

WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009  
Public Law 111-23  
111th Congress

An Act

To improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes. <<NOTE: May 22, 2009 - [S. 454]>>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, <<NOTE: Weapon Systems Acquisition Reform Act of 2009.>>

SECTION 1. <<NOTE: 10 USC 101 note.>> SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the ``Weapon Systems Acquisition Reform Act of 2009''.

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SEC. 207. ORGANIZATIONAL CONFLICTS OF INTEREST IN MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Revised <<NOTE: Deadline. 10 USC 2430 note.>> Regulations Required.--Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall revise the Defense Supplement to the Federal Acquisition Regulation to provide uniform guidance and tighten existing requirements for organizational conflicts of interest by contractors in major defense acquisition programs.

(b) Elements.--The revised regulations required by subsection (a) shall, at a minimum--

(1) address organizational conflicts of interest that could arise as a result of--

(A) lead system integrator contracts on major defense acquisition programs and contracts that follow lead system integrator contracts on such programs, particularly contracts for production;

(B) the ownership of business units performing systems engineering and technical assistance functions, professional services, or management support services in relation to major defense acquisition programs by contractors who simultaneously own business units competing to perform as either the prime contractor or the supplier of a major subsystem or component for such programs;

(C) the award of major subsystem contracts by a prime contractor for a major defense acquisition program to business units or other affiliates of the same parent corporate entity, and particularly the award of subcontracts for software integration or the development of a proprietary software system architecture; or

(D) the performance by, or assistance of, contractors in technical evaluations on major defense acquisition programs;

(2) ensure that the Department of Defense receives advice on

systems architecture and systems engineering matters with respect to major defense acquisition programs from federally funded research and development centers or other sources independent of the prime contractor;

(3) require that a contract for the performance of systems engineering and technical assistance functions for a major defense acquisition program contains a provision prohibiting the contractor or any affiliate of the contractor from participating as a prime contractor or a major subcontractor in the development or construction of a weapon system under the program; and

(4) establish such limited exceptions to the requirement in paragraphs (2) and (3) as may be necessary to ensure that the Department of Defense has continued access to advice on systems architecture and systems engineering matters from highly-qualified contractors with domain experience and expertise, while ensuring that such advice comes from sources that are objective and unbiased.

(c) Consultation in Revision of Regulations.--

(1) Recommendations of panel on contracting integrity.--Not later <<NOTE: Deadline.>> than 90 days after the date of the enactment of this Act, the Panel on Contracting Integrity established pursuant to section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2320) shall present recommendations to the Secretary of Defense on measures to eliminate or mitigate organizational conflicts of interest in major defense acquisition programs.

(2) Consideration of recommendations.--In developing the revised regulations required by subsection (a), the Secretary shall consider the following:

(A) The recommendations presented by the Panel on Contracting Integrity pursuant to paragraph (1).

(B) Any findings and recommendations of the Administrator for Federal Procurement Policy and the Director of the Office of Government Ethics pursuant to section 841(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4539).

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DUNCAN HUNTER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009  
Public Law 110-417  
110th Congress

An Act

To authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes. <<NOTE: Oct. 14, 2008 - [S. 3001]>>

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SEC. 841. ETHICS SAFEGUARDS RELATED TO CONTRACTOR CONFLICTS OF INTEREST.

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(b) Review of Federal Acquisition Regulation Relating to Conflicts of Interest.--

(1) Review.--Not <<NOTE: Deadline.>> later than 12 months after the date of the enactment of this Act, the Administrator for Federal Procurement Policy, in consultation with the Director of the Office of Government Ethics, shall review the Federal Acquisition Regulation to--

(A) identify contracting methods, types and services that raise heightened concerns for potential personal and organizational conflicts of interest; and

(B) determine whether revisions to the Federal Acquisition Regulation are necessary to--

(i) address personal conflicts of interest by contractor employees with respect to functions other than those described in subsection (a); or

(ii) achieve sufficiently rigorous, comprehensive, and uniform government-wide policies to prevent and mitigate organizational conflicts of interest in Federal contracting.

(2) Regulatory revisions.--If the Administrator determines pursuant to the review under paragraph (1)(B) that revisions to the Federal Acquisition Regulation are necessary, the Administrator shall work with the Federal Acquisition Regulatory Council to prescribe appropriate revisions to the regulations, including the development of appropriate contract clauses.

(3) Report.--Not later than March 1, 2010, the Administrator shall submit to the Committees on Armed Services of the Senate and House of Representatives, the Committee on Homeland Security and Governmental Affairs in the Senate, and the Committee on Oversight and Government Reform of the House of Representatives a report setting forth such findings and determinations under subparagraphs (A) and (B) of paragraph (1), together with an assessment of any revisions to the Federal Acquisition Regulation that may be necessary.