), provided:

**“EQUITABLE PARTICIPATION OF AMERICAN SMALL AND MINORITY-OWNED
BUSINESS IN FURNISHING OF COMMODITIES AND SERVICES.**

"SEC. 9004. During the current fiscal year and hereafter, the Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act [see Tables for classification] by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act."

28. Section 913 of the Department of Defense Authorization Act, 1986, P.L. 99–145, Nov. 8, 1985 (**10 U.S.C. 2302 note**), as amended, provided:

“SEC. 913. MINIMUM PERCENTAGE OF COMPETITIVE PROCUREMENTS.

"(a) ANNUAL GOAL.—The Secretary of Defense shall establish for each fiscal year a goal for the percentage of defense procurements to be made during that year (expressed in total dollar value of contracts entered into) that are to be competitive procurements.

"(b) DEFINITION.—For the purposes of this section, the term 'competitive procurements' means procurements made by the Department of Defense through the use of competitive procedures, as defined in section 2304 of title 10, United States Code."

29. Section 802 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, P.L. 110–417, Oct. 14, 2008 (**10 U.S.C. 2304 note**) provided:

“SEC. 802. IMPLEMENTATION OF STATUTORY REQUIREMENTS REGARDING THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.

"(a) GUIDANCE REQUIRED.—Not later than 270 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall issue guidance regarding—

"(1) the appropriate application of the authority in sections 2304(b) and 2304(c)(3)(A) of title 10, United States Code, in connection with major defense acquisition programs; and

"(2) the appropriate timing and performance of the requirement in section 2440 of title 10, United States Code, to consider the national technology and industrial base in the development and implementation of acquisition plans for each major defense acquisition program.

"(b) DEFINITIONS.—In this section;[:]

"(1) MAJOR DEFENSE ACQUISITION PROGRAM.—The term 'major defense acquisition program' has the meaning provided in section 2430 of title 10, United States Code.

"(2) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The term 'national technology and industrial base' has the meaning provided in section 2500(1) of title 10, United States Code."

30. Section 821 of the National Defense Authorization Act for Fiscal Year 2008, P.L. 110–181, Jan. 28, 2008 (**10 U.S.C. 2304 note**), as amended, provided:

“SEC. 821. PLAN FOR RESTRICTING GOVERNMENT-UNIQUE CONTRACT CLAUSES ON COMMERCIAL CONTRACTS.

"(a) PLAN.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall develop and implement a plan to minimize the number of government-unique contract clauses used in commercial contracts by restricting the clauses to the following:

"(1) Government-unique clauses authorized by law or regulation.

"(2) Any additional clauses that are relevant and necessary to a specific contract.

"(b) COMMERCIAL CONTRACT.—In this section:

"(1) The term 'commercial contract' means a contract awarded by the Federal Government for the procurement of a commercial item.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(2) The term 'commercial item' has the meaning provided by section 103 of title 41, United States Code."

31. Section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007, P.L. 109–364, Oct. 17, 2006 (10 U.S.C. 2304 note), as amended, provided:

“SEC. 813. PANEL ON CONTRACTING INTEGRITY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a panel to be known as the 'Panel on Contracting Integrity'.

"(2) COMPOSITION.—The panel shall be composed of the following:

"(A) A representative of the Under Secretary of Defense for Acquisition, Technology, and Logistics, who shall be the chairman of the panel.

"(B) A representative of the service acquisition executive of each military department.

"(C) A representative of the Inspector General of the Department of Defense.

"(D) A representative of the Inspector General of each military department.

"(E) A representative of each Defense Agency involved with contracting, as determined appropriate by the Secretary of Defense.

"(F) Such other representatives as may be determined appropriate by the Secretary of Defense.

"(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the panel shall—

"(1) conduct reviews of progress made by the Department of Defense to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur;

"(2) review the report by the Comptroller General required by section 841 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3389), relating to areas of vulnerability of Department of Defense contracts to fraud, waste, and abuse; and

"(3) recommend changes in law, regulations, and policy that it determines necessary to eliminate such areas of vulnerability.

"(c) MEETINGS.—The panel shall meet as determined necessary by the Secretary of Defense but not less often than once every six months.

"(d) REPORT.—

"(1) REQUIREMENT.—The panel shall prepare and submit to the Secretary of Defense and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an annual report on its activities. The report shall be submitted not later than December 31 of each year and contain a summary of the panel's findings and recommendations for the year covered by the report.

"(2) FIRST REPORT.—The first report under this subsection shall be submitted not later than December 31, 2007, and shall contain an examination of the current structure in the Department of Defense for contracting integrity and recommendations for any changes needed to the system of administrative safeguards and disciplinary actions to ensure accountability at the appropriate level for any violations of appropriate standards of behavior in contracting.

"(3) INTERIM REPORTS.—The panel may submit such interim reports to the congressional defense committees as the Secretary of Defense considers appropriate.

"(e) TERMINATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the panel shall continue to serve until the date that is 18 months after the date on which the Secretary of Defense notifies the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of an intention to terminate the panel based on a determination that the activities of the panel no longer justify its continuation and that concerns about contracting integrity have been mitigated.

"(2) MINIMUM CONTINUING SERVICE.—The panel shall continue to serve at least until December 31, 2011."

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

32. Section 391 of the National Defense Authorization Act for Fiscal Year 1998, P.L. 105–85, Nov. 18, 1997 (**10 U.S.C. 2304 note**), as amended, provided:

“SEC. 391. WARRANTY CLAIMS RECOVERY PILOT PROGRAM.

"(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense may carry out a pilot program to use commercial sources of services to improve the collection of Department of Defense claims under aircraft engine warranties.

"(b) CONTRACTS.—Exercising the authority provided in section 3718 of title 31, United States Code, the Secretary of Defense may enter into contracts under the pilot program to provide for the following services:

"(1) Collection services.

"(2) Determination of amounts owed the Department of Defense for repair of aircraft engines for conditions covered by warranties.

"(3) Identification and location of the sources of information that are relevant to collection of Department of Defense claims under aircraft engine warranties, including electronic data bases and document filing systems maintained by the Department of Defense or by the manufacturers and suppliers of the aircraft engines.

"(4) Services to define the elements necessary for an effective training program to enhance and improve the performance of Department of Defense personnel in collecting and organizing documents and other information that are necessary for efficient filing, processing, and collection of Department of Defense claims under aircraft engine warranties.

"(c) CONTRACTOR FEE.—Under the authority provided in section 3718(d) of title 31, United States Code, a contract entered into under the pilot program shall provide for the contractor to be paid, out of the amount recovered by the contractor under the program, such percentages of the amount recovered as the Secretary of Defense determines appropriate.

"(d) RETENTION OF RECOVERED FUNDS.—Subject to any obligation to pay a fee under subsection (c), any amount collected for the Department of Defense under the pilot program for a repair of an aircraft engine for a condition covered by a warranty shall be credited to an appropriation available for repair of aircraft engines for the fiscal year in which collected and shall be available for the same purposes and same period as the appropriation to which credited.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(f) TERMINATION OF AUTHORITY.—The pilot program shall terminate on September 30, 2006, and contracts entered into under this section shall terminate not later than that date.

"(g) REPORTING REQUIREMENT.—Not later than February 1, 2006, the Secretary of Defense shall submit to Congress a report on the pilot program, including-

"(1) a description of the extent to which commercial firms have been used to provide the services specified in subsection (b) and the type of services procured;

"(2) a description of any problems that have limited the ability of the Secretary to utilize the pilot program to procure such services; and

"(3) the recommendation of the Secretary regarding whether the pilot program should be made permanent or extended beyond September 30, 2006."

33. Section 927(b) of P.L. 99–500, Oct. 18, 1986 (**10 U.S.C. 2304 note**), P.L. 99–591, Oct. 30, 1986, and P.L. 99–661, Nov. 14, 1986, P.L. 100–26, §3(5), Apr. 21, 1987, provided:

“SEC. 927. ALLOCATION OF OVERHEAD TO PARTS TO WHICH CONTRACTOR HAS ADDED LITTLE VALUE

(a) IN GENERAL.—[added section 2304(i) to title 10, U.S.C.]

"(b) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 2304(i) of such title (as added by subsection (a)) not later than 180 days after the date of the enactment of this Act [Oct. 18, 1986]."

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

34. Section 1222(b) of the National Defense Authorization Act for Fiscal Year 1987, P.L. 99–661, Nov. 14, 1986 (**10 U.S.C. 2304 note**) provided:

“SEC. 1222. PROHIBITION ON CONTRACTS FOR PERFORMANCE OF FIREFIGHTING AND SECURITY FUNCTIONS.

(a) *** [added section 2693 to title 10, U.S.C.]

“(b) ONE-YEAR SECURITY-GUARD PROHIBITION .—(1) Except as provided in paragraph (2), funds appropriated to the Department of Defense may not be obligated or expended before October 1, 1987, for the purpose of entering into a contract for the performance of security-guard functions at any military installation or facility.

“(2) The prohibition in paragraph (1) does not apply—

“(A) to a contract to be carried out at a location outside the United States (including its commonwealths, territories, and possessions) at which military personnel would have to be used for the performance of the function described in paragraph (1) at the expense of unit readiness;

“(B) to a contract to be carried out on a Government-owned but privately operated installation;

“(C) to a contract (or the renewal of a contract) for the performance of a function under contract on September 24, 1983; or

“(D) to a contract for the performance of security-guard functions if (i) the requirement for the functions arises after the date of the enactment of this Act [Nov. 14, 1986], and (ii) the Secretary of Defense determines the functions can be performed by contractor personnel without adversely affecting installation security, safety, or readiness.”

35. Section 814(b) of the National Defense Authorization Act for Fiscal Year 2010, P.L. 111–84, Oct. 28, 2009 (**10 U.S.C. 2304a note**), provides:

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

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

(2) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives insofar as such task or delivery order contract relates to intelligence and intelligence-related activities of the Department other than those specified in paragraph (1).

NOTE: The requirement to provide a notification under subparagraph (B) of section 2304a(d)(3) of title 10, United States Code, terminated with the repeal of that subparagraph by section 809(b) of P. L. 112–81, Dec. 31, 2011, 125 Stat. 1490, so the requirement above to provide the notification at the same time to HPSCI and SSCI would appear to be moot.

36. Section 834 of the John Warner National Defense Authorization Act for Fiscal Year 2007, P.L. 109–364 (**10 U.S.C. 2304b note**), provides:

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

“SEC. 834. WAIVERS TO EXTEND TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

“(a) DEFENSE CONTRACTS.—

“(1) WAIVER AUTHORITY.—The head of an agency may issue a waiver to extend a task order contract entered into under section 2304b of title 10, United States Code, for a period not exceeding 10 years, through five one-year options, if the head of the agency determines in writing—

“(A) that the contract provides engineering or technical services of such a unique and substantial technical nature that award of a new contract would be harmful to the continuity of the program for which the services are performed;

“(B) that award of a new contract would create a large disruption in services provided to the Department of Defense; and

“(C) that the Department of Defense would, through award of a new contract, endure program risk during critical program stages due to loss of program corporate knowledge of ongoing program activities.

“(2) DELEGATION.—The authority of the head of an agency under paragraph (1) may be delegated only to the senior procurement executive of the agency.

“(3) REPORT.—Not later than April 1, 2007, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on advisory and assistance services. The report shall include the following information:

“(A) The methods used by the Department of Defense to identify a contract as an advisory and assistance services contract, as defined in section 2304b of title 10, United States Code.

“(B) The number of such contracts awarded by the Department during the five-year period preceding the date of the enactment of this Act [Oct. 17, 2006].

“(C) The average annual expenditures by the Department for such contracts.

“(D) The average length of such contracts.

“(E) The number of such contracts recompeted and awarded to the previous award winner.

“(4) PROHIBITION ON USE OF AUTHORITY BY DEPARTMENT OF DEFENSE IF REPORT NOT SUBMITTED.—The head of an agency may not issue a waiver under paragraph (1) if the report required by paragraph (3) is not submitted by the date set forth in that paragraph.

“(b) CIVILIAN AGENCY CONTRACTS.—

“(1) WAIVER AUTHORITY.—The head of an executive agency may issue a waiver to extend a task order contract entered into under section 303I of the Federal Property and Administrative Services Act of 1949 ([former] 41 U.S.C. 253i) [see 41 U.S.C. 4105] for a period not exceeding 10 years, through five one-year options, if the head of the agency determines in writing—

“(A) that the contract provides engineering or technical services of such a unique and substantial technical nature that award of a new contract would be harmful to the continuity of the program for which the services are performed;

“(B) that award of a new contract would create a large disruption in services provided to the executive agency; and

“(C) that the executive agency would, through award of a new contract, endure program risk during critical program stages due to loss of program corporate knowledge of ongoing program activities.

“(2) DELEGATION.—The authority of the head of an executive agency under paragraph (1) may be delegated only to the Chief Acquisition Officer of the agency (or the senior procurement executive in the case of an agency for which a Chief Acquisition Officer has not been appointed or designated under section 16(a) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 414(a)) [now 41 U.S.C. 1702(a), (b)(1), (2)]).

“(3) REPORT.—Not later than April 1, 2007, the Administrator for Federal Procurement Policy shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on advisory and assistance services. The report shall include the following information:

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(A) The methods used by executive agencies to identify a contract as an advisory and assistance services contract, as defined in section 3031(i) of the Federal Property and Administrative Services Act of 1949 ([former] 41 U.S.C. 253i(i)) [now 41 U.S.C. 4105(a)].

"(B) The number of such contracts awarded by each executive agency during the five-year period preceding the date of the enactment of this Act [Oct. 17, 2006].

"(C) The average annual expenditures by each executive agency for such contracts.

"(D) The average length of such contracts.

"(E) The number of such contracts recompeted and awarded to the previous award winner.

"(4) PROHIBITION ON USE OF AUTHORITY BY EXECUTIVE AGENCIES IF REPORT NOT SUBMITTED.—The head of an executive agency may not issue a waiver under paragraph (1) if the report required by paragraph (3) is not submitted by the date set forth in that paragraph.

"(c) **TERMINATION OF AUTHORITY.**—A waiver may not be issued under this section after December 31, 2011.

"(d) **COMPTROLLER GENERAL REVIEW.**—***

37. Section 803 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, P.L. 105–261, Oct. 17, 1998 (10 U.S.C. 2306a note), as amended, provided:

“SEC. 803. DEFENSE COMMERCIAL PRICING MANAGEMENT IMPROVEMENT.

"(a) **MODIFICATION OF PRICING REGULATIONS FOR CERTAIN COMMERCIAL ITEMS EXEMPT FROM COST OR PRICING DATA CERTIFICATION REQUIREMENTS.**—(1) The Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 405, 421) [see 41 U.S.C. 1121, 1303] shall be revised to clarify the procedures and methods to be used for determining the reasonableness of prices of exempt commercial items (as defined in subsection (d)).

"(2) The regulations shall, at a minimum, provide specific guidance on-

"(A) the appropriate application and precedence of such price analysis tools as catalog-based pricing, market-based pricing, historical pricing, parametric pricing, and value analysis;

"(B) the circumstances under which contracting officers should require offerors of exempt commercial items to provide-

"(i) information on prices at which the offeror has previously sold the same or similar items; or

"(ii) other information other than certified cost or pricing data;

"(C) the role and responsibility of Department of Defense support organizations in procedures for determining price reasonableness; and

"(D) the meaning and appropriate application of the term 'purposes other than governmental purposes' in section 4(12) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 403(12)) [see 41 U.S.C. 103].

"(3) This subsection shall cease to be effective 1 year after the date on which final regulations prescribed pursuant to paragraph (1) take effect.

"(b) **UNIFIED MANAGEMENT OF PROCUREMENT OF EXEMPT COMMERCIAL ITEMS.**—The Secretary of Defense shall develop and implement procedures to ensure that, whenever appropriate, a single item manager or contracting officer is responsible for negotiating and entering into all contracts from a single contractor for the procurement of exempt commercial items or for the procurement of items in a category of exempt commercial items.

"(c) **COMMERCIAL PRICE TREND ANALYSIS.**—(1) The Secretary of Defense shall develop and implement procedures that, to the maximum extent that is practicable and consistent with the efficient operation of the Department of Defense, provide for the collection and analysis of information on price trends for categories of exempt commercial items described in paragraph (2).

"(2) A category of exempt commercial items referred to in paragraph (1) consists of exempt commercial items-

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(A) that are in a single Federal Supply Group or Federal Supply Class, are provided by a single contractor, or are otherwise logically grouped for the purpose of analyzing information on price trends; and

"(B) for which there is a potential for the price paid to be significantly higher (on a percentage basis) than the prices previously paid in procurements of the same or similar items for the Department of Defense, as determined by the head of the procuring Department of Defense agency or the Secretary of the procuring military department on the basis of criteria prescribed by the Secretary of Defense.

"(3) The head of a Department of Defense agency or the Secretary of a military department shall take appropriate action to address any unreasonable escalation in prices being paid for items procured by that agency or military department as identified in an analysis conducted pursuant to paragraph (1).

"(4) Not later than April 1 of each of fiscal years 2000 through 2009, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the analyses of price trends that were conducted by the Secretary of each military department and the Director of the Defense Logistics Agency for categories of exempt commercial items during the preceding fiscal year under the procedures prescribed pursuant to paragraph (1). The report shall include a description of the actions taken by each Secretary and the Director to identify and address any unreasonable price escalation for the categories of items.

"(d) EXEMPT COMMERCIAL ITEMS DEFINED.—For the purposes of this section, the term 'exempt commercial item' means a commercial item that is exempt under subsection (b)(1)(B) of section 2306a of title 10, United States Code, or section 3503(a)(2) of title 41, United States Code, from the requirements for submission of certified cost or pricing data under that section."

38. Section 1075 of the National Defense Authorization Act for Fiscal Year 1995, P.L. 103–337, Oct. 5, 1994 (10 U.S.C. 2315 note) , provided:

“SEC. 1075. LIMITATION REGARDING TELECOMMUNICATIONS REQUIREMENTS.

"(a) LIMITATION.—No funds available to the Department of Defense or any other Executive agency may be expended to provide for meeting Department of Defense telecommunications requirements through the telecommunications procurement known as 'FTS–2000' or through any other Government-wide telecommunications procurement until—

"(1) the Secretary of Defense submits to the Congress a report containing—

"(A) a certification by the Secretary that the FTS–2000 procurement or the other telecommunications procurement will provide assured, secure telecommunications support (including associated telecommunications services) for Department of Defense activities; and

"(B) a description of how the procurement will be implemented and managed to meet defense information infrastructure requirements, including requirements to support deployed forces and intelligence activities; and

"(2) 30 days elapse after the date on which such report is received by the committees.

"(b) DEFINITIONS.—In this section:

"(1) The term 'defense telecommunications requirements' means requirements for telecommunications equipment and services that, if procured by the Department of Defense, would be exempt from the requirements of section 111 of the Federal Property and Administrative Services Act of 1949 ([former] 40 U.S.C. 759) pursuant to section 2315 of title 10, United States Code.

"(2) The term 'Executive agency' has the meaning given such term in section 105 of title 5, United States Code.

"(3) The term 'procurement' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 403) [see 41 U.S.C. 111].

"(c) EFFECT ON OTHER LAW.—Nothing in this section may be construed as modifying or superseding, or as intended to impair or restrict authorities or responsibilities under-

"(1) section 111 of the Federal Property and Administrative Services Act of 1949 ([former] 40 U.S.C. 759); or

"(2) section 620 of Public Law 103–123 [107 Stat. 1264]."

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

39. Section 824(a) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, P.L. 111–383, Jan. 7, 2011 (**10 U.S.C. 2320 note**), provided:

“SEC. 824. GUIDANCE RELATING TO RIGHTS IN TECHNICAL DATA.

"(a) REVIEW OF GUIDANCE.—Not later than 180 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall review guidance issued by the military departments on the implementation of section 2320(e) of title 10, United States Code, to ensure that such guidance is consistent with the guidance issued by the Under Secretary of Defense for Acquisition, Technology, and Logistics and the requirements of this section [amending this section and section 2321 of this title]. Such guidance shall be designed to ensure that the United States—

"(1) preserves the option of competition for contracts for the production and sustainment of systems or subsystems that are developed exclusively with Federal funds as defined in accordance with the amendments made by this section; and

"(2) is not required to pay more than once for the same technical data."

40. Section 818 of the National Defense Authorization Act for Fiscal Year 1995, P.L. 103–337, Oct. 5, 1994 (**10 U.S.C. 2324 note**), as amended, provided:

“SEC. 818. PAYMENT OF RESTRUCTURING COSTS UNDER DEFENSE CONTRACTS.

"[(a) Repealed. P. L. 105–85, §804(d), Nov. 18, 1997, 111 Stat. 1834]

"(b) REQUIREMENT FOR REGULATIONS.—Not later than January 1, 1995, the Secretary of Defense shall prescribe regulations on the allowability of restructuring costs associated with business combinations under defense contracts.

"(c) MATTERS TO BE INCLUDED.—At a minimum, the regulations shall-

"(1) include a definition of the term 'restructuring costs'; and

"(2) address the issue of contract novations under such contracts.

"(d) CONSULTATION.—In developing the regulations, the Secretary of Defense shall consult with the Administrator for Federal Procurement Policy.

"(e) REPORT.—Not later than November 13 in each of the years 1995, 1996, and 1997, the Secretary of Defense shall submit to Congress a report on the following:

"(1) A description of the procedures being followed within the Department of Defense for evaluating projected costs and savings under a defense contract resulting from a restructuring of a defense contractor associated with a business combination.

