

HR 5013

Implementing Management for Performance and Related Reforms to Obtain Value in Every Acquisition Act of 2010

Congress: 111 (2009–2011, Ended)

Chamber: House

Policy Area: Armed Forces and National Security

Introduced: Apr 14, 2010

Current Status: Received in the Senate and Read twice and referred to the Committee on Armed Services.

Latest Action: Received in the Senate and Read twice and referred to the Committee on Armed Services. (Apr 29, 2010)

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Sponsor

Name: Rep. Andrews, Robert E. [D-NJ-1]

Party: Democratic • **State:** NJ • **Chamber:** House

Cosponsors (9 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Coffman, Mike [R-CO-6]	R · CO		Apr 14, 2010
Rep. Conaway, K. Michael [R-TX-11]	R · TX		Apr 14, 2010
Rep. Ellsworth, Brad [D-IN-8]	D · IN		Apr 14, 2010
Rep. Hunter, Duncan D. [R-CA-52]	R · CA		Apr 14, 2010
Rep. McKeon, Howard P. "Buck" [R-CA-25]	R · CA		Apr 14, 2010
Rep. Skelton, Ike [D-MO-4]	D · MO		Apr 14, 2010
Rep. Larson, John B. [D-CT-1]	D · CT		Apr 20, 2010
Rep. Ortiz, Solomon P. [D-TX-27]	D · TX		Apr 20, 2010
Rep. Larsen, Rick [D-WA-2]	D · WA		Apr 21, 2010

Committee Activity

Committee	Chamber	Activity	Date
Armed Services Committee	House	Reported By	Apr 23, 2010
Armed Services Committee	Senate	Referred To	Apr 29, 2010
Oversight and Government Reform Committee	House	Discharged From	Apr 23, 2010

Subjects & Policy Tags

Policy Area:

Armed Forces and National Security

Related Bills

Bill	Relationship	Last Action
111 HR 5136	Related bill	Jun 28, 2010: Received in the Senate. Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 447.
111 HRES 1300	Procedurally related	Apr 28, 2010: Motion to reconsider laid on the table Agreed to without objection.

Implementing Management for Performance and Related Reforms to Obtain Value in Every Acquisition Act of 2010 -

Title I: Defense Acquisition System - (Sec. 101) Directs the Secretary of Defense (DOD) to ensure that: (1) all elements of the defense acquisition system (DAS) are subject to regular performance assessments to ensure maximum acquisition value; (2) the performance of each element is assessed at least annually; (3) such assessments are tailored to reflect the diverse nature of defense acquisition; (4) each DOD service acquisition executive establishes metrics to be used in its assessments, including goals and standards for each metric so established; (5) the assessments are subject to periodic audits; and (6) assessment results are used in the management of DAs elements. Requires the Secretary to ensure that the chief of staff of each military department assist the Secretary of that department in the performance of specified acquisition-related functions.

(Sec. 102) Adds the Under Secretary of Defense for Policy as an advisor to the Joint Requirements Oversight Council (JROC). Allows the JROC Chairman to include a combatant commander or deputy combatant commander when matters relating to such command are under consideration. Amends the Weapon Systems Acquisition Reform Act of 2009 to require the Government Accountability Office (GAO) to include in a required annual report the extent to which JROC has meaningfully considered the input of specified DOD officials concerning proposed joint military requirements and related discussions. Requires the Director of Cost Assessment and Program Evaluation to include within a required annual report an analysis of the degree of independence of personnel responsible for cost estimates or cost analysis for a major defense acquisition program.

(Sec. 103) Requires the Secretary to: (1) ensure that DOD develops and implements a program to manage performance in establishing joint military requirements; and (2) designate a joint qualified officer to serve as leader of a joint effort to develop such program. Requires the program to be developed and implemented within one year after the enactment of this Act. Directs the Secretary to submit to the congressional defense and appropriations committees an initial and final report concerning program implementation.

(Sec. 104) Directs the: (1) Secretary to ensure that each military department establishes a process for identifying, assessing, and approving requirements for the acquisition of services; and (2) chiefs of staff of the military departments to issue and maintain guidance relating to each process and to develop a process implementation plan.

