

Implementing Management for Performance and related Reforms to Obtain Value in Every Acquisition Act of 2010 (IMPROVE Acquisition Act of 2010)

SECTION BY SECTION

of the Chairman's Mark released on April 19, 2010

TITLE I: DEFENSE ACQUISITION SYSTEM

Section 101—Performance Management of the Defense Acquisition System

This section would create a new chapter in title 10, United States Code requiring the Department of Defense (DOD) to apply performance management to the defense acquisition system. This section would also require DOD to create metrics for the defense acquisition system with specific goals and standards for each metric. The Director of Performance Assessment and Root Cause Analysis (PARCA) would be the impartial judge of how DOD is doing in meeting its goals and standards and its assessments will be subject to audit. DOD would be required to use these assessments in managing acquisition organizations, including the use of workforce performance incentives and considering whether acquisition work should be shifted away from low performing organizations. The program would be phased in over two years. Lastly, this section would identify the acquisition-related functions of the chiefs of the military services are in statute for the first time.

Section 102—Meaningful consideration by Joint Requirements Oversight Council of Input from Certain Officials

This section would amend section 181 of title 10, United States Code, to add the Under Secretary of Defense for Policy to the list of civilian advisors to the Joint Requirements Oversight Committee (JROC) and to allow the Chairman of the JROC to invite a combatant commander to serve as a member of the JROC when matters related to the commander are under discussion. This section would also require the Government Accountability Office (GAO) to assess whether the Joint Requirements Oversight Council is giving meaningful consideration to the input of: combatant commanders, the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD AT&L); and the Director of Cost Assessment and Performance Evaluation (CAPE). The Weapon Systems Acquisition Reform Act of 2009 added these officials as advisors to the JROC's deliberations to increase the technical capacity available in the JROC process and to include a stronger operational perspective. GAO would be required to assess the extent to which consideration is being given to these key stakeholders during the evaluation of joint military requirements and report to the Senate Armed Services Committee and the House Armed Services Committee by May 22, 2011.

Section 103—Performance Management for the Joint Capabilities Integration and Development System

This section would require DOD to develop a performance management program for the Joint Capabilities Integration and Development System (JCIDS) to ensure that the requirements process: delivers timely capability to the warfighter; controls requirements creep; is responsive to changes in threats and costs; and develops skilled requirements personnel. This program would be initially implemented within one year of enactment.

#### Section 104—Requirements for the Acquisition of Services

This section would require each of the Departments of the Army, Navy, and Air Force to establish a process for identifying, assessing, and approving requirements for the acquisition of services. These processes would have to be consistent with any future guidance on requirements for the acquisition of services issued by the Joint Staff. 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 would be responsible for issuing guidance relating to : the organization of the requirements process; the level of command responsibility required to validate requirements for each category of services acquisition; the composition of billets necessary to operate the requirements process; the training required; the relationship to doctrine; methods of obtaining input on joint requirements for services; procedures for coordinating with the acquisition process; and opportunities for strategic sourcing. This section would require that such processes be initially implemented within 180 days after enactment.

#### Section 105—Joint Evaluation Task Forces

This section would require the Chairman of the JROC to designate the commander of a unified combatant command to provide a joint evaluation task force to assist in the acquisition of a materiel solution for each joint military requirement for a major defense acquisition program. The task force would come from a military unit selected by the combatant commander, based on the relevance of the materiel solution to the unit's mission, and consistent with the unit's operational obligations. The task force would participate in all stages of the development and low rate initial production of the materiel solution and provide user feedback to the resource sponsor for the requirement. Finally, the unit would receive administrative support from the resource sponsor, as well.

#### Section 106—Review of Defense Acquisition Guidance

This section would require DOD to review its acquisition guidance to consider the extent to which guidance related to weapon systems acquisition is appropriately applied to other areas of acquisition; whether long-term sustainment of weapon systems is appropriately emphasized; whether appropriate mechanisms exist to communicate information relating to DOD's mission needs to the industrial base; the extent to which earned value management should be required on non-weapon systems; and the extent to which weapon systems processes should apply to the acquisition of information technology. This section would also require a report on the review, to be submitted to the Senate Armed Services Committee and the House Armed Services Committee within 270 days of enactment.