"(2) A list of all defense contractors for which restructuring costs have been allowed by the Department, along with the identities of the firms which those contractors have acquired or with which those contractors have combined since July 21, 1993, that qualify the contractors for such restructuring reimbursement.

"(3) The Department's experience with business combinations for which the Department has agreed to allow restructuring costs since July 21, 1993, including the following:

"(A) The estimated amount of costs associated with each restructuring that have been or will be treated as allowable costs under defense contracts, including the type and amounts of costs that would not have arisen absent the business combination.

"(B) The estimated amount of savings associated with each restructuring that are expected to be achieved on defense contracts.

"(C) The types of documentation relied on to establish that savings associated with each restructuring will exceed costs associated with the restructuring.

"(D) Actual experience on whether savings associated with each restructuring are exceeding costs associated with the restructuring.

"(E) Identification of any programmatic or budgetary disruption in the Department of Defense resulting from contractor restructuring.

"(f) DEFINITION.—In this section, the term 'business combination' includes a merger or acquisition.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(g) COMPTROLLER GENERAL REPORTS.—(1) Not later than March 1, 1995, the Comptroller General shall submit to Congress a report on the adequacy of the regulations prescribed under subsection (b) with respect to-

"(A) whether such regulations are consistent with the purposes of this section, other applicable law, and the Federal Acquisition Regulation; and

"(B) whether such regulations establish policies, procedures, and standards to ensure that restructuring costs are paid only when in the best interests of the United States.

"(2) The Comptroller General shall report periodically to Congress on the implementation of the policy of the Department of Defense regarding defense industry restructuring."

41. Section 812 of the National Defense Authorization Act for Fiscal Year 2010, P.L. 111–84, Oct. 28, 2009 (10 U.S.C. 2326 note), provided:

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

"(a) REVISION REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall revise the Defense Supplement to the Federal Acquisition Regulation to ensure that any limitations described in subsection (b) are applicable to all categories of undefinitized contractual actions (including undefinitized task orders and delivery orders).

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

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

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

42. Section 908(a)-(c), (e) of P.L. 99–500, Oct. 18, 1986(10 U.S.C. 2326 note), P.L. 99–591, and P.L. 99–661, Nov. 14, 1986, amended by P.L. 100–26, §§3(5), 5(2), Apr. 21, 1987; P.L. 104–106, §4322(b)(2), Feb. 10, 1996, 110 Stat. 677, provided:

“SEC. 908. LIMITATION ON USE OF FUNDS FOR UNDEFINITIZED CONTRACTUAL ACTIONS; OVERSIGHT BY INSPECTOR GENERAL; WAIVER AUTHORITY.

"(a) LIMITATION ON USE OF FUNDS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—(1) On the last day of each six-month period described in paragraph (4), the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretary of each military department shall determine-

"(A) the total amount of funds obligated for contractual actions during the six-month period;

"(B) the total amount of funds obligated during the six-month period for undefinitized contractual actions; and

"(C) the total amount of funds obligated during the six-month period for undefinitized contractual actions that are not definitized on or before the last day of such period.

"(2) On the last day of each six-month period described in paragraph (4), the amount of funds obligated for undefinitized contractual actions entered into by the Secretary of Defense (with respect to the Defense Logistics Agency) or the Secretary of a military department during the six-month period that are not definitized on or before such day may not exceed 10 percent of the amount of funds obligated for all contractual actions entered into by the Secretary during the six-month period.

"(3) If on the last day of a six-month period described in paragraph (4) the total amount of funds obligated for undefinitized contractual actions under the jurisdiction of a Secretary that were entered into during the six-month period exceeds the limit established in paragraph (2), the Secretary-

"(A) shall, not later than the end of the 45-day period beginning on the first day following the six-month period, submit to the defense committees an unclassified report concerning-

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(i) the amount of funds obligated for contractual actions under the jurisdiction of the Secretary that were entered into during the six-month period with respect to which the report is submitted; and

"(ii) the amount of such funds obligated for undefinitized contractual actions; and

"(B) except with respect to the six-month period described in paragraph (4)(A), may not enter into any additional undefinitized contractual actions until the date on which the Secretary certifies to Congress that such limit is not exceeded by the cumulative amount of funds obligated for undefinitized contractual actions under the jurisdiction of the Secretary that are not definitized on or before such date and were entered into-

"(i) during the six-month period for which such limit was exceeded; or

"(ii) after the end of such six-month period.

"(4) This subsection applies to the following six-month periods:

"(A) The period beginning on October 1, 1986, and ending on March 31, 1987.

"(B) The period beginning on April 1, 1987, and ending on September 30, 1987.

"(C) The period beginning on October 1, 1987, and ending on March 31, 1988.

"(D) The period beginning on April 1, 1988, and ending on September 30, 1988.

"(E) The period beginning on October 1, 1988, and ending on March 31, 1989.

"(b) OVERSIGHT BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall-

"(1) periodically conduct an audit of contractual actions under the jurisdiction of the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretaries of the military departments; and

"(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each Secretary, including the amount of contractual actions under the jurisdiction of each Secretary that is represented by undefinitized contractual actions.

"(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of subsections (a) and (b) for urgent and compelling considerations relating to national security or public safety if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of such waiver before the end of the 30-day period beginning on the date that the waiver is made.

"(e) DEFINITION.—For purposes of this section, the term 'undefinitized contractual action' has the meaning given such term in section 2326(g) [now 2326(i)] of title 10, United States Code (as added by subsection (d)(1))."

43. Section 805 of the National Defense Authorization Act for Fiscal Year 2008, P.L. 110–181, Jan. 28, 2008, (10 U.S.C. 2330 note), as amended, provided:

“SEC. 805. PROCUREMENT OF COMMERCIAL SERVICES.

"(a) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall modify the regulations of the Department of Defense for the procurement of commercial services for or on behalf of the Department of Defense.

"(b) APPLICABILITY OF COMMERCIAL PROCEDURES.—

"(1) SERVICES OF A TYPE SOLD IN MARKETPLACE.—The regulations modified pursuant to subsection (a) shall ensure that services that are not offered and sold competitively in substantial quantities in the commercial marketplace, but are of a type offered and sold competitively in substantial quantities in the commercial marketplace, may be treated as commercial items for purposes of section 2306a of title 10, United States Code (relating to truth in negotiations), only if the contracting officer determines in writing that the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such services.

"(2) INFORMATION SUBMITTED.—To the extent necessary to make a determination under paragraph (1), the contracting officer may request the offeror to submit-

"(A) prices paid for the same or similar commercial items under comparable terms and conditions by both government and commercial customers; and

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(B) if the contracting officer determines that the information described in subparagraph (A) is not sufficient to determine the reasonableness of price, other relevant information regarding the basis for price or cost, including information on labor costs, material costs, and overhead rates.

"(c) TIME-AND-MATERIALS CONTRACTS.—

"(1) COMMERCIAL ITEM ACQUISITIONS.—The regulations modified pursuant to subsection (a) shall ensure that procedures applicable to time-and-materials contracts and labor-hour contracts for commercial item acquisitions may be used only for the following:

"(A) Services procured for support of a commercial item, as described in section 103(5) of title 41, United States Code.

"(B) Emergency repair services.

"(C) Any other commercial services only to the extent that the head of the agency concerned approves a determination in writing by the contracting officer that-

"(i) the services to be acquired are commercial services as defined in section 103(6) of title 41, United States Code;

"(ii) if the services to be acquired are subject to subsection (b), the offeror of the services has submitted sufficient information in accordance with that subsection;

"(iii) such services are commonly sold to the general public through use of time-and-materials or labor-hour contracts; and

"(iv) the use of a time-and-materials or labor-hour contract type is in the best interest of the Government.

"(2) NON-COMMERCIAL ITEM ACQUISITIONS.—Nothing in this subsection shall be construed to preclude the use of procedures applicable to time-and-materials contracts and labor-hour contracts for non-commercial item acquisitions for the acquisition of any category of services."

44. Section 801(d)–(f) of the National Defense Authorization Act for Fiscal Year 2002, P.L. 107–107, Dec. 28, 2001 (10 U.S.C. 2330 note), as amended, provided:

“SEC. 801. MANAGEMENT OF PROCUREMENT SERVICES.

(a) ***

"(d) REQUIREMENT FOR PROGRAM REVIEW STRUCTURE.—(1) Not later than 180 days after the date of the enactment of this Act [Dec. 28, 2001], the Secretary of Defense shall issue and implement a policy that applies to the procurement of services by the Department of Defense a program review structure that is similar to the one developed for and applied to the procurement of weapon systems by the Department of Defense.

"(2) The program review structure for the procurement of services shall, at a minimum, include the following:

"(A) Standards for determining which procurements should be subject to review by either the senior procurement executive of a military department or the senior procurement executive of the Department of Defense under such section, including criteria based on dollar thresholds, program criticality, or other appropriate measures.

"(B) Appropriate key decision points at which those reviews should take place.

"(C) A description of the specific matters that should be reviewed.

"(e) COMPTROLLER GENERAL REVIEW.—Not later than 90 days after the date on which the Secretary issues the policy required by subsection (d) and the Under Secretary of Defense for Acquisition, Technology, and Logistics issues the guidance required by subsection (b)(2) [set out as a note above], the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives an assessment of the compliance with the requirements of this section [enacting this section and section 2330a of this title, amending sections 133 and 2331 of this title, and enacting provisions set out as a note under this section] and the amendments made by this section.

"(f) DEFINITIONS.—In this section:

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(1) The term 'senior procurement executive' means the official designated as the senior procurement executive under section 1702(c) of title 41, United States Code.

"(2) The term 'performance-based', with respect to a contract or a task order means that the contract or task order, respectively, includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes."

45. Section 802 of the National Defense Authorization Act for Fiscal Year 2002, P.L. 107–107, Dec. 28, 2001 (10 U.S.C. 2330 note) , as amended, provided:

“SEC. 802. PERFORMANCE GOALS FOR PROCUREMENTS OF SERVICES.

"(a) GOALS.—(1) It shall be an objective of the Department of Defense to achieve efficiencies in procurements of services pursuant to multiple award contracts through the use of—

"(A) performance-based services contracting;

"(B) appropriate competition for task orders under services contracts;

"(C) program review, spending analyses, and improved management of services contracts.

"(2) In furtherance of such objective, the Department of Defense shall have the following goals:

"(A) To increase, as a percentage of all of the individual purchases of services made by or for the Department of Defense under multiple award contracts for a fiscal year (calculated on the basis of dollar value), the volume of the individual purchases of services that are made on a competitive basis and involve receipt of more than one offer from qualified contractors to a percentage as follows:

"(i) For fiscal year 2003, a percentage not less than 40 percent.

"(ii) For fiscal year 2004, a percentage not less than 50 percent.

"(iii) For fiscal year 2011, a percentage not less than 75 percent.

"(B) To increase, as a percentage of all of the individual purchases of services made by or for the Department of Defense under multiple award contracts for a fiscal year (calculated on the basis of dollar value), the use of performance-based purchasing specifying firm fixed prices for the specific tasks to be performed to a percentage as follows:

"(i) For fiscal year 2003, a percentage not less than 25 percent.

"(ii) For fiscal year 2004, a percentage not less than 35 percent.

"(iii) For fiscal year 2005, a percentage not less than 50 percent.

"(iv) For fiscal year 2011, a percentage not less than 70 percent.

"(3) The Secretary of Defense may adjust any percentage goal established in paragraph (2) if the Secretary determines in writing that such a goal is too high and cannot reasonably be achieved. In the event that the Secretary chooses to adjust such a goal, the Secretary shall—

"(A) establish a percentage goal that the Secretary determines would create an appropriate incentive for Department of Defense components to use competitive procedures or performance-based services contracting, as the case may be; and

"(B) submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report containing an explanation of the reasons for the Secretary's determination and a statement of the new goal that the Secretary has established.

"(b) ANNUAL REPORT.—Not later than March 1, 2002, and annually thereafter through March 1, 2011, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the progress made toward meeting the objective and goals established in subsection (a). Each report shall include, at a minimum, the following information:

"(1) A summary of the steps taken or planned to be taken in the fiscal year of the report to improve the management of procurements of services.

"(2) A summary of the steps planned to be taken in the following fiscal year to improve the management of procurements of services.

"(3) An estimate of the amount that will be expended by the Department of Defense for procurements of services in the fiscal year of the report.

"(4) An estimate of the amount that will be expended by the Department of Defense for procurements of services in the following fiscal year.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(5) Regarding the individual purchases of services that were made by or for the Department of Defense under multiple award contracts in the fiscal year preceding the fiscal year in which the report is required to be submitted, information (determined using the data collection system established under section 2330a of title 10, United States Code) as follows:

"(A) The percentage (calculated on the basis of dollar value) of such purchases that are purchases that were made on a competitive basis and involved receipt of more than one offer from qualified contractors.

"(B) The percentage (calculated on the basis of dollar value) of such purchases that are performance-based purchases specifying firm fixed prices for the specific tasks to be performed.

"(c) DEFINITIONS.—(1) In this section, the terms 'individual purchase' and 'multiple award contract' have the meanings given such term— in section 803(c) of this Act [10 U.S.C. 2304 note].

"(2) For the purposes of this section, an individual purchase of services is made on a competitive basis only if it is made pursuant to procedures described in paragraphs (2), (3), and (4) of section 803(b) of this Act [10 U.S.C. 2304 note]."

46. Section 1032 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, P.L. 107–314, Dec. 2, 2002 (10 U.S.C. 2358 note), as amended, provided:

“SEC. 1032. REPORT ON WEAPONS AND CAPABILITIES TO DEFEAT HARDENED AND DEEPLY BURIED TARGETS.

"(a) REPORT.—Not later than March 1, 2009, and every two years thereafter, the Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence shall jointly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report on the research and development, procurement, and other activities undertaken during the preceding two fiscal years and planned for the current fiscal year and the next fiscal year by the Department of Defense, the Department of Energy, and the intelligence community to develop weapons and capabilities to defeat hardened and deeply buried targets.

"(b) REPORT ELEMENTS.—A report submitted under subsection (a) shall—

"(1) include a discussion of the integration and interoperability of the activities referred to in that subsection that were or will be undertaken during the four-fiscal-year period covered by the report, including a discussion of the relevance of such activities to applicable recommendations by the Chairman of the Joint Chiefs of Staff, assisted under section 181(b) of title 10, United States Code, by the Joint Requirements Oversight Council; and

"(2) set forth separately a description of the activities referred to in that subsection, if any, that were or will be undertaken during the four-fiscal-year period covered by the report by each element of—

"(A) the Department of Defense;

"(B) the Department of Energy; and

"(C) the intelligence community.

"(c) DEFINITION.—In this section, the term 'intelligence community' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)].

"(d) TERMINATION.—No report is required under this section after the submission of the report that is due on **March 1, 2013**.

"(e) INTEGRATION ACTIVITIES IN FISCAL YEAR 2003 WITH RESPECT TO RNEP.—The report under subsection (a) that is due on April 1, 2004, shall include, in addition to the elements specified in subsection (b), a description of the integration and interoperability of the research and development, procurement, and other activities undertaken during fiscal year 2003 by the Department of Defense and the Department of Energy with respect to the Robust Nuclear Earth Penetrator."

47. Section 241 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, P.L. 107–314, Dec. 2, 2002 (10 U.S.C. 2358 note), provided:

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

“SEC. 241. PILOT PROGRAMS FOR REVITALIZING LABORATORIES AND TEST AND EVALUATION CENTERS OF DEPARTMENT OF DEFENSE.

"(a) ADDITIONAL PILOT PROGRAM.—(1) The Secretary of Defense may carry out a pilot program to demonstrate improved efficiency in the performance of research, development, test, and evaluation functions of the Department of Defense.

"(2) Under the pilot program, the Secretary of Defense shall provide the director of one science and technology laboratory, and the director of one test and evaluation laboratory, of each military department with authority for the following:

"(A) To use innovative methods of personnel management appropriate for ensuring that the selected laboratories can-

"(i) employ and retain a workforce appropriately balanced between permanent and temporary personnel and among workers with appropriate levels of skills and experience; and

"(ii) effectively shape workforces to ensure that the workforces have the necessary sets of skills and experience to fulfill their organizational missions.

"(B) To develop or expand innovative methods of entering into and expanding cooperative relationships and arrangements with private sector organizations, educational institutions (including primary and secondary schools), and State and local governments to facilitate the training of a future scientific and technical workforce that will contribute significantly to the accomplishment of organizational missions.

"(C) To develop or expand innovative methods of establishing cooperative relationships and arrangements with private sector organizations and educational institutions to promote the establishment of the technological industrial base in areas critical for Department of Defense technological requirements.

"(D) To waive any restrictions not required by law that apply to the demonstration and implementation of methods for achieving the objectives set forth in subparagraphs (A), (B), and (C).

"(3) The Secretary may carry out the pilot program under this subsection at each selected laboratory for a period of three years beginning not later than March 1, 2003.

"(b) RELATIONSHIP TO FISCAL YEARS 1999 AND 2000 REVITALIZATION PILOT PROGRAMS.—The pilot program under this section is in addition to, but may be carried out in conjunction with, the fiscal years 1999 and 2000 revitalization pilot programs.

"(c) REPORTS.—(1) Not later than January 1, 2003, the Secretary shall submit to Congress a report on the experience under the fiscal years 1999 and 2000 revitalization pilot programs in exercising the authorities provided for the administration of those programs. The report shall include a description of-

"(A) barriers to the exercise of the authorities that have been encountered;

"(B) the proposed solutions for overcoming the barriers; and

"(C) the progress made in overcoming the barriers.

"(2) Not later than September 1, 2003, the Secretary of Defense shall submit to Congress a report on the implementation of the pilot program under subsection (a) and the fiscal years 1999 and 2000 revitalization pilot programs. The report shall include, for each such pilot program, the following:

"(A) Each laboratory selected for the pilot program.

"(B) To the extent practicable, a description of the innovative methods that are to be tested at each laboratory.

"(C) The criteria to be used for measuring the success of each method to be tested.

"(3) Not later than 90 days after the expiration of the period for the participation of a laboratory in a pilot program referred to in paragraph (2), the Secretary of Defense shall submit to Congress a final report on the participation of that laboratory in the pilot program. The report shall include the following:

"(A) A description of the methods tested.

"(B) The results of the testing.

"(C) The lessons learned.

"(D) Any proposal for legislation that the Secretary recommends on the basis of the experience at that laboratory under the pilot program.

"(d) EXTENSION OF AUTHORITY FOR OTHER REVITALIZATION PILOT PROGRAMS.—(1) [Amended section 246(a)(4) of P.L. 105–26.]

"(2) [Amended section 245(a)(4) of P.L. 106–65.]

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(e) PARTNERSHIPS UNDER PILOT PROGRAM.—(1) The Secretary of Defense may authorize one or more laboratories and test centers participating in the pilot program under subsection (a) or in one of the fiscal years 1999 and 2000 revitalization pilot programs to enter into a cooperative arrangement (in this subsection referred to as a 'public-private partnership') with entities in the private sector and institutions of higher education for the performance of work.

"(2) A competitive process shall be used for the selection of entities outside the Government to participate in a public-private partnership.

"(3)(A) Not more than one public-private partnership may be established as a limited liability company.

"(B) An entity participating in a limited liability company as a party to a public-private partnership under the pilot program may contribute funds to the company, accept contributions of funds for the company, and provide materials, services, and use of facilities for research, technology, and infrastructure of the company, if it is determined under regulations prescribed by the Secretary of Defense that doing so will improve the efficiency of the performance of research, test, and evaluation functions of the Department of Defense.

"(f) FISCAL YEARS 1999 AND 2000 REVITALIZATION PILOT PROGRAMS DEFINED.—In this section, the term 'fiscal years 1999 and 2000 revitalization pilot programs' means-

"(1) the pilot programs authorized by section 246 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1955; [former] 10 U.S.C. 2358 note); and

"(2) the pilot programs authorized by section 245 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 552; [former] 10 U.S.C. 2358 note)."

48. Section 606 of Public Law 92–436, Sept. 29, 1972 (10 U.S.C. 2358 note), provided:

“SEC. 606. CAMPUSES BARRING MILITARY RECRUITERS; CESSATION OF PAYMENTS; NOTIFICATION OF SECRETARY OF DEFENSE.

"(a) No part of the funds appropriated pursuant to this or any other Act for the Department of Defense or any of the Armed Forces may be used at any institution of higher learning if the Secretary of Defense or his designee determines that recruiting personnel of any of the Armed Forces of the United States are being barred by the policy of such institution from the premises of the institution: except in a case where the Secretary of the service concerned certifies to the Congress in writing that a specific course of instruction is not available at any other institution of higher learning and furnishes to the Congress the reasons why such course of instruction is of vital importance to the security of the United States.

"(b) The prohibition made by subsection (a) of this section as it applies to research and development funds shall not apply if the Secretary of Defense or his designee determines that the expenditure is a continuation or a renewal of a previous program with such institution which is likely to make a significant contribution to the defense effort.

"(c) The Secretaries of the military departments shall furnish to the Secretary of Defense or his designee within 60 days after the date of enactment of this Act [Sept. 29, 1972] and each January 31 and June 30 thereafter the names of any institution of higher learning which the Secretaries determine on such dates are affected by the prohibitions contained in this section."

49. Section 913(b) of the National Defense Authorization Act for Fiscal Year 2000, P.L. 106–65, Oct. 5, 1999 (10 U.S.C. 2364 note), provided:

“SEC. 913. PERFORMANCE REVIEW PROCESS.