(Sec. 105) Requires the JROC Chairman to designate a 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 involving a solution for which the Chairman is the validation authority. Outlines task force responsibilities.

(Sec. 106) Directs the Secretary to: (1) conduct a review of the DOD acquisition guidance, including the guidance entitled "Operation of the Defense Acquisition System"; and (2) report to the defense and appropriations committees on necessary changes to such guidance.

(Sec. 107) Requires the Federal Acquisition Regulation (FAR) to be revised, as appropriate, to include references to services acquisition.

(Sec. 108) Outlines requirements for the DOD procurement of military purpose nondevelopmental items (items which are developed exclusively at private expense and meet a validated military requirement, and for which delivery may be made within nine months of contract award in units of less than \$10 million). Includes among such requirements that the contract be awarded using competitive procedures and be a firm, fixed-price type contract. Excepts such contracts from

the requirement that the contractor submit certain certified cost or pricing data prior to contract award.

Title II: Defense Acquisition Workforce - (Sec. 201) Directs the Secretary to use DOD employment authorities, including flexibilities related to performance management and hiring and the training of managers, in order to develop and manage a highly skilled professional workforce which ensures that DOD receives the best value for its expenditures.

(Sec. 202) Codifies under federal law the authority of the Secretary to carry out a demonstration project on proposals to improve personnel management policies and procedures applicable to the DOD acquisition workforce and supporting personnel (originally established under the National Defense Authorization Act for Fiscal Year 1996). Limits to 120,000 the total number of employees who may participate in the project. Requires the Secretary to designate an independent organization to assess the project every two years, and requires reports on such assessments to be transmitted to Congress. Terminates the project at the end of FY2017. Directs that employees in the project be converted, within six months after project termination, to the performance management system under the General Schedule (GS) system.

(Sec. 203) Requires the Secretary to provide for an enhanced system of incentives for employees who contribute to the achievement of performance goals. Directs the military department Secretaries to fully use and enhance military acquisition workforce incentives.

(Sec. 204) Directs the Secretary to establish policies and issue guidance to ensure the proper development, assignment, and employment of civilian personnel within the DOD acquisition workforce. Requires specified information concerning such workforce to be included in required annual reports to Congress relating to DOD personnel strengths. Directs the Secretary to establish requirements for the completion of course work and related on-job training and demonstration of qualifications in the critical acquisition-related duties and tasks of critical acquisition employees.

(Sec. 205) Provides additional acquisition workforce recertification and training requirements. Directs the Secretary to develop fulfillment standards, and implement and maintain a program, for achieving the necessary level of acquisition workforce training, including contracting-out for such training when appropriate.

(Sec. 206) Requires the Secretary to develop and carry out a plan to strengthen that part of the workforce that specializes in information technology.

(Sec. 208) Directs the Under Secretary of Defense for Acquisition, Technology, and Logistics to lead a review of the curriculum offered by the Defense Acquisition University to ensure that it adequately supports the training and education requirements of acquisition professionals. Requires: (1) the Secretary to conduct an analysis of funding requirements for training; and (2) the President of the Defense Acquisition University to work with relevant professional schools and degree-granting institutions of DOD and the military departments to ensure that best practices are used in curriculum development to support acquisition workforce positions.

(Sec. 209) Directs the Secretary to develop intern and scholarship programs in cost estimating for purposes of improving education and training in such estimating and providing an opportunity to meet cost estimating certification requirements.

(Sec. 210) Directs the Secretary to prohibit the award by any DOD component of a personal services contract for obtaining the services of a senior mentor. Provides an exception with respect to a senior mentor employed as a highly qualified expert, but requires such mentor to submit a financial disclosure report and comply with all federal conflict of interest laws and regulations applicable to federal employees with similar conditions of service.

Title III: Financial Management - (Sec. 301) Directs the Under Secretary of Defense (Comptroller) to ensure that any

DOD component that has financial statements validated as ready for audit earlier than September 30, 2017, receives preferential treatment in: (1) financial matters, including the release of appropriated funds; and (2) the availability of personnel management incentives. Terminates such requirement at the end of FY2017.

(Sec. 302) Requires the Secretary to ensure that corrective measures are immediately taken to address the failure of a DOD component to achieve a validated financial statement by September 30, 2017.