#### Section 107—Requirement to Include References to Services Contracting Throughout the Federal Acquisition Regulation

This section includes a Sense of Congress that the acquisition of services is extremely complex; requires special management skills, tools, and processes; and that an emphasis on the acquisition of services throughout the Federal Acquisition Regulation (FAR) would enhance acquisition planning, and post award management and oversight of services acquisition. This section would require that the FAR be revised to provide appropriate references to services contracting throughout the FAR within 270 days of enactment.

### TITLE II: DEFENSE ACQUISITION WORKFORCE

### Section 201—Acquisition Workforce Excellence

This section would amend title 10, United States Code by inserting a new section 1701a, that would require DOD to develop and manage a highly skilled professional acquisition workforce in which excellence and contribution to mission is rewarded; which has the technical expertise and business skills needed to obtain best value; which serves as a model for performance management of employees of the Department; and which is managed in a manner that complements and reinforces the performance management of the defense acquisition system pursuant to section 101 of this Act. This section would authorize DOD to use several significant existing authorities, including: performance management of the workforce pursuant to section 9902 of title 5, United States Code; the authority to hire highly qualified experts under section 9903 of title 5, United States Code; the authority for expedited security clearance processing pursuant to section 1564 of title 10, United States Code; and the Defense Civilian Leadership Program established under section 1112 of the National Defense Authorization Act for Fiscal Year 2010. This section would also direct the Secretary of Defense to: use individual performance management plans for the acquisition workforce; use lessons learned from the acquisition workforce demonstration project; develop attractive career paths; encourage continuing education and training; and develop appropriate procedures for due process for members of the acquisition workforce who consistently fail to meet performance standards. Actions taken under this section would be subject to the requirements of chapter 71 of title 5, United States Code, and would be deemed an agency rule or regulation under section 7177(a)(2) of title 5. Lastly, this section would clarify that highly qualified experts hired by DOD could be hired on a part-time basis.

### Section 202—Amendments to the Acquisition Workforce Demonstration Project

This section would amend title 10, United States Code, by inserting a new section 1762 that would codify the authority for DOD's Acquisition Workforce Demonstration Project and extend the authority for the project to September 30, 2017. This section would also require an extensive report on the project to the Senate Armed Services Committee, the House Armed Services Committee, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform beginning in 2011 and every two years thereafter to capture lessons learned from the project.

### Section 203—Incentive Programs for Civilian and Military Personnel in the Acquisition Workforce

This section would amend title 10, United States Code, by inserting a new section 1763 that would require DOD to develop an enhanced system of incentives for the encouragement of excellence in the acquisition workforce, including: connecting salary increases, bonuses; promotions and awards to performance and contribution to agency mission; using the DOD Civilian Workforce Incentives Fund established pursuant to title 5, United States Code; and providing opportunities for career broadening experiences for high performers. This section would encourage the Secretary of Defense to extend such incentives to members of the military in the acquisition workforce wherever possible.

### Section 204—Career Development for Civilian and Military Personnel in the Acquisition Workforce

This section would amend title 10, United States Code, by inserting a new section 1722b that would require DOD to develop attractive career paths for civilians in the acquisition workforce, consistent with the existing statutory requirement for an attractive career path for members of the military. The Secretary

of Defense would be required to issue guidance to fulfill this requirement to ensure: a career path that attracts the highest quality civilian personnel; a deliberate workforce development strategy; sufficient opportunities for promotion and advancement; and a sufficient number of trained and qualified people in the workforce. This section would require information on this effort be included in the Department's strategic human capital management plan. Lastly, this section would amend section 1723 of title 10, United States Code, by requiring the Secretary to develop and support career training and development for each career path.

#### Section 205—Recertification and Training Requirements

This section would further amend section 1723 of title 10, United States Code, by requiring the Secretary of Defense to increase training for members of the acquisition workforce to undertake continuing education and submit to periodic recertification. Such training would contain additional emphasis on the acquisition of services; acquisition of information technology; and rapid acquisition. This section would also further amend title 10, United States Code, by inserting a new section 1748 that would require the Secretary to establish fulfillment standards for this training and standards relating to hiring contractors to provide training.