"Not later than 180 days after the date of the enactment of this Act [Oct. 5, 1999], the Secretary of Defense shall develop an appropriate performance review process for rating the quality and relevance of work performed by the Department of Defense laboratories. The process shall include customer evaluation and peer review by Department of Defense personnel and appropriate experts from outside the Department of Defense. The process shall provide for rating all laboratories of the Army, Navy, and Air Force on a consistent basis."

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50. Sections 234(a) and (b) of the National Defense Authorization Act for Fiscal Year 1987, P.L. 99–661, Nov. 14, 1986 (**10 U.S.C. 2364 note**), provided:

“SEC. 234. COORDINATION OF RESEARCH ACTIVITIES OF DEPARTMENT OF DEFENSE.

"(a) PURPOSE.—The purpose of this section is to strengthen coordination among Department of Defense research facilities and other organizations in the Department of Defense.

"(b) FINDINGS.—The Congress finds that centralized coordination of the collection and dissemination of technological data among research facilities and other organizations within the Department of Defense is necessary—

"(1) to ensure that personnel of the Department are currently informed about emerging technology for defense systems; and

"(2) to avoid unnecessary and costly duplication of research staffs and projects."

51. Section 943(b) of the National Defense Authorization Act for Fiscal Year 2008, P.L. 110–181, Jan. 28, 2008 (**10 U.S.C. 2366a note**), as amended, provided:

“SEC. 943.

(a) [added section 2366b to title 10, U.S.C.]

"(b) REVIEW OF DEPARTMENT OF DEFENSE ACQUISITION DIRECTIVES.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall review Department of Defense Directive 5000.1 and associated guidance, and the manner in which such directive and guidance have been implemented, and take appropriate steps to ensure that the Department does not commence a technology development program for a major defense acquisition program without Milestone A approval (or Key Decision Point A approval in the case of a space program)."

52. Section 1047(d) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, P.L. 110–417, Oct. 14, 2008 (**10 U.S.C. 2366b note**), as amended, provided:

“SEC. 1047.

(a) ***

(d) FORMAL REVIEW PROCESS FOR BANDWIDTH REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Defense and the Director of National Intelligence shall, as part of the Milestone B or Key Decision Point B approval process for any major defense acquisition program or major system acquisition program, establish a formal review process to ensure that-

"(A) the bandwidth requirements needed to support such program are or will be met;

and

"(B) a determination will be made with respect to how to meet the bandwidth requirements for such program.

"(2) REPORTS.—Not later than January 1 of each year, the Secretary of Defense and the Director of National Intelligence shall each submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report on any determinations made under paragraph (1) with respect to

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meeting the bandwidth requirements for major defense acquisition programs and major system acquisition programs during the preceding fiscal year."

53. Section 844(b) of the National Defense Authorization Act for Fiscal Year 2016, P.L. 114–92, Nov. 25, 2015 (**10 U.S.C. 2377 note**), **provided:**

“SEC. 844. MANDATORY REQUIREMENT FOR TRAINING RELATED TO THE CONDUCT OF MARKET RESEARCH.

(a) [added a new subsection (d) [now (e)] to 10 U.S.C. 2377]

"(b) INCORPORATION INTO MANAGEMENT CERTIFICATION TRAINING MANDATE.—The Chairman of the Joint Chiefs of Staff shall ensure that the requirements of section 2377(d) [now 2377(e)] of title 10, United States Code, as added by subsection (a), are incorporated into the requirements management certification training mandate of the Joint Capabilities Integration Development System."

54. Section 801 of the National Defense Authorization Act for Fiscal Year 1990, P.L. 101–189, Nov. 29, 1989 (**10 U.S.C. 2399 note**), **provided:**

“SEC. 801. ASSESSMENT OF RISK IN CONCURRENT DEVELOPMENT OF MAJOR DEFENSE ACQUISITION SYSTEMS.

"(a) ESTABLISHMENT OF POLICY.—The Secretary of Defense shall establish guidelines for-

"(1) determining the degree of concurrency that is appropriate for the development of major defense acquisition systems; and

"(2) assessing the degree of risk associated with various degrees of concurrency.

"(b) REPORT ON GUIDELINES.—The Secretary shall submit to Congress a report that describes the guidelines established under subsection (a) and the method used for assessing risk associated with concurrency.

"(c) REPORT ON CONCURRENCY IN MAJOR ACQUISITION PROGRAMS.—(1) The Secretary shall also submit to Congress a report outlining the risk associated with concurrency for each major defense acquisition program that is in either full-scale development or low-rate initial production as of January 1, 1990.

"(2) The report shall include consideration of the following matters with respect to each such program:

"(A) The degree of confidence in the enemy threat assessment for establishing the system's requirements.

"(B) The type of contract involved.

"(C) The degree of stability in program funding.

"(D) The level of maturity of technology involved in the system.

"(E) The availability of adequate test assets, including facilities and ranges.

"(F) The plans for transition from development to production.

"(d) SUBMISSION OF REPORTS.—The reports under subsections (b) and (c) shall be submitted to Congress not later than March 1, 1990.

"(e) DEFINITION.—For purposes of this section, the term 'concurrency' means the degree of overlap between the development and production processes of an acquisition program."

55. Section 807(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007, P.L. 109–364, Oct. 17, 2006 (**10 U.S.C. 2410p note**), **provided:**

“SEC. 807. LEAD SYSTEM INTEGRATORS.

(a) [added section 2410p to title 10, U.S.C.]

"(b) UPDATE OF REGULATIONS ON LEAD SYSTEM INTEGRATORS.—Not later than December 31, 2006, the Secretary of Defense shall update the acquisition regulations of the Department of Defense in order to specify fully

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in such regulations the matters with respect to lead system integrators set forth in section 805(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3372) and the amendments made by subsection (a) [enacting section 2410p]."

56. Section 908(d) of the National Defense Authorization Act for Fiscal Year 2008, P.L. 110–181, Jan. 28, 2008 (**10 U.S.C. 2430 note**), as amended, provided:

“SEC. 908. ASSISTANT SECRETARIES OF THE MILITARY DEPARTMENTS FOR ACQUISITION MATTERS; PRINCIPAL MILITARY DEPUTIES.

(a) [added a new paragraph (5) to 10 U.S.C. 3016(b)]

(b) [added a new paragraph (4) to 10 U.S.C. 5016(b)]

(c) [added a new paragraph (4) to 10 U.S.C. 8016(b)]

"(d) DUTY OF PRINCIPAL MILITARY DEPUTIES TO INFORM SERVICE CHIEFS ON MAJOR DEFENSE ACQUISITION PROGRAMS.—Each Principal Military Deputy to a service acquisition executive shall be responsible for—

"(1) keeping the Chief of Staff of the Armed Force concerned informed of the progress of major defense acquisition programs;

"(2) informing the Chief of Staff on a continuing basis of any developments on major defense acquisition programs, which may require new or revisited trade-offs among cost, schedule, technical feasibility, and performance, including—

"(A) significant cost growth or schedule slippage; and

"(B) requirements creep (as defined in section 2547(c)(1) [now 2547(d)(1)] of title 10, United States Code); and

"(3) ensuring that the views of the Chief of Staff on cost, schedule, technical feasibility, and performance trade-offs are strongly considered by program managers and program executive officers in all phases of the acquisition process."

57. Section 837 of the National Defense Authorization Act for Fiscal Year 1994, P.L. 103–160, Nov. 30, 1993 (**10 U.S.C. 2430 note**), as amended, provided:

“SEC. 837. EFFICIENT CONTRACTING PROCESSES.

"The Secretary of Defense shall take any additional actions that the Secretary considers necessary to waive regulations not required by statute that affect the efficiency of the contracting process within the Department of Defense. Such actions shall include, in the Secretary's discretion, developing methods to streamline the procurement process, streamlining the period for entering into contracts, and defining alternative techniques to reduce reliance on military specifications and standards, in contracts for the defense acquisition programs participating in the Defense Acquisition Pilot Program."

58. Section 838 of the National Defense Authorization Act for Fiscal Year 1994, P.L. 103–160, 30, 1993 (**10 U.S.C. 2430 note**), as amended, provided:

“SEC. 838. CONTRACT ADMINISTRATION: PERFORMANCE BASED CONTRACT MANAGEMENT.

"For at least one participating defense acquisition program for which a determination is made to make payments for work in progress under the authority of section 2307 of title 10, United States Code, the Secretary of Defense should define payment milestones on the basis of quantitative measures of results."

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59. Section 828 of the National Defense Authorization Act for Fiscal Year 2010, P.L. 111–84, Oct. 28, 2009 (**10 U.S.C. 2458 note**), provided:

“SEC. 328. IMPROVEMENT OF INVENTORY MANAGEMENT PRACTICES.

"(a) **INVENTORY MANAGEMENT PRACTICES IMPROVEMENT PLAN REQUIRED.**—Not later than 270 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a comprehensive plan for improving the inventory management systems of the military departments and the Defense Logistics Agency with the objective of reducing the acquisition and storage of secondary inventory that is excess to requirements.

"(b) **ELEMENTS.**—The plan under subsection (a) shall include the following:

"(1) A plan for a comprehensive review of demand-forecasting procedures to identify and correct any systematic weaknesses in such procedures, including the development of metrics to identify bias toward over-forecasting and adjust forecasting methods accordingly.

"(2) A plan to accelerate the efforts of the Department of Defense to achieve total asset visibility, including efforts to link wholesale and retail inventory levels through multi-echelon modeling.

"(3) A plan to reduce the average level of on-order secondary inventory that is excess to requirements, including a requirement for the systemic review of such inventory for possible contract termination.

"(4) A plan for the review and validation of methods used by the military departments and the Defense Logistics Agency to establish economic retention requirements.

"(5) A plan for an independent review of methods used by the military departments and the Defense Logistics Agency to establish contingency retention requirements.

"(6) A plan to identify items stored in secondary inventory that require substantial amounts of storage space and shift such items, where practicable, to direct vendor delivery.

"(7) A plan for a comprehensive assessment of inventory items on hand that have no recurring demands, including the development of—

"(A) metrics to track years of no demand for items in stock; and

"(B) procedures for ensuring the systemic review of such items for potential reutilization or disposal.

"(8) A plan to more aggressively pursue disposal reviews and actions on stocks identified for potential reutilization or disposal.

"(c) **GAO REPORTS.**—

"(1) **ASSESSMENT OF PLAN.**—Not later than 60 days after the date on which the plan required by subsection (a) is submitted as specified in that subsection, the Comptroller General shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth an assessment of the extent to which the plan meets the requirements of this section.

"(2) **ASSESSMENT OF IMPLEMENTATION.**—Not later than 18 months after the date on which the plan required by subsection (a) is submitted, the Comptroller General shall submit to the congressional defense committees a report setting forth an assessment of the extent to which the plan has been effectively implemented by each military department and by the Defense Logistics Agency.

"(d) **INVENTORY THAT IS EXCESS TO REQUIREMENTS DEFINED.**—In this section, the term 'inventory that is excess to requirements' means inventory that—

"(1) is excess to the approved acquisition objective concerned; and

"(2) is not needed for the purposes of economic retention or contingency retention."

60. Section 325 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, P.L. 108–375, Oct. 28, 2004 (**10 U.S.C. 2461 note**), as amended, provided:

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“SEC. 325. PILOT PROGRAM FOR PURCHASE OF CERTAIN MUNICIPAL SERVICES FOR MILITARY INSTALLATIONS.

"(a) PILOT PROGRAM AUTHORIZED.—The Secretary of a military department may carry out a pilot program to procure one or more of the municipal services specified in subsection (b) for a military installation under the jurisdiction of the Secretary from a county or municipality in which the installation is located for the purpose of evaluating the efficacy of procuring such services rather than providing them directly.

"(b) SERVICES AUTHORIZED FOR PROCUREMENT.—Only the following services may be procured for a military installation participating in the pilot program:

- "(1) Refuse collection.
- "(2) Refuse disposal.
- "(3) Library services.
- "(4) Recreation services.
- "(5) Facility maintenance and repair.
- "(6) Utilities.

"(c) PARTICIPATING INSTALLATIONS.—Not more than three military installations from each military service may be selected to participate in the pilot program, and only installations located in the United States are eligible for selection.

"(d) CONGRESSIONAL NOTIFICATION.—The Secretary of a military department may not enter into a contract under the pilot program for the procurement of municipal services until the Secretary notifies the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] of the proposed contract and a period of 14 days elapses from the date the notification is received by the committees.

"(e) TERMINATION OF PILOT PROGRAM.—The pilot program shall terminate on **September 30, 2012**. Any contract entered into under the pilot program shall terminate not later than that date."

61. Section 336 of the National Defense Authorization Act for Fiscal Year 2004, P.L. 108–136, Nov. 24, 2003 (**10 U.S.C. 2461 note**) provided:

“SEC. 336. PILOT PROGRAM FOR BEST-VALUE SOURCE SELECTION FOR PERFORMANCE OF INFORMATION TECHNOLOGY SERVICES.

"(a) AUTHORITY TO USE BEST-VALUE CRITERION.—The Secretary of Defense may carry out a pilot program for the procurement of information technology services for the Department of Defense that uses a best-value criterion in the selection of the source for the performance of the information technology services.

"(b) REQUIRED EXAMINATION UNDER PILOT PROJECT.—Under the pilot program, the Secretary of Defense shall modify the examination otherwise required by section 2461(b)(3)(A) [now 2461(c)(3)(A)] of title 10, United States Code, to be an examination of the performance of an information technology services function by Department of Defense civilian employees and by one or more private contractors to demonstrate whether-

"(1) a change to performance by the private sector will result in the best value to the Government over the life of the contract, as determined in accordance with the competition requirements of Office of Management and Budget Circular A–76; and

"(2) certain benefits exist, in addition to price, that warrant performance of the function by a private sector source at a cost higher than that of performance by Department of Defense civilian employees.

"(c) EXEMPTION FOR PILOT PROGRAM.—[Former] Section 2462(a) of title 10, United States Code, does not apply to the procurement of information technology services under the pilot program.

"(d) DURATION OF PILOT PROGRAM.—(1) The authority to carry out the pilot program begins on the date on which the Secretary of Defense submits to Congress the report on the effect of the recent revisions to Office of Management and Budget Circular A–76, as required by section 335 of this Act [set out above], and expires on September 30, 2008.

"(2) The expiration of the pilot program shall not affect the selection of the source for the performance of an information technology services function for the Department of Defense for which the analysis required by

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section 2461(b)(3) [now 2461(c)(3)] of title 10, United States Code, has been commenced before the expiration date or for which a solicitation has been issued before the expiration date.

"(e) GAO REVIEW.—Not later than February 1, 2008, the Comptroller General shall submit to Congress a report containing-

"(1) a review of the pilot program to assess the extent to which the pilot program is effective and is equitable for the potential public sources and the potential private sources of information technology services for the Department of Defense; and

"(2) any other conclusions of the Comptroller General resulting from the review.

"(f) INFORMATION TECHNOLOGY SERVICE DEFINED.—In this section, the term 'information technology service' means any service performed in the operation or maintenance of information technology (as defined in section 11101 of title 40, United States Code) that is necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or Government personnel)."

62. Section 353(a) of the National Defense Authorization Act for Fiscal Year 1996, P.L. 104–106, Feb. 10, 1996 (10 U.S.C. 2461 note), provided:

“SEC. 353. PAYROLL, FINANCE, AND ACCOUNTING FUNCTIONS OF DEPARTMENT OF DEFENSE.

"(a) PLAN FOR PRIVATE OPERATION OF CERTAIN FUNCTIONS.—(1) Not later than October 1, 1996, the Secretary of Defense shall submit to Congress a plan for the performance by private-sector sources of payroll functions for civilian employees of the Department of Defense other than employees paid from nonappropriated funds.

"(2)(A) The Secretary shall implement the plan referred to in paragraph (1) if the Secretary determines that the cost of performance by private-sector sources of the functions referred to in that paragraph does not exceed the cost of performance of those functions by employees of the Federal Government.

"(B) In computing the total cost of performance of such functions by employees of the Federal Government, the Secretary shall include the following:

"(i) Managerial and administrative costs.

"(ii) Personnel costs, including the cost of providing retirement benefits for such personnel.

"(iii) Costs associated with the provision of facilities and other support by Federal agencies.

"(C) The Defense Contract Audit Agency shall verify the costs computed for the Secretary under this paragraph by others.

"(3) At the same time the Secretary submits the plan required by paragraph (1), the Secretary shall submit to Congress a report on other accounting and finance functions of the Department that are appropriate for performance by private-sector sources."

63. Section 356 of the National Defense Authorization Act for Fiscal Year 1996, P.L. 104–106, Feb. 10, 1996 (10 U.S.C. 2461 note) as amended, provided:

“SEC. 356. PROGRAM FOR IMPROVED TRAVEL PROCESS FOR DEPARTMENT OF DEFENSE.

"(a) IN GENERAL.—(1) The Secretary of Defense shall conduct a program to evaluate options to improve the Department of Defense travel process. To carry out the program, the Secretary shall compare the results of the tests conducted under subsection (b) to determine which travel process tested under such subsection is the better option to effectively manage travel of Department personnel.

"(2) The program shall be conducted at not less than three and not more than six military installations, except that an installation may be the subject of only one test conducted under the program.

"(3) The Secretary shall act through the Under Secretary of Defense (Comptroller) in the performance of the Secretary's responsibilities under this section.

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"(b) CONDUCT OF TESTS.—(1) The Secretary shall conduct a test at an installation referred to in subsection (a)(2) under which the Secretary-

"(A) implements the changes proposed to be made with respect to the Department of Defense travel process by the task force on travel management that was established by the Secretary in July 1994;

"(B) manages and uniformly applies that travel process (including the implemented changes) throughout the Department; and

"(C) provides opportunities for private-sector sources to provide travel reservation services and credit card services to facilitate that travel process.

"(2) The Secretary shall conduct a test at an installation referred to in subsection (a)(2) under which the Secretary-

"(A) enters into one or more contracts with a private-sector source pursuant to which the private-sector source manages the Department of Defense travel process (except for functions referred to in subparagraph (B)), provides for responsive, reasonably priced services as part of the travel process, and uniformly applies the travel process throughout the Department; and

"(B) provides for the performance by employees of the Department of only those travel functions, such as travel authorization, that the Secretary considers to be necessary to be performed by such employees.

"(3) Each test required by this subsection shall begin not later than 60 days after the date of the enactment of this Act [Feb. 10, 1996] and end two years after the date on which it began. Each such test shall also be conducted in accordance with the guidelines for travel management issued for the Department by the Under Secretary of Defense (Comptroller).

"(c) EVALUATION CRITERIA.—The Secretary shall establish criteria to evaluate the travel processes tested under subsection (b). The criteria shall, at a minimum, include the extent to which a travel process provides for the following:

"(1) The coordination, at the time of a travel reservation, of travel policy and cost estimates with the mission which necessitates the travel.

"(2) The use of fully integrated travel solutions envisioned by the travel reengineering report of the Department of Defense dated January 1995.

"(3) The coordination of credit card data and travel reservation data with cost estimate data.

"(4) The elimination of the need for multiple travel approvals through the coordination of such data with proposed travel plans.

"(5) A responsive and flexible management information system that enables the Under Secretary of Defense (Comptroller) to monitor travel expenses throughout the year, accurately plan travel budgets for future years, and assess, in the case of travel of an employee on temporary duty, the relationship between the cost of the travel and the value of the travel to the accomplishment of the mission which necessitates the travel.

"(d) PLAN FOR PROGRAM.—Before conducting the program, the Secretary shall develop a plan for the program that addresses the following:

"(1) The purposes of the program, including the achievement of an objective of reducing by at least 50 percent the total cost incurred by the Department annually to manage the Department of Defense travel process.

"(2) The methodology and anticipated cost of the program, including the cost of an arrangement pursuant to which a private-sector source would receive an agreed-upon payment plus an additional negotiated amount that does not exceed 50 percent of the total amount saved in excess of the objective specified in paragraph (1).

"(3) A specific citation to any provision of law, rule, or regulation that, if not waived, would prohibit the conduct of the program or any part of the program.

"(4) The evaluation criteria established pursuant to subsection (c).

"(5) A provision for implementing throughout the Department the travel process determined to be the better option to effectively manage travel of Department personnel on the basis of a final assessment of the results of the program.

"(e) REPORT.—After the first full year of the conduct of the tests required by subsection (b), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the implementation of the program. The report shall include an analysis of the evaluation criteria established pursuant to subsection (c)."

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64. Section 4101 of the National Defense Authorization Act for Fiscal Year 1993, P.L. 102–484, Oct. 23, 1992 (**10 U.S.C. 2500 note**), provided:

“SEC. 4101. CONGRESSIONAL FINDINGS.

"Congress makes the following findings:

"(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

"(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

"(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have been the foundation of the national defense policies of the United States.

"(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

"(5) Despite the changes in the military threat, the United States must maintain the capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

"(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national technology and industrial base.

"(7) Prompt and vigorous implementation of defense conversion, reinvestment, and transition assistance programs is essential to ensure that the defense build down is structured in a manner that—

"(A) enhances the long-term ability of the United States to maintain a strong and vibrant national technology and industrial base; and

"(B) promotes economic growth."

65. Section 256 of the National Defense Authorization Act for Fiscal Year 2008, P.L. 110–417, §256, Oct. 14, 2008 (**10 U.S.C. 2501 note**) provided:

“SEC. 256. EXECUTIVE AGENT FOR PRINTED CIRCUIT BOARD TECHNOLOGY.