(Sec. 303) Expresses the sense of Congress that: (1) DOD program managers should be encouraged to place a higher priority on seeking the best value for the government than on meeting arbitrary benchmarks for spending; and (2) any actions taken to achieve such higher priority should be supported by DOD's leadership at every level. Requires the Chief Management Officer of DOD to: (1) review and update all relevant policy and instruction regarding obligation and expenditure benchmarks to ensure that it does not prevent achieving the best value for the government in the obligation and expenditure of funds; and (2) review the use and value of such benchmarks and propose new benchmarks or processes for tracking financial performance, as appropriate.

(Sec. 304) Directs the Secretary to require: (1) DOD health care contract bidders to disclose with such bid any additional costs associated with compliance with the Patient Protection and Affordable Care Act (PPACA) and the Health Care and Education Reconciliation Act of 2010; and (2) any contractor chosen to disclose such information on an annual basis. Requires an annual report, in each of 2011 through 2016, from the Secretary to the defense committees on the additional costs disclosed.

Title IV: Industrial Base - (Sec. 401) Directs the Secretary to establish a program to expand the DOD industrial base in order to increase access to innovation and the benefits of competition. Requires the program to include: (1) outreach to firms in the vicinity of DOD installations concerning the opportunity to obtain contracts and perform work at such installations; and (2) a continuous review of the industrial base, including identifying markets of importance to DOD.

(Sec. 402) Amends the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 to extend until April 1, 2013, the requirement for a report on price trends of certain commercial items procured by DOD. Requires such report to include actions taken to address unjustified price escalations in such items.

(Sec. 403) Requires the head of any executive agency that issues an invitation for bids or a request for proposals for a contract in an amount greater than the simplified acquisition threshold (generally \$100,000) to direct each person submitting such a bid or proposal to: (1) certify that the person does not have a delinquent tax debt that exceeds \$3,000; and (2) authorize the Secretary of the Treasury to disclose to the agency head verifying information with respect to the certification. Provides an identical requirement with respect to agency offerings of grants in excess of such threshold.

(Sec. 404) Requires the Director of the Defense Contract Audit Agency to appoint a General Counsel for such Agency. Directs the Secretary to ensure that any contractor business system review carried out by a military department, defense agency, or DOD Field Activity: (1) complies with generally accepted government auditing standards; (2) is performed by an audit team that does not engage in any other official activity involving that contractor; (3) is performed consistent with a documented assessment of the risk to the federal government; and (4) involves testing on a representative sample of transactions sufficient to fully examine the integrity of the business system concerned. Requires the Secretary to issue guidance relating to contract audits carried out by such DOD entities that are not contractor business system reviews.

(Sec. 405) Directs the Secretary to establish a panel to: (1) create recommendations on eliminating barriers to contracting with DOD and its defense supply centers; and (2) report its recommendations to Congress.

(Sec. 406) Requires the inclusion of references to the provision of services and information technology within definitions and policy requirements relating to the national technology and industrial base.

(Sec. 407) States that nothing in this Act or its amendments shall be construed to affect competition requirements for the DOD acquisition of services.

(Sec. 408) Directs the Secretary to carry out a program to provide opportunities to provide cost-savings on nondevelopmental items. Terminates the program at the end of FY2013. Requires a program report from the Secretary to the defense committees, including the number of acquisition savings proposals submitted and favorably reviewed, and the cumulative savings achieved.

(Sec. 409) Expresses the sense of Congress that DOD should: (1) ensure full contractor and subcontractor compliance with the Berry Amendment (requirement to buy certain articles from American sources) and the Buy American Act; and (2) not procure products made by U.S. manufacturers that violate U.S. labor standards.

(Sec. 410) Establishes in DOD the Industrial Base Council to assist the Secretary in all matters pertaining to the DOD industrial base, including the national defense technology. Outlines related Council duties. Requires the Secretary to describe Council activities in a required annual report concerning the DOD national technology and industrial base. Directs the Secretary to establish the Industrial Base Fund for use by the Council, requiring the Secretary to establish procedures for expending monies in the Fund.