#### Section 206—Information Technology Acquisition Workforce

This section would amend title 10, United States Code, by inserting a new section 1725 that would require the Secretary of Defense to strengthen the part of the acquisition workforce that specializes in information technology (IT), including through: defined targets for billets for IT acquisition; specific certification requirements for IT acquisition; and defined career paths in IT acquisition within 180 days of enactment.

#### Section 207—Definition of Acquisition Workforce

This section would add a definition of the acquisition workforce to section 101 of title 10, United States Code. The acquisition workforce is defined as those designated pursuant to section 1721(a) of title 10.

### TITLE III: FINANCIAL MANAGEMENT

#### Section 301—Incentives for Achieving Auditability

This section would require the Under Secretary of Defense Comptroller to extend preferential treatment to any DOD component that has financial statements validated as ready for audit earlier than the current statutory deadline of September 30, 2017, including: priority in the release of appropriated funds; relief from non-statutory financial reporting; relief from departmental obligation and expenditure thresholds, the size of the bonus pools available to the component's financial and business management workforce, the rates of promotion for such workforce, awards for excellence for such workforce, and the scope of work assigned to such workforce. Actions taken under this section would be reported as part of the existing report on financial audit improvement efforts. The authority to provide this preferential treatment would expire in 2017.

#### Section 302—Measures Required After Failure to Achieve Auditability

This section would require the Secretary of Defense to take corrective measures to immediately address the failure of a DOD component to achieve a financial statement validated as ready for audit by September 30, 2017. Corrective measures would include: the development of a one-year remediation plan; additional financial reporting consistent with the level of financial risk; the delay of release of appropriated funds; and consequences for key personnel.

#### Section 303—Review of Obligation and Expenditure Thresholds

This section would express the Sense of Congress that program managers should be encouraged to place higher priority on seeking and obtaining best value than on meeting arbitrary benchmarks for spending; and that DOD leaders should support obtaining best value. This section also would require DOD to review its policy regarding obligation and expenditure benchmarks to ensure that such guidance does not inadvertently preclude obtaining best value and to consider: increased reliance on individual obligation and expenditure plans for measuring programs' financial performance; mechanisms to improve funding stability; and streamlined mechanisms for program managers to submit an appeal for funding changes.

### TITLE IV: INDUSTRIAL BASE

#### Section 401—Expansion of the Industrial Base

This section would require the Secretary of Defense to establish a program to expand the defense industrial base by identifying and communicating with non-traditional suppliers using tools and resources available within the Federal Government and in the private sector. The program would include a continuous effort to review the industrial base and identify markets of importance to DOD.

#### Section 402—Commercial Pricing Analysis

This section would extend and amend an existing report on commercial price trends to identify and evaluate cases where DOD is not obtaining good commercial pricing. This report is due annually on April 1 to the Senate Armed Services Committee and the House Armed Services Committee. The reporting requirement would be extended to April 1, 2013.

#### Section 403—Contractor and Grantee Disclosure of Delinquent Federal Tax Debts

This section would require potential federal contractors and grantees to submit certifications as to whether they have a seriously delinquent tax debt and to authorize the Secretary of the Treasury to verify the certification. This section would require the Secretary of Treasury to develop and disseminate a standard form for this purpose. The requirement for disclosure would apply to individuals, partnerships, and corporations. This section defines a seriously delinquent tax debt as a debt exceeding \$3,000, which has been assessed by the Secretary of the Treasury and for which a notice of lien has been filed in public records, but does not include a tax liability being paid in a timely manner or still involved collection due process proceedings. . This section would require the Administrator of the Office of Federal Procurement Policy, in consultation with the Secretary of the Treasury, to issue regulations that would also cover corporations and partnerships controlled by persons with a seriously delinquent tax debt.

#### Section 404—Independence of Contractor Business Systems Reviews; Risk-Based Reviews

This section would require DOD to carry out reviews of contractor business systems in accordance with generally accepted government auditing standards issued by the Comptroller General; using an independent audit team; and using a risk-based assessment to determine audit frequency.