"(a) EXECUTIVE AGENT.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall designate a senior official of the Department of Defense to act as the executive agent for printed circuit board technology.

"(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—

"(1) ESTABLISHMENT.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], and in accordance with Directive 5101.1, the Secretary of Defense shall prescribe the roles, responsibilities, and authorities of the executive agent designated under subsection (a).

"(2) SPECIFICATION.—The roles and responsibilities of the executive agent designated under subsection (a) shall include each of the following:

"(A) Development and maintenance of a printed circuit board and interconnect technology roadmap that ensures that the Department of Defense has access to the manufacturing capabilities and technical expertise necessary to meet future military requirements regarding such technology.

"(B) Development of recommended funding strategies necessary to meet the requirements of the roadmap developed under subparagraph (A).

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"(C) Assessment of the vulnerabilities, trustworthiness, and diversity of the printed circuit board supply chain, including the development of trustworthiness requirements for printed circuit boards used in defense systems, and to develop strategies to address matters that are identified as a result of such assessment.

"(D) Such other roles and responsibilities as the Secretary of Defense considers appropriate.

"(c) SUPPORT WITHIN DEPARTMENT OF DEFENSE.—In accordance with Directive 5101.1, the Secretary of Defense shall ensure that the military departments, Defense Agencies, and other components of the Department of Defense provide the executive agent designated under subsection (a) with the appropriate support and resources needed to perform the roles, responsibilities, and authorities of the executive agent.

"(d) DEFINITIONS.—In this section:

"(1) The term 'Directive 5101.1' means Department of Defense Directive 5101.1, or any successor directive relating to the responsibilities of an executive agent of the Department of Defense.

"(2) The term 'executive agent' has the meaning given the term 'DoD Executive Agent' in Directive 5101.1."

66. Section 1118 of the National Defense Authorization Act for Fiscal Year 1995, P.L. 103–337, Oct. 5, 1994 (**10 U.S.C. 2501note**), provided:

“SEC. 1118. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS.

"At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in [former] section 2501(b) of such title."

67. Section 238(b) of the National Defense Authorization Act for Fiscal Year 2008, P.L. 110–181, Jan. 28, 2008 (**10 U.S.C. 2521 note**), provided:

“SEC. 238. STRATEGIC PLAN FOR THE MANUFACTURING TECHNOLOGY PROGRAM.

(a) [amended 10 U.S.C. 2521 to add a new subsection (e)]

“(b) INITIAL DEVELOPMENT AND SUBMISSION OF PLAN.—

"(1) DEVELOPMENT.—The Secretary of Defense shall develop the strategic plan required by subsection (e) [now (f)] of section 2521 of title 10, United States Code (as added by subsection (a) of this section), so that the plan goes into effect at the beginning of fiscal year 2009.

"(2) SUBMISSION.—Not later than the date on which the budget of the President for fiscal year 2010 is submitted to Congress under section 1105 of title 31, United States Code, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the plan specified in paragraph (1)."

68. Section 823 of the National Defense Authorization Act for Fiscal Year 2004, P.L. 108–136, Nov. 24, 2003 (**10 U.S.C. 2521 note**), provided:

“SEC. 823. TECHNICAL ASSISTANCE RELATING TO MACHINE TOOLS.

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"(a) TECHNICAL ASSISTANCE.—The Secretary of Defense shall publish in the Federal Register information on Government contracting for purposes of assisting machine tool companies in the United States and entities that use machine tools. The information shall contain, at a minimum, the following:

"(1) An identification of resources with respect to Government contracting regulations, including compliance procedures and information on the availability of counseling.

"(2) An identification of resources for locating opportunities for contracting with the Department of Defense, including information about defense contracts that are expected to be carried out that may require the use of machine tools.

"(b) SCIENCE AND TECHNOLOGY INITIATIVES.—The Secretary of Defense shall incorporate into the Department of Defense science and technology initiatives on manufacturing technology an objective of developing advanced machine tool capabilities. Such technologies shall be used to improve the technological capabilities of the United States domestic machine tool industrial base in meeting national security objectives."

69. Section 823 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, P.L. 111–383, Jan. 7, 2011 (**10 U.S.C. 2533b note**), provided:

“SEC. 823. REVIEW OF REGULATORY DEFINITION RELATING TO PRODUCTION OF SPECIALTY METALS.

"(a) REVIEW REQUIRED.—The Secretary of Defense shall review the regulations specified in subsection (b) to ensure that the definition of the term 'produce' in such regulations complies with the requirements of section 2533b of title 10, United States Code. In carrying out the review, the Secretary shall seek public comment, consider congressional intent, and revise the regulations as the Secretary considers necessary and appropriate.

"(b) REGULATIONS SPECIFIED.—The regulations referred to in subsection (a) are any portion of subpart 252.2 of the defense supplement to the Federal Acquisition Regulation that includes a definition of the term 'produce' for purposes of implementing section 2533b of title 10, United States Code.

"(c) COMPLETION OF REVIEW.—The Secretary shall complete the review required by subsection (a) and any necessary and appropriate revisions to the defense supplement to the Federal Acquisition Regulation not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011]."

70. Section 804(h) of the National Defense Authorization Act for Fiscal Year 2008, P.L. 110–181, Jan. 28, 2008 (**10 U.S.C. 2533b note**), provided:

“SEC. 804. CLARIFICATION OF THE PROTECTION OF STRATEGIC MATERIALS CRITICAL TO NATIONAL SECURITY.

(a) ***

"(h) REVISION OF DOMESTIC NONAVAILABILITY DETERMINATIONS AND RULES.—No later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], any domestic nonavailability determination under section 2533b of title 10, United States Code, including a class deviation, or rules made by the Department of Defense between December 6, 2006, and the date of the enactment of this Act, shall be reviewed and amended, as necessary, to comply with the amendments made by this section [amending this section and enacting provisions set out as a note under this section]. This requirement shall not apply to a domestic nonavailability determination that applies to-

"(1) an individual contract that was entered into before the date of the enactment of this Act; or

"(2) an individual Department of Defense program, except to the extent that such domestic nonavailability determination applies to contracts entered into after the date of the enactment of this Act."

71. Section 842(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007, P.L. 109–364, Oct. 17, 2006 (**10 U.S.C. 2533b note**), provided:

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

“SEC. 842. PROTECTION OF STRATEGIC MATERIALS CRITICAL TO NATIONAL SECURITY.

(a) ***

(b) ONE-TIME WAIVER OF SPECIALTY METALS DOMESTIC SOURCE REQUIREMENT.—

"(1) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may accept specialty metals if such metals were incorporated into items produced, manufactured, or assembled in the United States before the date of the enactment of this Act [Oct. 17, 2006] with respect to which the contracting officer for the contract determines that the contractor is not in compliance with section 2533b of title 10, United States Code (as added by subsection (a)(1)), if-

"(A) the contracting officer for the contract determines in writing that-

"(i) it would not be practical or economical to remove or replace the specialty metals incorporated in such items or to substitute items containing compliant materials;

"(ii) the prime contractor and subcontractor responsible for providing items containing non-compliant materials have in place an effective plan to ensure compliance with section 2533b of title 10, United States Code (as so added), with regard to items containing specialty metals if such metals were incorporated into items produced, manufactured, or assembled in the United States after the date of the enactment of this Act [Oct. 17, 2006]; and

"(iii) the non-compliance is not knowing or willful; and

"(B) the Under Secretary of Defense for Acquisition, Technology, and Logistics or the service acquisition executive of the military department concerned approves the determination.

"(2) NOTICE.—Not later than 15 days after a contracting officer makes a determination under paragraph (1)(A) with respect to a contract, the contracting officer shall post a notice on FedBizOpps.gov that a waiver has been granted for the contract under this subsection.

"(3) DEFINITION.—In this subsection, the term 'FedBizOpps.gov' means the website maintained by the General Services Administration known as FedBizOpps.gov (or any successor site).

"(4) TERMINATION OF AUTHORITY.—A contracting officer may exercise the authority under this subsection only with respect to the delivery of items the final acceptance of which takes place after the date of the enactment of this Act [Oct. 17, 2006] and before September 30, 2010."

72. Section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, P.L. 106–398, Oct. 30, 2000 (10 U.S.C. 4551 note), as amended, provided:

“SEC. 343. ARSENAL SUPPORT PROGRAM INITIATIVE.

"(a) DEMONSTRATION PROGRAM REQUIRED.—To help maintain the viability of the Army manufacturing arsenals and the unique capabilities of these arsenals to support the national security interests of the United States, the Secretary of the Army shall carry out a demonstration program under this section during fiscal years 2001 through 2012 at each manufacturing arsenal of the Department of the Army.

"(b) PURPOSES OF DEMONSTRATION PROGRAM.—The purposes of the demonstration program are as follows:

"(1) To provide for the utilization of the existing skilled workforce at the Army manufacturing arsenals by commercial firms.

"(2) To provide for the reemployment and retraining of skilled workers who, as a result of declining workload and reduced Army spending on arsenal production requirements at these Army arsenals, are idled or underemployed.

"(3) To encourage commercial firms, to the maximum extent practicable, to use these Army arsenals for commercial purposes.

"(4) To increase the opportunities for small businesses (including socially and economically disadvantaged small business concerns and new small businesses) to use these Army arsenals for those purposes.

"(5) To maintain in the United States a work force having the skills in manufacturing processes that are necessary to meet industrial emergency planned requirements for national security purposes.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(6) To demonstrate innovative business practices, to support Department of Defense acquisition reform, and to serve as both a model and a laboratory for future defense conversion initiatives of the Department of Defense.

"(7) To the maximum extent practicable, to allow the operation of these Army arsenals to be rapidly responsive to the forces of free market competition.

"(8) To reduce or eliminate the cost of Government ownership of these Army arsenals, including the costs of operations and maintenance, the costs of environmental remediation, and other costs.

"(9) To reduce the cost of products of the Department of Defense produced at these Army arsenals.

"(10) To leverage private investment at these Army arsenals through long-term facility use contracts, property management contracts, leases, or other agreements that support and advance the demonstration program for the following activities:

"(A) Recapitalization of plant and equipment.

"(B) Environmental remediation.

"(C) Promotion of commercial business ventures.

"(D) Other activities approved by the Secretary of the Army.

"(11) To foster cooperation between the Department of the Army, property managers, commercial interests, and State and local agencies in the implementation of sustainable development strategies and investment in these Army arsenals.

"(c) CONTRACT AUTHORITY.—(1) In the case of each Army manufacturing arsenal, the Secretary of the Army may enter into contracts with commercial firms to authorize the contractors, consistent with section 4543 of title 10, United States Code-

"(A) to use the arsenal, or a portion of the arsenal, and the skilled workforce at the arsenal to manufacture weapons, weapon components, or related products consistent with the purposes of the program; and

"(B) to enter into subcontracts for the commercial use of the arsenal consistent with such purposes.

"(2) A contract under paragraph (1) shall require the contractor to contribute toward the operation and maintenance of the Army manufacturing arsenal covered by the contract.

"(3) In the event an Army manufacturing arsenal is converted to contractor operation, the Secretary may enter into a contract with the contractor to authorize the contractor, consistent with section 4543 of title 10, United States Code-

"(A) to use the facility during the period of the program in a manner consistent with the purposes of the program; and

"(B) to enter into subcontracts for the commercial use of the facility consistent with such purposes.

"(d) LOAN GUARANTEES.—(1) Subject to paragraph (2), the Secretary of the Army may guarantee the repayment of any loan made to a commercial firm to fund, in whole or in part, the establishment of a commercial activity at an Army manufacturing arsenal under this section.

"(2) Loan guarantees under this subsection may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

"(3) The Secretary of the Army may enter into agreements with the Administrator of the Small Business Administration or the Administrator of the Farmers Home Administration, the Administrator of the Rural Development Administration, or the head of other appropriate agencies of the Department of Agriculture, under which such Administrators may, under this subsection-

"(A) process applications for loan guarantees;

"(B) guarantee repayment of loans; and

"(C) provide any other services to the Secretary of the Army to administer this subsection.

"(4) An Administrator referred to in paragraph (3) may guarantee loans under this section to commercial firms of any size, notwithstanding any limitations on the size of applicants imposed on other loan guarantee programs that the Administrator administers. To the extent practicable, each Administrator shall use the same procedures for processing loan guarantee applications under this subsection as the Administrator uses for processing loan guarantee applications under other loan guarantee programs that the Administrator administers.

[TEXT OF PROVISIONS IN REPEAL PACKAGE]

"(e) LOAN LIMITS.—The maximum amount of loan principal guaranteed during a fiscal year under subsection (d) may not exceed-

"(1) \$20,000,000, with respect to any single borrower; and

"(2) \$320,000,000 with respect to all borrowers.

"(f) TRANSFER OF FUNDS.—The Secretary of the Army may transfer to an Administrator providing services under subsection (d), and the Administrator may accept, such funds as may be necessary to administer loan guarantees under such subsection."

**809 PANEL RECOMMENDATIONS FOR REPEAL OF
CERTAIN TITLE 10 “NOTE” SECTIONS**

[Sections are set out in U.S. Code section order]

1 **SEC. ____ . REPEAL OF CERTAIN DEFENSE ACQUISITION LAWS CLASSIFIED AS**
2 **“NOTE” SECTIONS IN THE PUBLICATION OF TITLE 10, UNITED**
3 **STATES CODE, THAT REQUIRED THE ISSUANCE OF REGULATIONS**
4 **OR THAT HAVE EXPIRED OR ARE OTHERWISE OBSOLETE.**

5 The following provisions of law are repealed:

6 (1) Section 387(c) of the National Defense Authorization Act for Fiscal Year
7 1998 (Public Law 105-85; 10 U.S.C. 195 note).

8 (2) Section 801 of the Carl Levin and Howard P. “Buck” McKeon National
9 Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 10 U.S.C. 2223a
10 note).

11 (3) Section 938 of the National Defense Authorization Act for Fiscal Year 2014
12 (Public Law 113–66; 10 U.S.C. 2223a note).

13 (4) Section 934 of the National Defense Authorization Act for Fiscal Year 2013
14 (Public Law 112–239; 10 U.S.C. 2223a note).

15 (5) Section 2867 of the National Defense Authorization Act for Fiscal Year 2012
16 (Public Law 112–81; 10 U.S.C. 2223a note).

17 (6) Section 215 of the Ike Skelton National Defense Authorization Act for Fiscal
18 Year 2011 (Public Law 111–383; 10 U.S.C. 2223a note).

- 1 (7) Section 804 of the National Defense Authorization Act for Fiscal Year 2010
2 (Public Law 111–84; 10 U.S.C. 2223a note).
- 3 (8) Section 881 of the National Defense Authorization Act for Fiscal Year 2008
4 (Public Law 110–181; 10 U.S.C. 2223a note).
- 5 (9) Section 814(a) of the National Defense Authorization Act for Fiscal Year
6 2017 (Public Law 114–328; 10 U.S.C. 2302 note).
- 7 (10) Section 881 of the National Defense Authorization Act for Fiscal Year 2016
8 (Public Law 114–92; 10 U.S.C. 2302 note).
- 9 (11) Section 804 of the National Defense Authorization Act for Fiscal Year 2013
10 (Public Law 112–239; 10 U.S.C. 2302 note).
- 11 (12) Section 843 of the National Defense Authorization Act for Fiscal Year 2013
12 (Public Law 112–239; 10 U.S.C. 2302 note).
- 13 (13) Section 844 of the National Defense Authorization Act for Fiscal Year 2013
14 (Public Law 112–239; 10 U.S.C. 2302 note).
- 15 (14) Section 818(g) of the National Defense Authorization Act for Fiscal Year
16 2012 (Public Law 112–81; 10 U.S.C. 2302 note).
- 17 (15) Section 127 of the Ike Skelton National Defense Authorization Act for Fiscal
18 Year 2011 (Public Law 111–383; 10 U.S.C. 2302 note).
- 19 (16) Section 815(b) of the National Defense Authorization Act for Fiscal Year
20 2008 (Public Law 110–181; 10 U.S.C. 2302 note).
- 21 (17) Section 812 of the John Warner National Defense Authorization Act for
22 Fiscal Year 2007 (Public Law 109-364; 10 U.S.C. 2302 note).

1 (18) Section 806 of the National Defense Authorization Act for Fiscal Year 2006
2 (Public Law 109–163; 10 U.S.C. 2302 note).

3 (19) Section 817 of the National Defense Authorization Act for Fiscal Year 2006
4 (Public Law 109-163; 10 U.S.C. 2302 note).

5 (20) Section 141 of the Ronald W. Reagan National Defense Authorization Act
6 for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 2302 note).

7 (21) Section 802 of the Ronald W. Reagan National Defense Authorization Act
8 for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 2302 note).

9 (22) Section 801(b) of the National Defense Authorization Act for Fiscal Year
10 2004 (Public Law 108–136; 10 U.S.C. 2302 note).

11 (23) Section 805(a) of the National Defense Authorization Act for Fiscal Year
12 2004 (Public Law 108–136; 10 U.S.C. 2302 note).

13 (24) Section 352 of the Bob Stump National Defense Authorization Act for Fiscal
14 Year 2003 (Public Law 107–314; 10 U.S.C. 2302 note).

15 (25) Section 326 of the National Defense Authorization Act for Fiscal Year 1993
16 (Public Law 102–484; 10 U.S.C. 2302 note).

17 (26) Section 9004 of the Department of Defense Appropriations Act, 1990 (Public
18 Law 101–165; 10 U.S.C. 2302 note).

19 (27) Section 913 of the Department of Defense Authorization Act, 1986 (Public
20 Law 99–145; 10 U.S.C. 2302 note).

21 (28) Section 802 of the Duncan Hunter National Defense Authorization Act for
22 Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2304 note).

1 (29) Section 821 of the National Defense Authorization Act for Fiscal Year 2008
2 (Public Law 110–181; 10 U.S.C. 2304 note).

3 (30) Section 813 of the John Warner National Defense Authorization Act for
4 Fiscal Year 2007 (Public Law 109–364; 10 U.S.C. 2304 note).

5 (31) Section 391 of the National Defense Authorization Act for Fiscal Year 1998
6 (Public Law 105–85; 10 U.S.C. 2304 note).

7 (32) Section 927(b) of Public Laws 99–500, 99–591, and 99–661 (10 U.S.C. 2304
8 note).

9 (33) Section 1222(b) of the National Defense Authorization Act for Fiscal Year
10 1987 (Public Law 99–661; 10 U.S.C. 2304 note).

11 (34) Section 814(b) of the National Defense Authorization Act for Fiscal Year
12 2010 (Public Law 111-84; 10 U.S.C. 2304a note).

13 (35) Section 834 of the John Warner National Defense Authorization Act for
14 Fiscal Year 2007 (Public Law 109-364; 10 U.S.C. 2304b note).

15 (36) Section 803 of the Strom Thurmond National Defense Authorization Act for
16 Fiscal Year 1999 (Public Law 105–261; 10 U.S.C. 2306a note).

17 (37) Section 1075 of the National Defense Authorization Act for Fiscal Year 1995
18 (Public Law 103–337; 10 U.S.C. 2315 note).

19 (38) Section 824(a) of the Ike Skelton National Defense Authorization Act for
20 Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 2320 note).

21 (39) Section 818 of the National Defense Authorization Act for Fiscal Year 1995
22 (Public Law 103–337; 10 U.S.C. 2324 note).

1 (40) Section 812 of the National Defense Authorization Act for Fiscal Year 2010
2 (Public Law 111–84; 10 U.S.C. 2326 note).

3 (41) Sections 908(a), (b), (c), and (e) of Public Laws 99–500, 99–591, and 99–661
4 (10 U.S.C. 2326 note).

5 (42) Section 805 of the National Defense Authorization Act for Fiscal Year 2008
6 (Public Law 110–181; 10 U.S.C. 2330 note).

7 (43) Sections 801(d), (e), and (f) of the National Defense Authorization Act for
8 Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2330 note).

9 (44) Section 802 of the National Defense Authorization Act for Fiscal Year 2002
10 (Public Law 107–107; 10 U.S.C. 2330 note).

11 (45) Section 1032 of the Bob Stump National Defense Authorization Act for
12 Fiscal Year 2003 (Public Law 107–314; 10 U.S.C. 2358 note).

13 (46) Section 241 of the Bob Stump National Defense Authorization Act for Fiscal
14 Year 2003 (Public Law 107–314; 10 U.S.C. 2358 note).

15 (47) Section 606 of Public Law 92–436 (10 U.S.C. 2358 note).

16 (48) Section 913(b) of the National Defense Authorization Act for Fiscal Year
17 2000 (Public Law 106–65; 10 U.S.C. 2364 note).

18 (49) Sections 234(a) and (b) of the National Defense Authorization Act for Fiscal
19 Year 1987 (Public Law 99–661; 10 U.S.C. 2364 note).

20 (50) Section 943(b) of the National Defense Authorization Act for Fiscal Year
21 2008 (Public Law 110–181; 10 U.S.C. 2366a note).

22 (51) Section 1047(d) of the Duncan Hunter National Defense Authorization Act
23 for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2366b note).

1 (52) Section 844(b) of the National Defense Authorization Act for Fiscal Year
2 2016 (Public Law 114–92; 10 U.S.C. 2377 note).

3 (53) Section 801 of the National Defense Authorization Act for Fiscal Year 1990
4 (Public Law 101–189; 10 U.S.C. 2399 note).