Title V: Other Matters - (Sec. 501) Directs the Comptroller General to: (1) conduct a study to determine if there is sufficient domestic production of items covered under the clothing allowance for enlisted personnel; and (2) transmit study results to the Secretary. Requires the Secretary to submit to the defense committees an evaluation of whether such items should be considered subject to the Berry Amendment.

(Sec. 502) Requires that, in the evaluation of competitive proposals for defense contracts, cost or price to the government be given at least equal importance as all other evaluation factors combined. Allows the waiver of such requirement by the agency head concerned. Directs the Secretary to submit to Congress, and post publicly, a report on each waiver issued.

Actions Timeline

- **Apr 29, 2010:** Received in the Senate and Read twice and referred to the Committee on Armed Services.
- **Apr 28, 2010:** Rule H. Res. 1300 passed House.
- **Apr 28, 2010:** Considered under the provisions of rule H. Res. 1300. (consideration: CR H2954-2986)
- **Apr 28, 2010:** Rule provides for consideration of H.R. 5013 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Armed Services shall be considered as an original bill. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI.
- **Apr 28, 2010:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 1300 and Rule XVIII.
- **Apr 28, 2010:** The Speaker designated the Honorable Ron Kind to act as Chairman of the Committee.
- **Apr 28, 2010:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 5013.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Skelton amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Sessions amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Andrews amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Hall (NY) amendment.
- **Apr 28, 2010:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Hall (NY) amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. Hall (NY) demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Edwards (MD) amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Moore (WI) amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Murphy (CT) amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Quigley amendment number 8.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Quigley amendment number 9.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Schrader amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Connolly (VA) amendment.
- **Apr 28, 2010:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Connolly (VA) amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. Connolly (VA) demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Childers amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Dahlkemper amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Kissell amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Grayson amendment.
- **Apr 28, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1300, the Committee of the Whole proceeded with 10 minutes of debate on the Hare amendment.

- **Apr 28, 2010:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 5013.
- **Apr 28, 2010:** The previous question was ordered pursuant to the rule. (consideration: CR H2983)
- **Apr 28, 2010:** The House adopted the amendment in the nature of a substitute as agreed to by the Committee of the Whole House on the state of the Union. (text: CR H2960-2968)
- **Apr 28, 2010:** Mr. Buyer moved to recommit with instructions to Armed Services. (consideration: CR H2983-2985; text: CR H2983-2984)
- **Apr 28, 2010:** DEBATE - The House proceeded with 10 minutes of debate on the Buyer motion to recommit with instructions. The instructions contained in the motion seek to require the bill to be reported back to the House with an amendment inserting a new section pertaining to the disclosure and traceability of the cost of Department of Defense health care contracts.
- **Apr 28, 2010:** The previous question on the motion to recommit with instructions was ordered without objection. (consideration: CR H2985)
- **Apr 28, 2010:** On motion to recommit with instructions Agreed to by recorded vote: 419 - 1 (Roll no. 229).
- **Apr 28, 2010:** Passed/agreed to in House: On passage Passed by recorded vote: 417 - 3 (Roll no. 230).
- **Apr 28, 2010:** On passage Passed by recorded vote: 417 - 3 (Roll no. 230).
- **Apr 28, 2010:** Motion to reconsider laid on the table Agreed to without objection.
- **Apr 27, 2010:** Rules Committee Resolution H. Res. 1300 Reported to House. Rule provides for consideration of H.R. 5013 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Armed Services shall be considered as an original bill. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI.
- **Apr 23, 2010:** Reported (Amended) by the Committee on Armed Services. H. Rept. 111-465, Part I.
- **Apr 23, 2010:** Committee on Oversight and Government discharged.
- **Apr 23, 2010:** Placed on the Union Calendar, Calendar No. 266.
- **Apr 21, 2010:** Committee Consideration and Mark-up Session Held.
- **Apr 21, 2010:** Ordered to be Reported (Amended) by the Yeas and Nays: 56 - 0.
- **Apr 14, 2010:** Introduced in House
- **Apr 14, 2010:** Sponsor introductory remarks on measure. (CR E542)
- **Apr 14, 2010:** Referred to House Armed Services
- **Apr 14, 2010:** Referred to the Committee on Armed Services, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
- **Apr 14, 2010:** Referred to House Oversight and Government Reform