

111TH CONGRESS }
1st Session

HOUSE OF REPRESENTATIVES

{ REPORT
111-166

NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2010

R E P O R T

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ON

H.R. 2647

together with

ADDITIONAL AND SUPPLEMENTAL VIEWS

[Including cost estimate of the Congressional Budget Office]



JUNE 18, 2009.—Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

termining the appropriate total workforce mix of military, civilian, and contractor personnel.

Service Contractor Inventory

Section 807 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) requires an annual inventory of the Department of Defense's contracts for services. The committee understands that the Under Secretary of Defense for Acquisition, Technology and Logistics has been tasked with the responsibility for developing this service contracting inventory. The committee notes, however, that the inventory mandated by section 807 is intended to be of a much broader scope than simply capturing data from the Federal Procurement Data System. The committee encourages the Under Secretary to also consider the data requirements needed by the personnel, manpower, cost assessment and program evaluation, and comptroller communities in order to ensure that the inventory may be used to facilitate the military services' ability to conduct total workforce planning that is fully integrated into the programming and budget processes, and to fulfill the Secretary of Defense's plans to reduce the number of service support contractors and replace them with full-time government employees.

While the committee recognizes that development of a comprehensive inventory takes time, the committee is concerned because almost two years after enactment of section 807, no information has been provided and no methodology has been developed to conduct the inventory, except by the Department of the Army which began its effort as early as 2002. The committee is aware that the Department of the Navy and Department of the Air Force intend to provide a prototype inventory by the third quarter of the current fiscal year. From initial reports of what these inventories will cover, the committee is concerned that the prototypes will provide only sampling projections and not the robust and qualitative information required by section 807. The committee notes that the Department of the Army inventory captures data not only on contracting organizations, but the components administering the contract as well as the funding source for the contract and the number of full time contractor equivalent employees. The committee recommends that the Army methodology be used by the other military departments. Alternatively, should the military departments develop their own methodology, they should provide the same level of detail and completeness as that provided by the Army in order to ensure accurate comparisons of the inventories.

The committee directs the Secretary of Defense to submit a report describing the methodology and data sources selected by the military departments to gather and analyze the information to complete the required annual inventory, an explanation, if the Army methodology is not used, of the rationale for developing a different method, and a timeframe for submission of a complete inventory by each of the military departments. Such report shall be provided to the congressional defense committees by September 1, 2009. In addition, the Secretary is directed to submit a copy of the report on the data collection methodology to the Comptroller General concurrent with submission to the defense committees. The committee directs the Comptroller General to provide an assess-

ment of the methodology to the congressional defense committees within 60 days after receiving the Secretary's report. Since this report is intended to assist the review of the inventories, the committee stresses that it should not delay the scheduled provision of the initial inventories by the military departments.

Strategic Materials

Section 843 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) established the Strategic Materials Protection Board within the Department of Defense to: 1) determine the need to provide a long-term domestic supply of materials designated as critical to national security; 2) analyze the risk associated with each material designated as critical to national security and the effect on national defense that the non-availability of such material from a domestic source would have; and 3) recommend a strategy to the President to ensure the domestic availability of materials designated as critical to national security.

The committee is concerned that the December 2008 report of the Department of Defense's Strategic Materials Protection Board falls short of these objectives, particularly by revising the definition of the term "strategic material critical to national security" in a way which undermines the Board's purpose. Under the revised definition, a material would be deemed critical to national security only if: the Department dominates the market for the material; the Department actively shapes the strategic direction of the market; and there is a significant and unacceptable risk of supply disruption. This definition limits the purview of the Board to only those materials for which the determinations the Board is tasked to make are presupposed in the definition of the materials themselves. Furthermore, such a definition fails to include a range of materials that Congress has designated as critical to national security and, as such, has provided significant protection or domestic preference in DOD policy and in statute. For example, Congress has determined that reliance on foreign sources of supply for materials such as titanium, specialty steel, and high performance magnets, poses a heightened risk. The Board's narrowing of the definition of materials critical to national security renders the Board unable to provide perspective on the adequacy, suitability, or effectiveness of those policies. Moreover, it limits the ability of the Board to consider any course of action, however minor, in relation to a material until the point at which potential damage to national security is imminent and severe. It also creates the perverse situation that a material could be critical to every element of the industrial base upon which the Department depends, but not considered critical to the Department itself if the material is also used significantly in commercial items. As an indication of the inadequacy of this definition for the Board's functioning, the Board currently identifies only one material as meeting the definition for consideration as a strategic material critical to national security. The committee does not find this conclusion to be plausible and expects that the Board will swiftly revisit this definition to ensure that it is able to identify gaps in our domestic defense supply chain and provide the President, the Secretary of Defense, and Congress with information,