5 (54) Section 807(b) of the John Warner National Defense Authorization Act for
6 Fiscal Year 2007 (Public Law 109–364; 10 U.S.C. 2410p note).

7 (55) Section 908(d) of the National Defense Authorization Act for Fiscal Year
8 2008 (Public Law 110–181; 10 U.S.C. 2430 note).

9 (56) Section 837 of the National Defense Authorization Act for Fiscal Year 1994
10 (Public Law 103–160; 10 U.S.C. 2430 note).

11 (57) Section 838 of the National Defense Authorization Act for Fiscal Year 1994
12 (Public Law 103–160; 10 U.S.C. 2430 note).

13 (58) Section 828 of the National Defense Authorization Act for Fiscal Year 2010
14 (Public Law 111–84; 10 U.S.C. 2458 note).

15 (59) Section 325 of the Ronald W. Reagan National Defense Authorization Act
16 for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 2461 note).

17 (60) Section 336 of the National Defense Authorization Act for Fiscal Year 2004
18 (Public Law 108–136; 10 U.S.C. 2461 note).

19 (61) Section 353(a) of the National Defense Authorization Act for Fiscal Year
20 1996 (Public Law 104–106; 10 U.S.C. 2461 note).

21 (62) Section 356 of the National Defense Authorization Act for Fiscal Year 1996
22 (Public Law 104–106; 10 U.S.C. 2461 note).

1 (63) Section 4101 of the National Defense Authorization Act for Fiscal Year 1993
2 (Public Law 102–484; 10 U.S.C. 2500 note).

3 (64) Section 256 of the National Defense Authorization Act for Fiscal Year 2008
4 (Public Law 110–417; 10 U.S.C. 2501 note).

5 (65) Section 1118 of the National Defense Authorization Act for Fiscal Year 1995
6 (Public Law 103–337; 10 U.S.C. 2501note).

7 (66) Section 238(b) of the National Defense Authorization Act for Fiscal Year
8 2008 (Public Law 110–181; 10 U.S.C. 2521 note).

9 (67) Section 823 of the National Defense Authorization Act for Fiscal Year 2004
10 (Public Law 108–136; 10 U.S.C. 2521 note).

11 (68) Section 823 of the Ike Skelton National Defense Authorization Act for Fiscal
12 Year 2011 (Public Law 111–383; 10 U.S.C. 2533b note).

13 (69) Section 804(h) of the National Defense Authorization Act for Fiscal Year
14 2008 (Public Law 110–181; 10 U.S.C. 2533b note).

15 (70) Section 842(b) of the John Warner National Defense Authorization Act for
16 Fiscal Year 2007 (Public Law 109–364; 10 U.S.C. 2533b note).

17 (71) Section 343 of the Floyd D. Spence National Defense Authorization Act for
18 Fiscal Year 2001 (as enacted into law by Public Law 106–398; 10 U.S.C. 4551 note).

Advisory Panel on Streamlining and Codifying Acquisition Regulations

Section 809 Panel Recommendations #2 for Repeal of Acquisition-Related Provisions of Law

March 23, 2018



March 23, 2018

The Honorable Mac Thornberry
Chairman
Committee on Armed Services
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Section 809 Panel, as part of its “streamlining” mandate, recommends that the provisions of law specified on the attached list be repealed. There are 32 provisions on the list, all of which relate to defense acquisition. Three are sections of title 10, United States Code; the remainder appear in the U.S. Code as “note” sections under various provisions of title 10. Also attached are (1) draft legislation to carry out the proposed repeals, and (2) a document with the current text of the provisions of law proposed for repeal.

This recommendation is a follow-on to a similar recommendation transmitted to the congressional defense committees in late February. That recommendation provided a list of 71 provisions of law proposed for repeal.

As in the case of the February transmittal, the provisions recommended for repeal in this transmittal generally (1) required the Department to issue regulations (directives or guidance, etc.), (2) have now expired by their own terms, or (3) are otherwise obsolete.

The Panel believes that enactment of the repeals recommended in the two lists would be a significant step toward “decluttering” the Code.

As in the case of the February transmittal, the Panel wishes to emphasize that, with respect to any recommendation for repeal of a statutory requirement for issuance of a regulation, the Panel is not expressing a view on the merits of the policies covered by the regulation. Rather, in recommending repeal of the statutory requirement for a regulation, the Panel is recommending that the Secretary of Defense be allowed to revise the regulation as circumstances warrant. Repeal of the statutory requirement for the regulation would allow the Secretary to revise or rescind the regulation, but would not require it; the decision to retain, or not retain, the regulation would be up to the Secretary.

As part of its ongoing work reviewing defense acquisition statutes, the Panel may identify further provisions to recommend to Congress for repeal.

The Panel is submitting these recommendations at this time, rather than waiting to include them in Volume II of the Panel's report in June of this year, in order to provide the committees the fullest opportunity to consider them for inclusion in the National Defense Authorization Act for Fiscal Year 2019.

Sincerely,



David Drabkin
Chair, Section 809 Panel

Attachments:

- (1) Spreadsheet with list of provisions recommended for repeal
- (2) Text of provisions recommended for repeal
- (3) Draft statutory text to carry out the recommended repeals

cc:

The Honorable Adam Smith
Ranking Member

Provisions Recommended for Repeal by Section 809 Panel - 2d Tranche

A	B	C	D	E
10 USC Section	Source Cite	Title	Description	809 Panel Recommendation
1	167a	Unified combatant command for joint warfighting experimentation: acquisition authority	Enacted Nov. 24, 2003; expired Sept. 30, 2010. Authorized SecDef to delegate certain limited acquisition authority to the commander of the unified combatant command that has the mission for joint warfighting experimentation, as assigned by the SecDef; internal inspector general audits required	Repeal
2	2302 note	FY17 NDAA, P.L. 114-328, §854, Dec 23, 2016 Key Performance Parameter Reduction Pilot Program	Enacted in Dec 2016 – allows SecDef to carry out pilot program to reduce performance measurements for an acquisition program (no more than 3); no sunset date	Repeal
3	2302 note	FY13 NDAA, P.L. 112-239, §829, Jan 2, 2013 Extension of Contractor Conflict of Interest Limitations	Enacted in Jan 2013 – required SecDef review guidance (within 180 days) on personal conflict of interest for contractor employees (enacted in 2009) for possible extension (and DFARS revision) related to additional covered functions	Repeal
4	2304 note	FY16 NDAA, P.L. 114-92, §895, Nov 25, 2015 Mitigating Potential Unfair Advantage for Technical Advisors	Enacted in Nov 2015 – required AT&L review of guidance (within 180 days) to mitigate potential unfair competitive advantages of technical advisors	Repeal
5	2313 note	FY12 NDAA, P.L. 112-81, §842, Dec 31, 2011 Additional Access to Contractor and Subcontractor Records in the Central Command Theater of Operations	Enacted in Dec 2011 – required SecDef to revise DFARS to include a clause in all covered contracts to allow examination of records upon written determination of probable extortion or corruption; required flow-down of clause; required submission of reports (for 3 years) to congressional defense committees	Repeal
6	2323	Contract goal for small disadvantaged businesses and certain institutions of higher education	Authority expired 9/30/09. Established a 5% contract goal for contracts/subcontracts with socially & economically disadvantaged firms, historically Black colleges and other special groups; authorized technical and other assistance as well as advance payments.	Repeal

Provisions Recommended for Repeal by Section 809 Panel - 2d Tranche

	A	B	C	D	E
1	10 USC Section	Source Cite	Title	Description	809 Panel Recommendation
8	2330 note	FY17 NDAA, P.L. 114-328, §803(a), 12/23/16	Modernization of Services Acquisition	Enacted in Dec 2016 – required SecDef review and possible revision of DOD instruction 5000.74 (within 180 days) on acquisition of services, considering changes in technology	Repeal
9	2330 note	FY16 NDAA, P.L. 114-92, §882, Nov 25, 2015	Guidance Relating to Oversight & Approval of Services Contracts	Enacted in Nov 2015 – required AT&L to examine (by March 2016) decision authority on services acquisition & issue guidance to improve capabilities	Repeal
10	2330 note	FY12 NDAA, P.L. 112-81, §807, Dec 31, 2011	Defense Science Board Recommendations on Services	Enacted in Dec 2011 – required AT&L to develop a plan (within 180 days) to implement recommendations of DSB to improve services acquisition; required GAO report (by Dec 2011)	Repeal
11	2330 note	FY11 NDAA, P.L. 111-81, §383, §863(a)-(h), Jan. 7, 2011	Requirements for The Acquisition of Services	Enacted in January 2011 – required SecDef to ensure implementation plans are in place by the military departments for proper processes for identifying, assessing and validating requirements for the acquisition of services (for operational commands and supporting requirements); plans must be consistent with joint policy guidance	Repeal
12	2330 note	FY08 NDAA, P.L. 110-181, §808, Jan. 28, 2008	Independent Management Reviews of Contracts for Services	Enacted in January 2008 – required SecDef to issue guidance (within 180 days) to provide independent reviews of services contracts (related to cost/schedule & performance, contracting vehicles, pass throughs, reliance of use of contractors for closely associated inherently governmental work, ETC); required report to congressional defense committees (in 270 days) and a GAO review	Repeal

Provisions Recommended for Repeal by Section 809 Panel - 2d Tranche

A	B	C	D	E
10 USC Section	Source Cite	Title	Description	809 Panel Recommendation
1				
2330 note	FY06 NDAA, P.L. 109-163, §812(b)-(c), Jan 6, 2006	Management Structure for the Procurement of Contract Services: Phased Implementation	Enacted in Jan 2006 – required AT&L to implement in phases requirements for services acquisition (including establishing categories & dollar thresholds); required report to SASC & HASC within one year of enactment. Last phase was 2009	Repeal
13				
2330a note	FY09 NDAA, P.L. 110-417, §831	Development of Guidance on Personal Services Contracts	Enacted in 2008 -- required SecDef develop guidance (in 270 days) on personal service contracts	Repeal
14				
2332		Share-in-savings contracts.	Enacted in Dec 2002; terminated Sept. 2005. Allowed agency head to enter into share-in-savings contracts (up to five years) for information technology to accelerate achievement of mission and to share with contractor any savings on contract performance; provided for cancellation/termination of contract if funds no longer available for contract.	Repeal
15				
2401a note	FY2000 DoD Approps Act, §8133, P.L. 106-79, Oct. 25, 1999	Multi-Year Aircraft Lease Pilot Program	Enacted in 1999 - authorized a multiyear pilot program for lease by the AF of operational support aircraft. Limited to six aircraft and provided that no lease could be entered into under the pilot program after Sept 30, 2004.	Repeal
16				
2430 note	FY16 NDAA, P.L. 114-92, §825(c)(1), (2), Nov 25, 2015	Designation of Milestone Decision Authority: Implementation	Enacted in Nov 2015 – required SecDef to submit a plan (within 180 days) to congressional defense committees for implementing milestone decision authorities	Repeal
17				
2430 note	FY15 NDAA, P.L. 113-291, §1058, Dec 19, 2014	Improving Analytic Support to Systems Acquisition	Enacted in Dec 2014 – required SecDef review & revision of guidance (within 120 days) on analytic support for MDAPs; required briefing to congressional defense committees within 180 days	Repeal
18				

Provisions Recommended for Repeal by Section 809 Panel - 2d Tranche

A	B	C	D	E
10 USC Section	Source Cite	Title	Description	809 Panel Recommendation
1	<p>1. FY91 NDAA, P.L. 101-510, §809, Nov. 5, 1990</p> <p>2. FY94 NDAA, P.L. 103-160, §833, Nov. 30, 1993</p> <p>3. FY94 NDAA, P.L. 103-160, §839, Nov. 30, 1993</p> <p>4. FY95 NDAA, P.L. 103-337, §819, Oct. 5, 1994</p> <p>5. FASA, P.L. 103-355, §5064, Oct. 13, 1994</p> <p>6. FY97 NDAA, P.L. 104-201, §803, Sept 23, 1996</p>	<p><u>Defense Acquisition Pilot Program (6 sections)</u></p> <p>1. Major Defense Acquisition Pilot Program</p> <p>2. Mission Oriented Program Management</p> <p>3. Contractor Performance Assessment</p> <p>4. Defense Acquisition Pilot Program Designations</p> <p>5. Department of Defense Acquisition Pilot Programs</p> <p>6. Authority to Waive Certain Requirements of Defense Acquisition Pilot Programs</p>	<p>1. Enacted in Sept 1996 – authorized SecDef to waive certain statutory provisions (including OT&E) for any defense acquisition program in a designated pilot program; required written notification to Congress</p>	Repeal
19				
20	<p>FY84 NDAA, P.L. 98-94, § 1215, Sept 24, 1983</p>	<p>Regs Relating to Increases in Prices for Spare Parts & Replacement</p>	<p>Enacted in Sept 1983 – required SecDef to issue regulations (within 120 days) to prohibit purchase of parts or equipment that increased in price in excess of certain established percentage thresholds; allowed purchase upon written certification of national security interests; proposed regs required to be submitted to SASC & HASC (within 30 days)</p>	Repeal
21	<p>FY99 NDAA, P.L. 105-261, §347, Oct 17, 1998</p>	<p>Best Comm Inventory Practices for Management of Secondary Supply Items</p>	<p>Enacted in Oct 1998 – required Secy of mil depts. to submit (within 180 days) to Congress a schedule for implementing best commercial inventory practices for managing secondary supply items; schedule to be completed within 5 years; required GAO report</p>	Repeal

Provisions Recommended for Repeal by Section 809 Panel - 2d Tranche

A	B	C	D	E
10 USC Section	Source Cite	Title	Description	809 Panel Recommendation
1				
2458 note	FY99 NDAA, P.L. 105-261, §349, Oct 17, 1998	Inventory Management of In-Transit Items	Enacted in Oct 1998 – required SecDef to develop & carry out plan to ensure visibility of all in-transit end & secondary items; required GAO report; required submission to Congress of any revision to plans required by subsequent laws	Repeal
22				
2458 note	FY98 NDAA, P.L. 105-85, §395, Nov 18, 1997	Inventory Management	Enacted in Nov 1997 – required DLA Director (within 180 days) to develop & submit to Congress a plan to implement best commercial practices for distribution of supplies & equipment consistent with military requirements; required GAO report (by March 1998) on feasibility of expanding the covered list	Repeal
23				
2458 note	FY96 NDAA, P.L. 104-106, §352, Feb 10, 1996	Direct Vendor Delivery System for Consumable Inventory Items	Enacted in Feb 1996 – required SecDef (by Sept 30, 1997) to implement a system to deliver directly from vendors certain consumable items in order to reduce maintaining warehouses for the items	Repeal
24				
2461 note	FY96 NDAA P.L. 104-106, §353(b), Feb 10, 1996	Payroll, Finance, & Accounting Functions of DoD: Pilot Program for Private Sector Operation of NAFI Functions	Enacted in Feb 1996 – authorized SecDef to carryout pilot program to test performance of private sector to perform payroll, accounting & other financial activities for nonappropriated fund instrumentalities; required evaluation of cost efficiencies (with goal of 25% reduction of total costs)	Repeal
25				
2465 note	P.L. 107-56, § 1010, Oct 26, 2001	Temp Authority to Contract with Local & State Govts for Performance of Security Functions at US Military Installations	Enacted in Oct 2001 – allowed DOD to contract with State/Local govts for certain security & fire functions (while military forces are engaged in Operation Enduring Freedom/ 180 days after); required report to SASC & HASC within 1 year on performance	Repeal
26				
2504 note	FY12 NDAA, P.L. 112-81, §852, Dec 31, 2011	Strategy for Securing Supply Chain and Industrial Base	Enacted in Dec 2011—required SecDef to include in 2012 annual report to Congress an assessment (tier by tier) of industrial base; required updates for 2013-2015	Repeal
27				88

Provisions Recommended for Repeal by Section 809 Panel - 2d Tranche

	A	B	C	D	E
	10 USC Section	Source Cite	Title	Description	809 Panel Recommendation
1	2540c note	FY01 NDAA, P. L. 106-398, §1081(c), Oct. 30, 2000	Funds For Administrative Expenses Under Defense Export Loan Guarantee Program: Limitation Pending Submission of Report	Enacted in Oct 2000 – prohibited SecDef from exercising authority (related to administrative fees) until report was submitted to Congress on Defense Export Loan Guarantee Program	Repeal
28					

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
BY SECTION 809 PANEL — PACKAGE #2]**

Sections Proposed for Repeal — Package #2

This document sets out the text of the sections of law that are proposed for repeal by the Section 809 Panel in its repeal package #2, approved by the Panel on March 20, 2018.

[The number at the beginning of each item below corresponds to the row number for that item on the accompanying spreadsheet. (Note that on the spreadsheet Row 1 is a header, so the first item is on Row 2 and accordingly the first item below is numbered 2.)]

2. Section 167a of title 10, United States Code, provides:

§167a. Unified combatant command for joint warfighting experimentation: acquisition authority

(a) LIMITED ACQUISITION AUTHORITY FOR COMMANDER OF CERTAIN UNIFIED COMBATANT COMMAND.—The Secretary of Defense may delegate to the commander of the unified combatant command referred to in subsection (b) authority of the Secretary under chapter 137 of this title sufficient to enable the commander to develop, acquire, and maintain equipment described in subsection (c). The exercise of authority so delegated is subject to the authority, direction, and control of the Secretary.

(b) COMMAND DESCRIBED.—The commander to whom authority is delegated under subsection (a) is the commander of the unified combatant command that has the mission for joint warfighting experimentation, as assigned by the Secretary of Defense.

(c) EQUIPMENT.—The equipment referred to in subsection (a) is as follows:

- (1) Equipment for battle management command, control, communications, and intelligence.
- (2) Any other equipment that the commander referred to in subsection (b) determines necessary and appropriate for—

(A) facilitating the use of joint forces in military operations; or

(B) enhancing the interoperability of equipment used by the various components of joint forces.

(d) EXCEPTIONS.—The authority delegated under subsection (a) does not apply to the development or acquisition of a system for which—

- (1) the total expenditure for research, development, test, and evaluation is estimated to be \$10,000,000 or more; or
- (2) the total expenditure for procurement is estimated to be \$50,000,000 or more.

(e) INTERNAL AUDITS AND INSPECTIONS.—The commander referred to in subsection (b) shall require the inspector general of that command to conduct internal audits and inspections of purchasing and contracting administered by the commander under the authority delegated under subsection (a).

(f) LIMITATION ON AUTHORITY TO MAINTAIN EQUIPMENT.—The authority delegated under subsection (a) to maintain equipment is subject to the availability of funds authorized and appropriated specifically for that purpose.

(g) TERMINATION.—The Secretary may delegate the authority referred to in subsection (a) only during fiscal years 2004 through 2010, and any authority so delegated shall not be in effect after September 30, 2010.

3. Section 854 of the National Defense Authorization Act for Fiscal Year 2017, Pub. L. 114-328, (10 USC 2302 note), provided that:

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
 BY SECTION 809 PANEL — PACKAGE #2]**

SEC. 854. KEY PERFORMANCE PARAMETER REDUCTION PILOT PROGRAM.

(a) **IN GENERAL.**—The Secretary of Defense may carry out a pilot program under which the Secretary may identify at least one acquisition program in each military department for reduction of the total number of key performance parameters established for the program, for purposes of determining whether operational and programmatic outcomes of the program are improved by such reduction.

(b) **LIMITATION ON KEY PERFORMANCE PARAMETERS.**—Any acquisition program identified for the pilot program carried out under subsection (a) shall establish no more than three key performance parameters, each of which shall describe a program-specific performance attribute. Any key performance parameters for such a program that are required by statute shall be treated as key system attributes.

4. Section 829 of the National Defense Authorization Act for Fiscal Year 2013, Pub. L. 112-239, **(10 USC 2302 note)**, provided that:

SEC. 829. EXTENSION OF CONTRACTOR CONFLICT OF INTEREST LIMITATIONS.

(a) **ASSESSMENT OF EXTENSION OF LIMITATIONS TO CERTAIN ADDITIONAL FUNCTIONS AND CONTRACTS.**—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall review the guidance on personal conflicts of interest for contractor employees issued pursuant to section 841(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4537) in order to determine whether it would be in the best interest of the Department of Defense and the taxpayers to extend such guidance to personal conflicts of interest by contractor personnel performing any of the following:

- (1) Functions other than acquisition functions that are closely associated with inherently governmental functions (as that term is defined in section 2383(b)(3) of title 10, United States Code).
- (2) Personal services contracts (as that term is defined in section 2330a(g)(5) of title 10, United States Code).
- (3) Contracts for staff augmentation services (as that term is defined in section 808(d)(3) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1490)).

(b) **EXTENSION OF LIMITATIONS.**—If the Secretary determines pursuant to the review under subsection (a) that the guidance on personal conflicts of interest should be extended, the Secretary shall revise the Defense Supplement to the Federal Acquisition Regulation to the extent necessary to achieve such extension.

(c) **RESULTS OF REVIEW.**—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary shall document in writing the results of the review conducted under subsection (a), including, at a minimum—

- (1) the findings and recommendations of the review; and
- (2) the basis for such findings and recommendations.

5. Section 895 of the National Defense Authorization Act for Fiscal Year 2016, Pub. L. 114-92, **(10 USC 2304 note)**, provided that:

SEC. 895. MITIGATING POTENTIAL UNFAIR COMPETITIVE ADVANTAGE OF TECHNICAL ADVISORS TO ACQUISITION PROGRAMS.

Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review, and as necessary revise or issue, policy guidance

TEXT OF SECTIONS PROPOSED FOR REPEAL
BY SECTION 809 PANEL — PACKAGE #2]

pertaining to the identification, mitigation, and prevention of potential unfair competitive advantage conferred to technical advisors to acquisition programs.

6. Section 842 of the National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112–81 (10 USC 2313 note), as amended, provided:

“SEC. 842. ADDITIONAL ACCESS TO CONTRACTOR AND SUBCONTRACTOR RECORDS IN THE UNITED STATES CENTRAL COMMAND THEATER OF OPERATIONS.

"(a) DEPARTMENT OF DEFENSE CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to require that-

"(A) the clause described in paragraph (2) shall be included in each covered contract, grant, and cooperative agreement of the Department of Defense that is awarded on or after the date of the enactment of this Act; and

"(B) to the maximum extent practicable, each covered contract, grant, and cooperative agreement of the Department that is awarded before the date of the enactment of this Act shall be modified to include the clause described in paragraph (2).

"(2) CLAUSE.—The clause described in this paragraph is a clause authorizing the Secretary, upon a written determination pursuant to paragraph (3), to examine any records of the contractor, the recipient of a grant or cooperative agreement, or any subcontractor or subgrantee under such contract, grant, or cooperative agreement to the extent necessary to ensure that funds available under the contract, grant, or cooperative agreement-

"(A) are not subject to extortion or corruption; and

"(B) are not provided directly or indirectly to persons or entities that are actively supporting an insurgency or otherwise actively opposing United States or coalition forces in a contingency operation.

"(3) WRITTEN DETERMINATION.—The authority to examine records pursuant to the contract clause described in paragraph (2) may be exercised only upon a written determination by the contracting officer or comparable official responsible for a grant or cooperative agreement, upon a finding by the Commander of the United States Central Command, that there is reason to believe that funds available under the contract, grant, or cooperative agreement concerned may have been subject to extortion or corruption or may have been provided directly or indirectly to persons or entities that are actively supporting an insurgency or otherwise actively opposing United States or coalition forces in a contingency operation.

"(4) FLOWDOWN.—A clause described in paragraph (2) shall also be required in any subcontract or subgrant under a covered contract, grant, or cooperative agreement if the subcontract or subgrant has an estimated value in excess of \$100,000.

"(b) REPORTS.—Not later than March 1 of each of 2013, 2014, and 2015, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of the authority provided by this section in the preceding calendar year. Each report shall identify, for the calendar year covered by such report, each instance in which the Department of Defense exercised the authority provided under this section to examine records, explain the basis for the action taken, and summarize the results of any examination of records so undertaken.[.] Any report under this subsection may be submitted in classified form.

"(c) DEFINITIONS.—In this section:

"(1) The term 'contingency operation' has the meaning given that term in section 101(a)(13) of title 10, United States Code.

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
BY SECTION 809 PANEL — PACKAGE #2]**

"(2) The term 'covered contract, grant, or cooperative agreement' means a contract, grant, or cooperative agreement with an estimated value in excess of \$100,000 that will be performed in the United States Central Command theater of operations in support of a contingency operation.

"(d) **SUNSET**.—

"(1) **IN GENERAL**.—The clause described by subsection (a)(2) shall not be required in any contract, grant, or cooperative agreement that is awarded after the date that is three years after the date of the enactment of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 [Dec. 19, 2014].

"(2) **CONTINUING EFFECT OF CLAUSES INCLUDED BEFORE SUNSET**.—Any clause described by subsection (a)(2) that is included in a contract, grant, or cooperative agreement pursuant to this section before the date specified in paragraph (1) shall remain in effect in accordance with its terms."

7. Section 2323 of title 10, United States Code, provides:

§2323. Contract goal for small disadvantaged businesses and certain institutions of higher education

(a) **GOAL**.—(1) Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration in each fiscal year for the total combined amount obligated for contracts and subcontracts entered into with—

(A) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals, and qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act);

(B) historically Black colleges and universities, including any nonprofit research institution that was an integral part of such a college or university before November 14, 1986;

(C) minority institutions (as defined in section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k));

(D) Hispanic-serving institutions (as defined in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a))); and

(E) Native Hawaiian-serving institutions and Alaska Native-serving institutions (as defined in section 317 of the Higher Education Act of 1965).

(2) The head of the agency shall establish a specific goal within the overall 5 percent goal for the award of prime contracts and subcontracts to historically Black colleges and universities, Hispanic-serving institutions, Native Hawaiian-serving institutions and Alaska Native-serving institutions, and minority institutions in order to increase the participation of such colleges and universities and institutions in the program provided for by this section.

(3) The Federal Acquisition Regulation shall provide procedures or guidelines for contracting officers to set goals which agency prime contractors that are required to submit subcontracting plans under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)) in furtherance of the agency's program to meet the 5 percent goal specified in paragraph (1) should meet in awarding subcontracts, including subcontracts to minority-owned media, to entities described in that paragraph.

(b) **AMOUNT**.—(1) With respect to the Department of Defense, the requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

(A) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

(B) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
 BY SECTION 809 PANEL — PACKAGE #2]**

(C) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for military construction.

(D) Funds obligated for contracts entered into with the Department of Defense for operation and maintenance.

(2) With respect to the Coast Guard, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the Coast Guard for such fiscal year.

(3) With respect to the National Aeronautics and Space Administration, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the National Aeronautics and Space Administration for such fiscal year.

(c) TYPES OF ASSISTANCE.—(1) To attain the goal specified in subsection (a)(1), the head of an agency shall provide technical assistance to the entities referred to in that subsection and, in the case of historically Black colleges and universities, Hispanic-serving institutions, Native Hawaiian-serving institutions and Alaska Native-serving institutions, and minority institutions, shall also provide infrastructure assistance.

(2) Technical assistance provided under this section shall include information about the program, advice about agency procurement procedures, instruction in preparation of proposals, and other such assistance as the head of the agency considers appropriate. If the resources of the agency are inadequate to provide such assistance, the head of the agency may enter into contracts with minority private sector entities with experience and expertise in the design, development, and delivery of technical assistance services to eligible individuals, business firms and institutions, acquisition agencies, and prime contractors. Agency contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

(3) Infrastructure assistance provided by the Department of Defense under this section to historically Black colleges and universities, to Hispanic-serving institutions, to Native Hawaiian-serving institutions and Alaska Native-serving institutions, and to minority institutions may include programs to do the following:

(A) Establish and enhance undergraduate, graduate, and doctoral programs in scientific disciplines critical to the national security functions of the Department of Defense.

(B) Make Department of Defense personnel available to advise and assist faculty at such colleges and universities in the performance of defense research and in scientific disciplines critical to the national security functions of the Department of Defense.

(C) Establish partnerships between defense laboratories and historically Black colleges and universities and minority institutions for the purpose of training students in scientific disciplines critical to the national security functions of the Department of Defense.

(D) Award scholarships, fellowships, and the establishment of cooperative work-education programs in scientific disciplines critical to the national security functions of the Department of Defense.

(E) Attract and retain faculty involved in scientific disciplines critical to the national security functions of the Department of Defense.

(F) Equip and renovate laboratories for the performance of defense research.

(G) Expand and equip Reserve Officer Training Corps activities devoted to scientific disciplines critical to the national security functions of the Department of Defense.

(H) Provide other assistance as the Secretary determines appropriate to strengthen scientific disciplines critical to the national security functions of the Department of Defense or the college infrastructure to support the performance of defense research.

(4) The head of the agency shall, to the maximum extent practical, carry out programs under this section at colleges, universities, and institutions that agree to bear a substantial portion of the cost associated with the programs.

(d) APPLICABILITY.—Subsection (a) does not apply to the Department of Defense-

(1) to the extent to which the Secretary of Defense determines that compelling national security considerations require otherwise; and

(2) if the Secretary notifies Congress of such determination and the reasons for such determination.

(e) COMPETITIVE PROCEDURES AND ADVANCE PAYMENTS.—To attain the goal of subsection (a):

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
BY SECTION 809 PANEL — PACKAGE #2]**

(1)(A) The head of the agency shall—

(i) ensure that substantial progress is made in increasing awards of agency contracts to entities described in subsection (a)(1);

(ii) exercise his utmost authority, resourcefulness, and diligence;

(iii) in the case of the Department of Defense, actively monitor and assess the progress of the military departments, Defense Agencies, and prime contractors of the Department of Defense in attaining such goal; and

(iv) in the case of the Coast Guard and the National Aeronautics and Space Administration, actively monitor and assess the progress of the prime contractors of the agency in attaining such goal.

(B) In making the assessment under clauses (iii) and (iv) of subparagraph (A), the head of the agency shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal.

(2) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the head of an agency shall make advance payments under section 2307 of this title to contractors described in subsection (a). The Federal Acquisition Regulation shall provide guidance to contracting officers for making advance payments to entities described in subsection (a)(1) under such section.

(3)(A) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the head of an agency may, except as provided in subparagraph (B), enter into contracts using less than full and open competitive procedures (including awards under section 8(a) of the Small Business Act) and partial set asides for entities described in subsection (a)(1), but shall pay a price not exceeding fair market cost by more than 10 percent in payment per contract to contractors or subcontractors described in subsection (a). The head of an agency shall adjust the percentage specified in the preceding sentence for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage in the application of this paragraph.

(B)(i) The Secretary of Defense may not exercise the authority under subparagraph (A) to enter into a contract for a price exceeding fair market cost if the regulations implementing that authority are suspended under clause (ii) with respect to that contract.

(ii) At the beginning of each fiscal year, the Secretary shall determine, on the basis of the most recent data, whether the Department of Defense achieved the 5 percent goal described in subsection (a) during the fiscal year to which the data relates. Upon determining that the Department achieved the goal for the fiscal year to which the data relates, the Secretary shall issue a suspension, in writing, of the regulations that implement the authority under subparagraph (A). Such a suspension shall be in effect for the one-year period beginning 30 days after the date on which the suspension is issued and shall apply with respect to contracts awarded pursuant to solicitations issued during that period.

(iii) For purposes of clause (ii), the term "most recent data" means data relating to the most recent fiscal year for which data are available.

(4) To the extent practicable, the head of an agency shall maximize the number of minority small business concerns, historically Black colleges and universities, and minority institutions participating in the program.

(5) Each head of an agency shall prescribe regulations which provide for the following:

(A) Procedures or guidance for contracting officers to provide incentives for prime contractors referred to in subsection (a)(3) to increase subcontractor awards to entities described in subsection (a)(1).

(B) A requirement that contracting officers emphasize the award of contracts to entities described in subsection (a)(1) in all industry categories, including those categories in which such entities have not traditionally dominated.

(C) Guidance to agency personnel on the relationship among the following programs:

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
 BY SECTION 809 PANEL — PACKAGE #2]**

- (i) The program implementing this section.
- (ii) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).
- (iii) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).
- (D) With respect to an agency procurement which is reasonably likely to be set aside for entities described in subsection (a)(1), a requirement that (to the maximum extent practicable) the procurement be designated as such a set-aside before the solicitation for the procurement is issued.
- (E) Policies and procedures which, to the maximum extent practicable, will ensure that current levels in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and under the small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)) are maintained and that every effort is made to provide new opportunities for contract awards to eligible entities, in order to meet the goal of subsection (a).
- (F) Implementation of this section in a manner which will not alter the procurement process under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).
- (G) A requirement that one factor used in evaluating the performance of a contracting officer be the ability of the officer to increase contract awards to entities described in subsection (a)(1).
- (H) Increased technical assistance to entities described in subsection (a)(1).
- (f) PENALTIES AND REGULATIONS RELATING TO STATUS.—(1) Whoever for the purpose of securing a contract or subcontract under subsection (a) misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)) or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act), shall be punished by imprisonment for not more than one year, or a fine under title 18, or both.
- (2) The Federal Acquisition Regulation shall prohibit awarding a contract under this section to an entity described in subsection (a)(1) unless the entity agrees to comply with the requirements of section 15(o)(1) of the Small Business Act (15 U.S.C. 644(o)(1)).
- (g) INDUSTRY CATEGORIES.—(1) To the maximum extent practicable, the head of the agency shall—
 - (A) ensure that no particular industry category bears a disproportionate share of the contracts awarded to attain the goal established by subsection (a); and
 - (B) ensure that contracts awarded to attain the goal established by subsection (a) are made across the broadest possible range of industry categories.
- (2) Under procedures prescribed by the head of the agency, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity for the purposes of this section. Upon making a determination that a particular industry category is bearing a disproportionate share, the head of the agency shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.
- (h) COMPLIANCE WITH SUBCONTRACTING PLAN REQUIREMENTS.—(1) The Federal Acquisition Regulation shall contain regulations to ensure that potential contractors submitting sealed bids or competitive proposals to the agency for procurement contracts to be awarded under the program provided for by this section are complying with applicable subcontracting plan requirements of section 8(d) of the Small Business Act (15 U.S.C. 637(d)).
- (2) The regulations required by paragraph (1) shall ensure that, with respect to a sealed bid or competitive proposal for which the bidder or offeror is required to negotiate or submit a subcontracting plan under section 8(d) of the Small Business Act (15 U.S.C. 637(d)), the subcontracting plan shall be a factor in evaluating the bid or proposal.
- (i) ANNUAL REPORT.—(1) Not later than December 15 of each year, the head of the agency shall submit to Congress a report on the progress of the agency toward attaining the goal of subsection (a) during the preceding fiscal year.

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
 BY SECTION 809 PANEL — PACKAGE #2]**

- (2) The report required under paragraph (1) shall include the following:
- (A) A full explanation of any progress toward attaining the goal of subsection (a).
 - (B) A plan to achieve the goal, if necessary.
- (j) DEFINITIONS.—In this section:
- (1) The term "agency" means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.
 - (2) The term "head of an agency" means the Secretary of Defense, the Secretary of Homeland Security, and the Administrator of the National Aeronautics and Space Administration.
- (k) EFFECTIVE DATE.—(1) This section applies in the Department of Defense to each of fiscal years 1987 through **2009**.
- (2) This section applies in the Coast Guard and the National Aeronautics and Space Administration in each of fiscal years 1995 through **2009**.

8. Section 803(a) of the National Defense Authorization Act for Fiscal Year 2017, Pub. L. 114–328, **(10 USC 2330 note)** provided that:

SEC. 803. MODERNIZATION OF SERVICES ACQUISITION.

"(a) REVIEW OF SERVICES ACQUISITION CATEGORIES.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall review and, if necessary, revise Department of Defense Instruction 5000.74, dated January 5, 2016 (in this section referred to as the 'Acquisition of Services Instruction'), and other guidance pertaining to the acquisition of services. In conducting the review, the Secretary shall examine—

"(1) how the acquisition community should consider the changing nature of the technology and professional services markets, particularly the convergence of hardware and services; and

"(2) the services acquisition portfolio groups referenced in the Acquisition of Services Instruction and other guidance in order to ensure the portfolio groups are fully reflective of changes to the technology and professional services market."

9. Section 882 of the National Defense Authorization Act for Fiscal Year 2016, Pub. L. 114–92 **(10 USC 2330 note)**, provided that:

SEC. 882. GUIDANCE RELATING TO OVERSIGHT AND APPROVAL OF SERVICES CONTRACTS.

"Not later than March 1, 2016, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall—

"(1) complete an examination of the decision authority related to acquisition of services; and

"(2) develop and issue guidance to improve capabilities and processes related to requirements development and source selection for, and oversight and management of, services contracts."

10. Section 807 of the National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112–81, **(10 USC 2330 note)** provided that:

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
 BY SECTION 809 PANEL — PACKAGE #2]**

SEC. 807. DEFENSE SCIENCE BOARD RECOMMENDATIONS ON SERVICES.

"(a) **PLAN FOR IMPLEMENTATION.**—Not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall, acting pursuant to the Under Secretary's responsibility under section 2330 of title 10, United States Code, develop a plan for implementing the recommendations of the Defense Science Board Task Force on Improvements to Service Contracting.

"(b) **ELEMENTS.**—The plan developed pursuant to subsection (a) shall include, to the extent determined appropriate by the Under Secretary for Acquisition, Technology, and Logistics, the following:

"(1) Meaningful incentives to services contractors for high performance at low cost, consistent with the objectives of the Better Buying Power Initiative established by the Under Secretary.

"(2) Improved means of communication between the Government and the services contracting industry in the process of developing requirements for services contracts.

"(3) Clear guidance for defense acquisition personnel on the use of appropriate contract types for particular categories of services contracts.

"(4) Formal certification and training requirements for services acquisition personnel, consistent with the requirements of sections 1723 and 1724 of title 10, United States Code.

"(5) Appropriate emphasis on the recruiting and training of services acquisition personnel, consistent with the strategic workforce plan developed pursuant to [former] section 115b of title 10, United States Code, and the funds available through the Department of Defense Acquisition Workforce Development Fund established pursuant to section 1705 of title 10, United States Code.

"(6) Policies and guidance on career development for services acquisition personnel, consistent with the requirements of sections 1722a and 1722b of title 10, United States Code.

"(7) Actions to ensure that the military departments dedicate portfolio-specific commodity managers to coordinate the procurement of key categories of contract services, as required by section 2330(b)(3)(C) of title 10, United States Code.

"(8) Actions to ensure that the Department of Defense conducts realistic exercises and training that account for services contracting during contingency operations, as required by section 2333(e) of title 10, United States Code.

"(c) **COMPTROLLER GENERAL REPORT.**—Not later than 18 months after the date of the enactment of this Act [Dec. 31, 2011], the Comptroller General of the United States shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the following:

"(1) The actions taken by the Under Secretary of Defense for Acquisition, Technology, and Logistics to carry out the requirements of this section.

"(2) The actions taken by the Under Secretary to carry out the requirements of section 2330 of title 10, United States Code.

"(3) The actions taken by the military departments to carry out the requirements of section 2330 of title 10, United States Code.

"(4) The extent to which the actions described in paragraphs (1), (2), and (3) have resulted in the improved acquisition and management of contract services."

11. Section 863(a)–(h) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, [Pub. L. 111–383 \(10 USC 2330 note\)](#), as amended, provided that:

SEC. 863. REQUIREMENTS FOR THE ACQUISITION OF SERVICES.

"(a) **ESTABLISHMENT OF REQUIREMENTS PROCESSES FOR THE ACQUISITION OF SERVICES.**—The Secretary of Defense shall ensure that the military departments and Defense Agencies each establish a process for identifying, assessing, reviewing, and validating requirements for the acquisition of services.

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
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"(b) OPERATIONAL REQUIREMENTS.—With regard to requirements for the acquisition of services in support of combatant commands and military operations, the Secretary shall ensure-

"(1) that the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps implement and bear chief responsibility for carrying out, within the Armed Force concerned, the process established pursuant to subsection (a) for such Armed Force; and

"(2) that commanders of unified combatant commands and other officers identified or designated as joint qualified officers have an opportunity to participate in the process of each military department to provide input on joint requirements for the acquisition of services.

"(c) SUPPORTING REQUIREMENTS.—With regard to requirements for the acquisition of services not covered by subsection (b), the Secretary shall ensure that the secretaries of the military departments and the heads of the Defense Agencies implement and bear chief responsibility for carrying out, within the military department or Defense Agency concerned, the process established pursuant to subsection (a) for such military department or Defense Agency.

"(d) IMPLEMENTATION PLANS REQUIRED.—The Secretary shall ensure that an implementation plan is developed for each process established pursuant to subsection (a) that addresses, at a minimum, the following:

"(1) The organization of such process.

"(2) The level of command responsibility required for identifying, assessing, reviewing, and validating requirements for the acquisition of services in accordance with the requirements of this section and the categories established under section 2330(a)(1)(C) of title 10, United States Code.

"(3) The composition of positions necessary to operate such process.

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

"(5) The relationship between doctrine and such process.

"(6) Methods of obtaining input on joint requirements for the acquisition of services.

"(7) Procedures for coordinating with the acquisition process.

"(8) Considerations relating to opportunities for strategic sourcing.

"(9) Considerations relating to total force management policies and procedures established under section 129a of title 10, United States Code.

"(e) MATTERS REQUIRED IN IMPLEMENTATION PLAN.—Each plan required under subsection (d) shall provide for initial implementation of a process for identifying, assessing, reviewing, and validating requirements for the acquisition of services not later than one year after the date of the enactment of this Act [Jan. 7, 2011] and shall provide for full implementation of such process at the earliest date practicable.

"(f) CONSISTENCY WITH JOINT GUIDANCE.—Whenever, at any time, guidance is issued by the Chairman of the Joint Chiefs of Staff relating to requirements for the acquisition of services in support of combatant commands and military operations, each process established pursuant to subsection (a) shall be revised in accordance with such joint guidance.

"(g) DEFINITION.—The term 'requirements for the acquisition of services' means objectives to be achieved through acquisitions primarily involving the procurement of services.

"(h) REVIEW OF SUPPORTING REQUIREMENTS TO IDENTIFY SAVINGS.—The secretaries of the military departments and the heads of the Defense Agencies shall review and validate each requirement described in subsection (c) with an anticipated cost in excess of \$10,000,000 with the objective of identifying unneeded or low priority requirements that can be reduced or eliminated, with the savings transferred to higher priority objectives. Savings identified and transferred to higher priority objectives through review and revalidation under this subsection shall count toward the savings objectives established in the June 4, 2010, guidance of the Secretary of Defense on improved operational efficiencies and the annual reduction in funding for service support contractors required by the August 16, 2010, guidance of the Secretary of Defense on efficiency initiatives. As provided by the Secretary, cost avoidance shall not count toward these objectives."

12. Section 808 of the National Defense Authorization Act for Fiscal Year 2008, Pub. L. 110–181 (**10 USC 2330 note**), as amended, provided that:

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
 BY SECTION 809 PANEL — PACKAGE #2]**

SEC. 808. INDEPENDENT MANAGEMENT REVIEWS OF CONTRACTS FOR SERVICES.

"(a) GUIDANCE AND INSTRUCTIONS.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall issue guidance, with detailed implementation instructions, for the Department of Defense to provide for periodic independent management reviews of contracts for services. The independent management review guidance and instructions issued pursuant to this subsection shall be designed to evaluate, at a minimum-

"(1) contract performance in terms of cost, schedule, and requirements;

"(2) the use of contracting mechanisms, including the use of competition, the contract structure and type, the definition of contract requirements, cost or pricing methods, the award and negotiation of task orders, and management and oversight mechanisms;

"(3) the contractor's use, management, and oversight of subcontractors;

"(4) the staffing of contract management and oversight functions; and

"(5) the extent of any pass-throughs, and excessive pass-through charges (as defined in section 852 of the John Warner National Defense Authorization Act for Fiscal Year 2007 [Pub. L. 109-364, 10 U.S.C. 2324 note]), by the contractor.

"(b) ADDITIONAL SUBJECT OF REVIEW.—In addition to the matters required by subsection (a), the guidance and instructions issued pursuant to subsection (a) shall provide for procedures for the periodic review of contracts under which one contractor provides oversight for services performed by other contractors. In particular, the procedures shall be designed to evaluate, at a minimum-

"(1) the extent of the agency's reliance on the contractor to perform acquisition functions closely associated with inherently governmental functions as defined in section 2383(b)(3) of title 10, United States Code; and

"(2) the financial interest of any prime contractor performing acquisition functions described in paragraph (1) in any contract or subcontract with regard to which the contractor provided advice or recommendations to the agency.

"(c) ELEMENTS.—The guidance and instructions issued pursuant to subsection (a) shall address, at a minimum-

"(1) the contracts subject to independent management reviews, including any applicable thresholds and exceptions;

"(2) the frequency with which independent management reviews shall be conducted;

"(3) the composition of teams designated to perform independent management reviews;

"(4) any phase-in requirements needed to ensure that qualified staff are available to perform independent management reviews;

"(5) procedures for tracking the implementation of recommendations made by independent management review teams; and

"(6) procedures for developing and disseminating lessons learned from independent management reviews.

"(d) REPORTS.—

"(1) Report on guidance and instruction.—Not later than 270 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the guidance and instructions issued pursuant to subsection (a).

"(2) GAO report on implementation.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the implementation of the guidance and instructions issued pursuant to subsection (a)."

13. Section 812(b)-(c) of the National Defense Authorization Act for Fiscal Year 2006, Pub. L. 109-163 (10 USC 2330 note), provided that:

SEC. 812. MANAGEMENT STRUCTURE FOR THE PROCUREMENT OF CONTRACT SERVICES.

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(a) [amended 10 USC 2330]

"(b) **PHASED IMPLEMENTATION.**—The requirements of section 2330 of title 10, United States Code (as added by subsection (a)), shall be implemented as follows:

"(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall-

"(A) establish an initial set of contract services acquisition categories, based on dollar thresholds, by not later than June 1, 2006; and

"(B) issue an initial set of policies, procedures, and best practices guidelines in accordance with section 2330(a)(1)(A) by not later than October 1, 2006.

"(2) The contract services acquisition categories established by the Under Secretary shall include-

"(A) one or more categories for acquisitions with an estimated value of \$250,000,000 or more;

"(B) one or more categories for acquisitions with an estimated value of at least \$10,000,000 but less than \$250,000,000; and

"(C) one or more categories for acquisitions with an estimated value greater than the simplified acquisition threshold but less than \$10,000,000.

"(3) The senior officials responsible for the management of acquisition of contract services shall assign responsibility to specific individuals in the Department of Defense for the review and approval of procurements in the contract services acquisition categories established by the Under Secretary, as follows:

"(A) Not later than October 1, 2006, for all categories established pursuant to paragraph (2)(A).

"(B) Not later than October 1, 2007, for all categories established pursuant to paragraph (2)(B).

"(C) Not later than October 1, 2009, for all categories established pursuant to paragraph (2)(C).

"(c) **REPORT.**--Not later than one year after the date of the enactment of this Act [Jan. 6, 2006], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a final report on the implementation of section 2330 of title 10, United States Code, as added by this section."

14. Section 831 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. 110–417 (**10 USC 2330a note**) provided that:

SEC. 831. DEVELOPMENT OF GUIDANCE ON PERSONAL SERVICES CONTRACTS.

"(a) **GUIDANCE REQUIRED.**—Not later than 270 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall develop guidance related to personal services contracts to-

"(1) require a clear distinction between employees of the Department of Defense and employees of Department of Defense contractors;

"(2) provide appropriate safeguards with respect to when, where, and to what extent the Secretary may enter into a contract for the procurement of personal services; and

"(3) assess and take steps to mitigate the risk that, as implemented and administered, non-personal services contracts may become personal services contracts.

"(b) **DEFINITION OF PERSONAL SERVICES CONTRACT.**—In this section, the term 'personal services contract' has the meaning given that term in section 2330a(g)(5) [former 2330a(h)(5)] of title 10, United States Code."

15. Section 2332 of title 10, United States Code, provides:

§2332. Share-in-savings contracts

(a) **AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.**—(1) The head of an agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40) in which the

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Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract, but may not retain any portion of such savings that is attributable to a decrease in the number of civilian employees of the Federal Government performing the function. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

(B) Amounts retained by the agency under this subsection shall—

(i) without further appropriation, remain available until expended; and

(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

(A) appropriations available for the performance of the contract;

(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

(3)(A) Subject to subparagraph (B), the head of an agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

(I) 25 percent of the estimated costs of a cancellation or termination; or

(II) \$5,000,000.

(ii) Unfunded contingent liability in excess of \$1,000,000 has been approved by the Director of the Office of Management and Budget or the Director's designee.

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(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all agencies to which this chapter applies in a fiscal year may not exceed 5 in each of fiscal years 2003, 2004, and 2005.

(c) DEFINITIONS.—In this section:

(1) The term "contractor" means a private entity that enters into a contract with an agency.

(2) The term "savings" means-

(A) monetary savings to an agency; or

(B) savings in time or other benefits realized by the agency, including enhanced revenues (other than enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts owed the Federal Government).

(3) The term "share-in-savings contract" means a contract under which-

(A) a contractor provides solutions for-

(i) improving the agency's mission-related or administrative processes; or

(ii) accelerating the achievement of agency missions; and

(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from-

(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

(ii) acceleration of achievement of agency missions.

(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2005.

16. Section 8133 of the Department of Defense Appropriations Act, 2000, Pub. L. 106–79 (**10 USC 2401a note**), provided that:

"Sec. 8133. (a) The Secretary of the Air Force may establish a multi-year pilot program for leasing aircraft for operational support purposes, including transportation for the combatant Commanders in Chief, on such terms and conditions as the Secretary may deem appropriate, consistent with this section.

"(b) Sections 2401 and 2401a of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

"(c) Under the aircraft lease Pilot Program authorized by this section:

"(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee.

"(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years.

"(3) The Secretary may provide for special payments to a lessor if either the Secretary terminates or cancels the lease prior to the expiration of its term or aircraft are damaged or destroyed prior to the expiration of the term of the lease. Such special payments shall not exceed an amount equal to the value of one year's lease payment under the lease. The amount of special payments shall be subject to negotiation between the Air Force and lessors.

"(4) Notwithstanding any other provision of law, any payments required under a lease under this section, and any payments made pursuant to subsection (3) above may be made from:

"(A) appropriations available for the performance of the lease at the time the lease takes effect;

"(B) appropriations for the operation and maintenance available at the time which the payment is due;

and

"(C) funds appropriated for those payments.

"(5) The Secretary may lease aircraft, on such terms and conditions as the Secretary may deem appropriate, consistent with this section, through an operating lease consistent with OMB Circular A–11.

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"(6) The Secretary may exchange or sell existing aircraft and apply the exchange allowance or sale proceeds in whole or in part toward the cost of leasing replacement aircraft under this section.

"(7) Lease arrangements authorized by this section may not commence until:

"(A) The Secretary submits a report to the congressional defense committees [Committees on Armed Services and Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives] outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and the savings in operations and support costs expected to be derived from retiring older aircraft as compared to the expected cost of leasing newer replacement aircraft.

"(B) A period of not less than 30 calendar days has elapsed after submitting the report.

"(8) Not later than 1 year after the date on which the first aircraft is delivered under this Pilot Program, and yearly thereafter on the anniversary of the first delivery, the Secretary shall submit a report to the congressional defense committees describing the status of the Pilot Program. The Report will be based on at least 6 months of experience in operating the Pilot Program.

"(9) No lease of operational support aircraft may be entered into under this section after September 30, 2004.

"(d) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

"(e) The authority provided under this section may be used to lease not more than a total of six aircraft for the purposes of providing operational support."

17. Section 825(c) of the National Defense Authorization Act for Fiscal Year 2016, Pub. L. 114–92 (10 USC 2430 note), provided that:

SEC. 825. DESIGNATION OF MILESTONE DECISION AUTHORITY.

(a) [added a new subsection (d) to 10 USC 2430]

(b) [amended 10 USC 133(b)(5)]

“(c) **IMPLEMENTATION.**—

"(1) **IMPLEMENTATION PLAN.**—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for implementing subsection (d) of section 2430 of title 10, United States Code, as added by subsection (a) of this section.

"(2) **GUIDANCE.**—The Deputy Chief Management Officer of the Department of Defense, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the service acquisition executives, shall issue guidance to ensure that by not later than October 1, 2016, the acquisition policy, guidance, and practices of the Department of Defense conform to the requirements of subsection (d) of section 2430 of title 10, United States Code, as added by subsection (a) of this section. The guidance shall be designed to ensure a streamlined decisionmaking and approval process and to minimize any information requests, consistent with the requirement of paragraph (4)(A) of such subsection (d).

“(3) ***”

18. Section 1058 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. 113–291 (10 USC 2430 note) provided that:

SEC. 1058. IMPROVING ANALYTIC SUPPORT TO SYSTEMS ACQUISITION.

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
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"(a) GUIDANCE.—Not later than 120 days after the date of the enactment of this Act [Dec. 19, 2014], the Secretary of Defense shall review and issue or revise guidance to components of the Department of Defense to improve the application of operations research and systems analysis to—

"(1) the requirements process for acquisition of major defense acquisition programs and major automated information systems; and

"(2) the allocation of intelligence, surveillance, and reconnaissance systems to the combatant commands.

"(b) BRIEFING OF CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall brief—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on any guidance issued or revised under subsection (a); and

"(2) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on any guidance issued or revised under subsection (a)(2) relevant to intelligence."

**19. DEFENSE ACQUISITION PILOT PROGRAM
 (10 USC 2430 NOTE)**

(1) Section 809 of the National Defense Authorization Act for Fiscal Year 1991, P. L. 101–510 (10 USC 2430 note), as amended, provided:

“SEC. 809. MAJOR DEFENSE ACQUISITION PILOT PROGRAM.

"(a) AUTHORITY TO CONDUCT PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program for the purpose of determining the potential for increasing the efficiency and effectiveness of the acquisition process in defense acquisition programs.

"(b) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) Subject to paragraph (2), the Secretary may designate defense acquisition programs for participation in the pilot program.

"(2) The Secretary may designate for participation in the pilot program only those defense acquisition programs specifically authorized to be so designated in a law authorizing appropriations for such program enacted after the date of the enactment of this Act [Nov. 5, 1990].

"(c) CONDUCT OF PILOT PROGRAM.—(1) In the case of each defense acquisition program designated for participation in the pilot program, the Secretary-

"(A) shall conduct the program in accordance with standard commercial, industrial practices; and

"(B) may waive or limit the applicability of any provision of law that is specifically authorized to be waived in the law authorizing appropriations referred to in subsection (b)(2) and that prescribes-

"(i) procedures for the procurement of supplies or services;

"(ii) a preference or requirement for acquisition from any source or class of sources;

"(iii) any requirement related to contractor performance;

"(iv) any cost allowability, cost accounting, or auditing requirements; or

"(v) any requirement for the management of, testing to be performed under, evaluation of, or reporting on a defense acquisition program.

"(2) The waiver authority provided in paragraph (1)(B) does not apply to a provision of law if, as determined by the Secretary-

"(A) a purpose of the provision is to ensure the financial integrity of the conduct of a Federal Government program; or

"(B) the provision relates to the authority of the Inspector General of the Department of Defense.

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"(d) PUBLICATION OF POLICIES AND GUIDELINES.—The Secretary shall publish in the Federal Register a proposed memorandum setting forth policies and guidelines for implementation of the pilot program under this section and provide an opportunity for public comment on the proposed memorandum for a period of 60 days after the date of publication. The Secretary shall publish in the Federal Register any subsequent proposed change to the memorandum and provide an opportunity for public comment on each such proposed change for a period of 60 days after the date of publication.

"(e) NOTIFICATION AND IMPLEMENTATION.—(1) The Secretary shall transmit to the congressional defense committees a written notification of each defense acquisition program proposed to be designated by the Secretary for participation in the pilot program.

"(2) If the Secretary proposes to waive or limit the applicability of any provision of law to a defense acquisition program under the pilot program in accordance with this section, the Secretary shall include in the notification regarding that acquisition program-

"(A) the provision of law proposed to be waived or limited;

"(B) the effects of such provision of law on the acquisition, including specific examples;

"(C) the actions taken to ensure that the waiver or limitation will not reduce the efficiency, integrity, and effectiveness of the acquisition process used for the defense acquisition program; and

"(D) a discussion of the efficiencies or savings, if any, that will result from the waiver or limitation.

"(f) LIMITATION ON WAIVER AUTHORITY.—The applicability of the following requirements of law may not be waived or limited under subsection (c)(1)(B) with respect to a defense acquisition program:

"(1) The requirements of this section.

"(2) The requirements contained in any law enacted on or after the date of the enactment of this Act [Nov. 5, 1990] if that law designates such defense acquisition program as a participant in the pilot program, except to the extent that a waiver of such requirement is specifically authorized for such defense acquisition program in a law enacted on or after such date.

"(g) TERMINATION OF AUTHORITY.—The authority to waive or limit the applicability of any law under this section may not be exercised after **September 30, 1995.**"

(2) Section 833 of the National Defense Authorization Act for Fiscal Year 1994, P. L. 103–160 (**10 USC 2430 note**), as amended, provided:

“SEC. 833. MISSION ORIENTED PROGRAM MANAGEMENT.

"(a) MISSION-ORIENTED PROGRAM MANAGEMENT.—In the exercise of the authority provided in section 809 of the National Defense Authorization Act for Fiscal Year 1991 [Pub. L. 101–510] (10 U.S.C. 2430 note), the Secretary of Defense should propose for one or more of the defense acquisition programs covered by the Defense Acquisition Pilot Program to utilize the concept of mission-oriented program management.

"(b) POLICIES AND PROCEDURES.—In the case of each defense acquisition program covered by the Defense Acquisition Pilot Program, the Secretary of Defense should prescribe policies and procedures for the interaction of the program manager and the commander of the operational command (or a representative) responsible for the requirement for the equipment acquired, and for the interaction with the commanders of the unified and specified combatant commands. Such policies and procedures should include provisions for enabling the user commands to participate in acceptance testing."

(3) Section 839 of the National Defense Authorization Act for Fiscal Year 1994, P. L. 103–160, (**10 USC 2430 note**), provided:

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“SEC. 839. CONTRACTOR PERFORMANCE ASSESSMENT.

"(a) COLLECTION AND ANALYSIS OF PERFORMANCE INFORMATION.—The Secretary of Defense shall collect and analyze information on contractor performance under the Defense Acquisition Pilot Program.

"(b) INFORMATION TO BE INCLUDED.—Information collected under subsection (a) shall include the history of the performance of each contractor under the Defense Acquisition Pilot Program contracts and, for each such contract performed by the contractor, a technical evaluation of the contractor's performance prepared by the program manager responsible for the contract."

(4) Section 819 of the National Defense Authorization Act for Fiscal Year 1995, P. L. 103–337, (10 USC 2430 note), provided:

“SEC. 819. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

"The Secretary of Defense is authorized to designate the following defense acquisition programs for participation, to the extent provided in the Federal Acquisition Streamlining Act of 1994 in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

"(1) The Fire Support Combined Arms Tactical Trainer program.

"(2) The Joint Direct Attack Munition program.

"(3) The Joint Primary Aircraft Training System.

"(4) Commercial-derivative aircraft.

"(5) Commercial-derivative engine."

(5) Section 5064 of the Federal Acquisition Streamlining Act of 1994, P. L. 103–355, (10 USC 2430 note), as amended, provided:

“SEC. 5064. DEPARTMENT OF DEFENSE ACQUISITION PILOT PROGRAMS.

"(a) IN GENERAL.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 [Pub. L. 101–510] (10 U.S.C. 2430 note):

"(1) FIRE SUPPORT COMBINED ARMS TACTICAL TRAINER (FSCATT).—The Fire Support Combined Arms Tactical Trainer program with respect to all contracts directly related to the procurement of a training simulation system (including related hardware, software, and subsystems) to perform collective training of field artillery gunnery team components, with development of software as required to generate the training exercises and component interfaces.

"(2) JOINT DIRECT ATTACK MUNITION (JDAM I).—The Joint Direct Attack Munition program with respect to all contracts directly related to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit to enhance the delivery accuracy of 500-pound, 1000-pound, and 2000-pound bombs in inventory.

"(3) JOINT PRIMARY AIRCRAFT TRAINING SYSTEM (JPATS).—The Joint Primary Aircraft Training System (JPATS) with respect to all contracts directly related to the acquisition of a new primary trainer aircraft to fulfill Air Force and Navy joint undergraduate aviation training requirements, and an associated ground-based training system consisting of air crew training devices (simulators), courseware, a Training Management System, and contractor support for the life of the system.

"(4) COMMERCIAL-DERIVATIVE AIRCRAFT (CDA).—

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"(A) All contracts directly related to the acquisition or upgrading of commercial-derivative aircraft for use in meeting airlift and tanker requirements and the air vehicle component for airborne warning and control systems.

"(B) For purposes of this paragraph, the term 'commercial-derivative aircraft' means any of the following:

"(i) Any aircraft (including spare parts, support services, support equipment, technical manuals, and data related thereto) that is or was of a type customarily used in the course of normal business operations for other than Federal Government purposes, that has been issued a type certificate by the Administrator of the Federal Aviation Administration, and that has been sold or leased for use in the commercial marketplace or that has been offered for sale or lease for use in the commercial marketplace.

"(ii) Any aircraft that, but for modifications of a type customarily available in the commercial marketplace, or minor modifications made to meet Federal Government requirements, would satisfy or would have satisfied the criteria in subclass (i).

"(iii) For purposes of a potential complement or alternative to the C-17 program, any nondevelopmental airlift aircraft, other than the C-17 or any aircraft derived from the C-17, shall be considered a commercial-derivative aircraft.

"(5) COMMERCIAL-DERIVATIVE ENGINE (CDE).—The commercial derivative engine program with respect to all contracts directly related to the acquisition of (A) commercial derivative engines (including spare engines and upgrades), logistics support equipment, technical orders, management data, and spare parts, and (B) commercially derived engines for use in supporting the purchase of commercial-derivative aircraft for use in airlift and tanker requirements (including engine replacement and upgrades) and the air vehicle component for airborne warning and control systems. For purposes of a potential complement or alternative to the C-17 program, any nondevelopmental airlift aircraft engine shall be considered a commercial-derivative engine.

"(b) PILOT PROGRAM IMPLEMENTATION.—(1) [Amended section 833 of P. L. 103-160, set out above]

"(2) [Amended section 837 of P. L. 103-160]

"(3) [Amended section 838 of P. L. 103-160]

"(4) Not later than 45 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 [Oct. 13, 1994], the Secretary of Defense shall identify for each defense acquisition program participating in the pilot program quantitative measures and goals for reducing acquisition management costs.

"(5) For each defense acquisition program participating in the pilot program, the Secretary of Defense shall establish a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that-

"(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

"(B) reduce data requirements from the current program review reporting requirements.

"(c) SPECIAL AUTHORITY.—The authority delegated under subsection (a) may include authority for the Secretary of Defense-

"(1) to apply any amendment or repeal of a provision of law made in this Act to the pilot programs before the effective date of such amendment or repeal; and

"(2) to apply to a procurement of items other than commercial items under such programs-

"(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

"(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

"(d) APPLICABILITY.—(1) Subsection (c) applies with respect to-

"(A) a contract that is awarded or modified during the period described in paragraph (2); and

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"(B) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

"(2) The period referred to in paragraph (1) is the period that begins on October 13, 1994, and ends on **October 1, 2007**.

"(e) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the programs designated for participation in the defense acquisition pilot program under the authority of subsection (a)."

(6) Section 803 of the National Defense Authorization Act for Fiscal Year 1997, P. L. 104–201, (**10 USC 2430 note**), as amended, provided:

“SEC. 803. AUTHORITY TO WAIVE CERTAIN REQUIREMENTS OF DEFENSE ACQUISITION PILOT PROGRAMS.

"(a) **AUTHORITY.**—The Secretary of Defense may waive sections 2399, 2432, and 2433 of title 10, United States Code, in accordance with this section for any defense acquisition program designated by the Secretary of Defense for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2430 note).

"(b) **OPERATIONAL TEST AND EVALUATION.**—The Secretary of Defense may waive the requirements for operational test and evaluation for such a defense acquisition program as set forth in section 2399 of title 10, United States Code, if the Secretary-

"(1) determines (without delegation) that such test would be unreasonably expensive or impractical;

"(2) develops a suitable alternate operational test program for the system concerned;

"(3) describes in the test and evaluation master plan, as approved by the Director of Operational Test and Evaluation, the method of evaluation that will be used to evaluate whether the system will be effective and suitable for combat; and

"(4) submits to the congressional defense committees [Committees on Armed Services and on Appropriations of the Senate and House of Representatives] a report containing the determination that was made under paragraph (1), a justification for that determination, and a copy of the plan required by paragraph (3).

"(c) **SELECTED ACQUISITION REPORTS.**—The Secretary of Defense may waive the requirements of sections 2432 and 2433 of title 10, United States Code, for such a defense acquisition program if the Secretary provides a single annual report to Congress at the end of each fiscal year that describes the status of the program in relation to the baseline description for the program established under section 2435 of such title."

20. Section 1215 of the National Defense Authorization Act for Fiscal Year 1984, Pub. L. 98–94 (**10 USC 2452 note**), as amended, provided that:

SEC. 1215. REGULATIONS RELATING TO INCREASES IN PRICES FOR SPARE PARTS AND REPLACEMENT.

"(a) Not later than 120 days after the date of the enactment of this Act [Sept. 24, 1983], the Secretary of Defense shall issue regulations which—

"(1) except as provided in clause (2), prohibit the purchase of any spare part or replacement equipment when the price of such part or equipment, since a time in the past specified by the Secretary (in terms of days or

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
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months) or since the most recent purchase of such part or equipment by the Department of Defense, has increased in price by a percentage in excess of a percentage threshold specified by the Secretary in such regulations, and

"(2) permit the purchase of such spare part or equipment (notwithstanding the prohibition contained in clause (1)) if the contracting officer for such part or equipment certifies in writing to the head of the procuring activity before the purchase is made that—

"(A) such officer has evaluated the price of such part or equipment and concluded that the increase in the price of such part or equipment is fair and reasonable, or

"(B) the national security interests of the United States require that such part or equipment be purchased despite the increase in price of such part or equipment.

"(b)(1) The Secretary shall publish the regulations issued under this section in the Federal Register.

"(2) The Secretary may provide in such regulations for the waiver of the prohibition in subsection (a)(1) and compliance with the requirements of subsection (a)(2) in the case of a purchase of any spare part or replacement equipment made or to be made through competitive procedures.

"(c) Not less than 30 days before the Secretary publishes such regulations in accordance with subsection (b), the Secretary shall submit the text of the proposed regulations to the Committees on Armed Services of the Senate and House of Representatives."

21. Section 347 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. 105–261 (10 USC 2458 note), provided that:

SEC. 347. BEST COMMERCIAL INVENTORY PRACTICES FOR MANAGEMENT OF SECONDARY SUPPLY ITEMS.

"(a) DEVELOPMENT AND SUBMISSION OF SCHEDULE.—Not later than 180 days after the date of the enactment of this Act [Oct. 17, 1998], the Secretary of each military department shall submit to Congress a schedule for implementing within the military department, for secondary supply items managed by that military department, inventory practices identified by the Secretary as being the best commercial inventory practices for the acquisition and distribution of such supply items consistent with military requirements. The schedule shall provide for the implementation of such practices to be completed not later than five years after the date of the enactment of this Act.

"(b) DEFINITION.—For purposes of this section, the term 'best commercial inventory practice' includes cellular repair processes, use of third-party logistics providers, and any other practice that the Secretary of the military department determines will enable the military department to reduce inventory levels while improving the responsiveness of the supply system to user needs.

"(c) GAO REPORTS ON MILITARY DEPARTMENT AND DEFENSE LOGISTICS AGENCY SCHEDULES.—(1) Not later than 240 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report evaluating the extent to which the Secretary of each military department has complied with the requirements of this section.

"(2) Not later than 18 months after the date on which the Director of the Defense Logistics Agency submits to Congress a schedule for implementing best commercial inventory practices under section 395 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1718; 10 U.S.C. 2458 note), the Comptroller General shall submit to Congress an evaluation of the extent to which best commercial inventory practices are being implemented in the Defense Logistics Agency in accordance with that schedule."

22. Section 349 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. 105–261 (10 USC 2458 note), as amended, provided that:

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SEC. 349. INVENTORY MANAGEMENT OF IN-TRANSIT ITEMS.

"(a) REQUIREMENT FOR PLAN.—The Secretary of Defense shall prescribe and carry out a comprehensive plan to ensure visibility over all in-transit end items and secondary items.

"(b) END ITEMS.—The plan required by subsection (a) shall address the specific mechanisms to be used to enable the Department of Defense to identify at any time the quantity and location of all end items.

"(c) SECONDARY ITEMS.—The plan required by subsection (a) shall address the following problems with Department of Defense management of inventories of in-transit secondary items:

"(1) The vulnerability of in-transit secondary items to loss through fraud, waste, and abuse.

"(2) Loss of oversight of in-transit secondary items, including any loss of oversight when items are being transported by commercial carriers.

"(3) Loss of accountability for in-transit secondary items due to either a delay of delivery of the items or a lack of notification of a delivery of the items.

"(d) CONTENT OF PLAN.—The plan shall include for subsection (b) and for each of the problems described in subsection (c) the following information:

"(1) The actions to be taken by the Department, including specific actions to address underlying weaknesses in the controls over items being shipped.

"(2) Statements of objectives.

"(3) Performance measures and schedules.

"(4) An identification of any resources necessary for implementing the required actions, together with an estimate of the annual costs.

"(5) The key management elements for monitoring, and for measuring the progress achieved in, the implementation of the plan, including-

"(A) the assignment of oversight responsibility for each action identified pursuant to paragraph (1);

"(B) a description of the resources required for oversight; and

"(C) an estimate of the annual cost of oversight.

"(e) GAO REVIEWS.—(1) Not later than 60 days after the date on which the Secretary of Defense submits the initial plan to Congress, the Comptroller General shall review the plan and submit to Congress any comments that the Comptroller General considers appropriate regarding the plan.

"(2) The Comptroller General shall monitor any implementation of the plan and, not later than 1 year after the date referred to in paragraph (1), submit to Congress an assessment of the extent to which the plan has been implemented.

"(f) SUBMISSIONS TO CONGRESS.—The Secretary shall submit to Congress any revisions made to the plan that are required by any law enacted after October 17, 1998. The revisions so made shall be submitted not later than 180 days after the date of the enactment of the law requiring the revisions."

23. Section 395 of the National Defense Authorization Act for Fiscal Year 1998, [Pub. L. 105–85](#) (10 USC 2458 note) provided that:

SEC. 395. INVENTORY MANAGEMENT.

"(a) DEVELOPMENT AND SUBMISSION OF SCHEDULE.—Not later than 180 days after the date of the enactment of this Act [Nov. 18, 1997], the Director of the Defense Logistics Agency shall develop and submit to Congress a schedule for implementing within the agency, for the supplies and equipment described in subsection (b), inventory practices identified by the Director as being the best commercial inventory practices for the acquisition and distribution of such supplies and equipment consistent with military requirements. The schedule shall provide for the implementation of such practices to be completed not later than three years after the date of the enactment of this Act.

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
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"(b) COVERED SUPPLIES AND EQUIPMENT.—Subsection (a) shall apply to the following types of supplies and equipment for the Department of Defense:

- "(1) Medical and pharmaceutical.
- "(2) Subsistence.
- "(3) Clothing and textiles.
- "(4) Commercially available electronics.
- "(5) Construction.
- "(6) Industrial.
- "(7) Automotive.
- "(8) Fuel.
- "(9) Facilities maintenance.

"(c) DEFINITION.—For purposes of this section, the term 'best commercial inventory practice' includes a so-called prime vendor arrangement and any other practice that the Director determines will enable the Defense Logistics Agency to reduce inventory levels and holding costs while improving the responsiveness of the supply system to user needs.

"(d) REPORT ON EXPANSION OF COVERED SUPPLIES AND EQUIPMENT.—Not later than March 1, 1998, the Comptroller General shall submit to Congress a report evaluating the feasibility of expanding the list of covered supplies and equipment under subsection (b) to include repairable items."

24. Section 352 of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. 104–106, (10 USC 2458 note) provided that:

SEC. 352. DIRECT VENDOR DELIVERY SYSTEM FOR CONSUMABLE INVENTORY ITEMS.

"(a) IMPLEMENTATION OF DIRECT VENDOR DELIVERY SYSTEM.—Not later than September 30, 1997, the Secretary of Defense shall, to the maximum extent practicable, implement a system under which consumable inventory items referred to in subsection (b) are delivered to military installations throughout the United States directly by the vendors of those items. The purpose for implementing the system is to reduce the expense and necessity of maintaining extensive warehouses for those items within the Department of Defense.

"(b) COVERED ITEMS.—The items referred to in subsection (a) are the following:

- "(1) Food and clothing.
- "(2) Medical and pharmaceutical supplies.
- "(3) Automotive, electrical, fuel, and construction supplies.
- "(4) Other consumable inventory items the Secretary considers appropriate."

25. Section 353(b) of the National Defense Authorization Act for Fiscal Year 1996, Pub. L. 104–106 (10 USC 2461 note) provided that:

SEC. 353. PAYROLL, FINANCE, AND ACCOUNTING FUNCTIONS OF THE DEPARTMENT OF DEFENSE.

(a) ***

"(b) PILOT PROGRAM FOR PRIVATE SECTOR OPERATION OF NAFI FUNCTIONS.—(1) The Secretary shall carry out a pilot program to test the performance by private-sector sources of payroll and other accounting

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and finance functions of nonappropriated fund instrumentalities and to evaluate the extent to which cost savings and efficiencies would result from the performance of such functions by those sources.

"(2) The payroll and other accounting and finance functions designated by the Secretary for performance by private-sector sources under the pilot program shall include at least one major payroll, accounting, or finance function.

"(3) To carry out the pilot program, the Secretary shall enter into discussions with private-sector sources for the purpose of developing a request for proposals to be issued for performance by those sources of functions designated by the Secretary under paragraph (2). The discussions shall be conducted on a schedule that accommodates issuance of a request for proposals within 60 days after the date of the enactment of this Act [Feb. 10, 1996].

"(4) A goal of the pilot program is to reduce by at least 25 percent the total costs incurred by the Department annually for the performance of a function referred to in paragraph (2) through the performance of that function by a private-sector source.

"(5) Before conducting the pilot program, the Secretary shall develop a plan for the program that addresses the following:

"(A) The purposes of the program.

"(B) The methodology, duration, and anticipated costs of the program, including the cost of an arrangement pursuant to which a private-sector source would receive an agreed-upon payment plus an additional negotiated amount not to exceed 50 percent of the dollar savings achieved in excess of the goal specified in paragraph (4).

"(C) A specific citation to any provisions of law, rule, or regulation that, if not waived, would prohibit the conduct of the program or any part of the program.

"(D) A mechanism to evaluate the program.

"(E) A provision for all payroll, accounting, and finance functions of nonappropriated fund instrumentalities of the Department of Defense to be performed by private-sector sources, if determined advisable on the basis of a final assessment of the results of the program.

"(6) The Secretary shall act through the Under Secretary of Defense (Comptroller) in the performance of the Secretary's responsibilities under this subsection."

26. Section 1010 of the USA Patriot Act of 2001, [Pub. L. 107-56](#) (10 USC 2465 note), provided that:

SEC. 1010. TEMPORARY AUTHORITY TO CONTRACT WITH LOCAL AND STATE GOVERNMENTS FOR PERFORMANCE OF SECURITY FUNCTIONS AT UNITED STATES MILITARY INSTALLATIONS.

"(a) IN GENERAL.—Notwithstanding section 2465 of title 10, United States Code, during the period of time that United States armed forces are engaged in Operation Enduring Freedom, and for the period of 180 days thereafter, funds appropriated to the Department of Defense may be obligated and expended for the purpose of entering into contracts or other agreements for the performance of security functions at any military installation or facility in the United States with a proximately located local or State government, or combination of such governments, whether or not any such government is obligated to provide such services to the general public without compensation.

"(b) TRAINING.—Any contract or agreement entered into under this section shall prescribe standards for the training and other qualifications of local government law enforcement personnel who perform security functions under this section in accordance with criteria established by the Secretary of the service concerned.

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"(c) REPORT.—One year after the date of enactment of this section [Oct. 26, 2001], the Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives describing the use of the authority granted under this section and the use by the Department of Defense of other means to improve the performance of security functions on military installations and facilities located within the United States."

27. Section 852 of the National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112–81, (10 USC 2504 note), as amended, provided that:

SEC. 852. STRATEGY FOR SECURING SUPPLY CHAIN AND INDUSTRIAL BASE.

"(a) REPORT REQUIRED.—The Secretary of Defense shall ensure that the annual report to Congress on the defense industrial base submitted for fiscal year 2012 pursuant to section 2504 of title 10, United States Code, includes a description of, and a status report on, the sector-by-sector, tier-by-tier assessment of the industrial base undertaken by the Department of Defense.

"(b) CONTENTS OF REPORT.—The report required by subsection (a) shall include, at a minimum, a description of the steps taken and planned to be taken-

"(1) to identify current and emerging sectors of the defense industrial base that are critical to the national security of the United States;

"(2) in each sector, to identify items that are critical to military readiness, including key components, subcomponents, and materials;

"(3) to examine the structure of the industrial base, including the competitive landscape, relationships, risks, and opportunities within that structure;

"(4) to map the supply chain for critical items identified under paragraph (2) in a manner that provides the Department of Defense visibility from raw material to final products;

"(5) to perform a risk assessment of the supply chain for such critical items and conduct an evaluation of the extent to which-

"(A) the supply chain for such items is subject to disruption by factors outside the control of the Department of Defense; and

"(B) such disruption would adversely affect the ability of the Department of Defense to fill its national security mission.

"(c) FOLLOW-UP REVIEW.—The Secretary of Defense shall ensure that the annual report to Congress on the defense industrial base submitted for each of fiscal years 2013, 2014, and 2015 includes an update on the steps taken by the Department of Defense to act on the findings of the sector-by-sector, tier-by-tier assessment of the industrial base and implement the strategy required by section 2501 of title 10, United States Code. Such updates shall, at a minimum-

"(1) be conducted based on current mapping of the supply chain and industrial base structure, including an analysis of the competitive landscape, relationships, risks, and opportunities within that structure; and

"(2) take into account any changes or updates to the National Defense Strategy, National Military Strategy, national counterterrorism policy, homeland security policy, and applicable operational or contingency plans."

28. Section 1081(c) of the National Defense Authorization Act for Fiscal Year 2007, P. L. 106–398 (10 U.S.C. 2540c note), provides:

**[TEXT OF SECTIONS PROPOSED FOR REPEAL
 BY SECTION 809 PANEL — PACKAGE #2]**

**“SEC. 1081. FUNDS FOR ADMINISTRATIVE EXPENSES UNDER DEFENSE EXPORT LOAN
 GUARANTEE PROGRAM.**

(a) ****

(b) ***

(c) **LIMITATION PENDING SUBMISSION OF REPORT.**—The Secretary of Defense may not exercise the authority provided by paragraph (2) of section 2540c(d) of title 10, United States Code, as added by subsection (a), **until** the Secretary submits to Congress a report on the operation of the Defense Export Loan Guarantee Program under subchapter V of chapter 148 of title 10, United States Code. The report shall include the following:

(1) ***

SECTION 809 PANEL RECOMMENDATIONS #2
FOR REPEAL OF CERTAIN TITLE 10 PROVISIONS

**809 PANEL RECOMMENDATIONS #2 FOR
REPEAL OF CERTAIN TITLE 10 PROVISIONS**

[Sections in subsection (b) are set out in U.S. Code section order]

1 **SEC. ____ . REPEAL OF CERTAIN ACQUISITION-RELATED STATUTES.**

2 (a) TITLE 10, UNITED STATES CODE.—

3 (1) REPEAL OF EXPIRED PROVISIONS.—The following sections of title 10, United
4 States Code, are repealed: section 167a, section 2323, and section 2332.

5 (2) CLERICAL AMENDMENTS.—

6 (A) The table of sections at the beginning of chapter 6 of such title is
7 amended by striking the item relating to section 167a.

8 (B) The table of sections at the beginning of chapter 137 of such title is
9 amended by striking the items relating to sections 2323 and 2332.

10 (b) OTHER PROVISIONS OF LAW.—The following provisions of law are repealed:

11 (1) Section 854 of the National Defense Authorization Act for Fiscal Year 2017
12 (Public Law 114-328; 10 U.S.C. 2302 note).

13 (2) Section 829 of the National Defense Authorization Act for Fiscal Year 2013
14 (Public Law 112-239; 10 U.S.C. 2302 note).

15 (3) Section 895 of the National Defense Authorization Act for Fiscal Year 2016
16 (Public Law 114-92; 10 U.S.C. 2304 note).

17 (4) Section 842 of the National Defense Authorization Act for Fiscal Year 2012
18 (Public Law 112–81; 10 U.S.C. 2313 note).

SECTION 809 PANEL RECOMMENDATIONS #2 FOR REPEAL OF CERTAIN TITLE 10 PROVISIONS

- 1 (5) Section 803(a) of the National Defense Authorization Act for Fiscal Year
2 2017 (Public Law 114–328; 10 U.S.C. 2330 note).
- 3 (6) Section 882 of the National Defense Authorization Act for Fiscal Year 2016
4 (Public Law 114–92; 10 U.S.C. 2330 note).
- 5 (7) Section 807 of the National Defense Authorization Act for Fiscal Year 2012
6 (Public Law 112–81; 10 U.S.C. 2330 note).
- 7 (8) Section 863(a)–(h) of the Ike Skelton National Defense Authorization Act for
8 Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 2330 note).
- 9 (9) Section 808 of the National Defense Authorization Act for Fiscal Year 2008
10 (Public Law 110–181; 10 U.S.C. 2330 note).
- 11 (10) Section 812(b)–(c) of the National Defense Authorization Act for Fiscal Year
12 2006 (Public Law 109–163; 10 U.S.C. 2330 note).
- 13 (11) Section 831 of the Duncan Hunter National Defense Authorization Act for
14 Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2330a note).
- 15 (12) Section 8133 of the Department of Defense Appropriations Act, 2000 (Public
16 Law 106–79; 10 U.S.C. 2401a note).
- 17 (13) Section 825(c)(1)–(2) of the National Defense Authorization Act for Fiscal
18 Year 2016 (Public Law 114–92; 10 U.S.C. 2430 note).
- 19 (14) Section 1058 of the Carl Levin and Howard P. “Buck” McKeon National
20 Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 10 U.S.C. 2430
21 note).
- 22 (15) Section 809 of the National Defense Authorization Act for Fiscal Year 1991
23 (Public Law 101–510; 10 U.S.C. 2430 note).

SECTION 809 PANEL RECOMMENDATIONS #2
FOR REPEAL OF CERTAIN TITLE 10 PROVISIONS

- 1 (16) Section 833 of the National Defense Authorization Act for Fiscal Year 1994
2 (Public Law 103–160;10 U.S.C. 2430 note).
- 3 (17) Section 839 of the National Defense Authorization Act for Fiscal Year 1994
4 (Public Law 103–160; 10 U.S.C. 2430 note).
- 5 (18) Section 819 of the National Defense Authorization Act for Fiscal Year 1995
6 (Public Law 103–337; 10 U.S.C. 2430 note).
- 7 (19) Section 5064 of the Federal Acquisition Streamlining Act of 1994 (Public
8 Law 103–355; 10 U.S.C. 2430 note).
- 9 (20) Section 803 of the National Defense Authorization Act for Fiscal Year 1997
10 (Public Law 104–201; 10 U.S.C. 2430 note).
- 11 (21) Section 1215 of the Department of Defense Authorization Act, 1984 (Public
12 Law 98–94; 10 U.S.C. 2452 note).
- 13 (22) Section 347 of the Strom Thurmond National Defense Authorization Act for
14 Fiscal Year 1999 (Public Law 105–261;10 U.S.C. 2458 note).
- 15 (23) Section 349 of the Strom Thurmond National Defense Authorization Act for
16 Fiscal Year 1999 (Public Law 105–261; 10 U.S.C. 2458 note).
- 17 (24) Section 395 of the National Defense Authorization Act for Fiscal Year 1998
18 (Public Law 105–85; 10 U.S.C. 2458 note).
- 19 (25) Section 352 of the National Defense Authorization Act for Fiscal Year 1996
20 (Public Law 104–106; 10 U.S.C. 2458 note).
- 21 (26) Section 353(b) of the National Defense Authorization Act for Fiscal Year
22 1996 (Public Law 104–106; 10 U.S.C. 2461 note).

SECTION 809 PANEL RECOMMENDATIONS #2 FOR REPEAL OF CERTAIN TITLE 10 PROVISIONS

1 (27) Section 1010 of the USA Patriot Act of 2001 (Public Law 107–56; 10 U.S.C.
2 2465 note).

3 (28) Section 852 of the National Defense Authorization Act for Fiscal Year 2012
4 (Public Law 112–81; 10 U.S.C. 2504 note).

5 (29) Section 1081(c) of the National Defense Authorization Act for Fiscal Year
6 2007 (Public Law 106–398; 10 U.S.C. 2540c note).