

PUBLIC LAW 111-84—OCT. 28, 2009

NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2010

Public Law 111-84
111th Congress

An Act

Oct. 28, 2009
[H.R. 2647]

To authorize appropriations for fiscal year 2010 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.

National Defense
Authorization
Act for Fiscal
Year 2010.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2010”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) **DIVISIONS.**—This Act is organized into five divisions as follows:

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- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.
- (4) Division D—Funding tables.
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(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

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Sec. 3. Congressional defense committees.

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- Sec. 3401. Authorization of appropriations.

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Sec. 4712. Attacks on United States servicemen.

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10 USC 101 note.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.

For purposes of this Act, the term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10, United States Code.

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TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

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Subtitle B—Army Programs

Sec. 111. Procurement of Future Combat Systems spin out early-infantry brigade combat team equipment.

Subtitle C—Navy Programs

Sec. 121. Littoral Combat Ship program.

Sec. 122. Treatment of Littoral Combat Ship program as a major defense acquisition program.

(1) COVERED PROCUREMENT.—The term “covered procurement” means either of the following:

(A) A procurement described in section 2304(f)(2)(D)(ii) of title 10, United States Code.

(B) A procurement described in section 303(f)(2)(D)(ii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(2)(D)(ii)).

(2) HEAD OF AN AGENCY.—The term “head of an agency”—

(A) in the case of a covered procurement as defined in paragraph (1)(A), has the meaning provided in section 2302(1) of title 10, United States Code; and

(B) in the case of a covered procurement as defined in paragraph (1)(B), has the meaning provided the term “agency head” in section 309(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(a)).

(3) APPROPRIATE OFFICIAL.—The term “appropriate official” means—

(A) in the case of a covered procurement as defined in paragraph (1)(A), an official designated in section 2304(f)(1)(B) of title 10, United States Code; and

(B) in the case of a covered procurement as defined in paragraph (1)(B), an official designated in section 303(f)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)).

10 USC 2326
note.

Deadline.

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, 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).

SEC. 813. REVISIONS TO DEFINITIONS RELATING TO CONTRACTS IN IRAQ AND AFGHANISTAN.

(a) REVISIONS TO DEFINITION OF CONTRACT IN IRAQ OR AFGHANISTAN.—Section 864(a)(2) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 258; 10 U.S.C. 2302 note) is amended—

(1) by striking “or a task order or delivery order at any tier issued under such a contract” and inserting “a task order or delivery order at any tier issued under such a contract, a grant, or a cooperative agreement”;

(2) by striking in the parenthetical “or task order or delivery order” and inserting “task order, delivery order, grant, or cooperative agreement”;

(3) by striking “or task or delivery order” after the parenthetical and inserting “task order, delivery order, grant, or cooperative agreement”; and

(4) by striking “14 days” and inserting “30 days”.

(b) REVISION TO DEFINITION OF COVERED CONTRACT.—Section 864(a)(3) of such Act (Public Law 110-181; 122 Stat. 259; 10 U.S.C. 2302 note) is amended—

(1) by striking “or” at the end of subparagraph (B);

(2) by striking the period and inserting a semicolon at the end of subparagraph (C); and

(3) by adding at the end the following new subparagraphs:

“(D) a grant for the performance of services in an area of combat operations, as designated by the Secretary of Defense under subsection (c) of section 862; or

“(E) a cooperative agreement for the performance of services in such an area of combat operations.”

(c) REVISION TO DEFINITION OF CONTRACTOR.—Paragraph (4) of section 864(a) of such Act (Public Law 110-181; 122 Stat. 259; 10 U.S.C. 2302 note) is amended to read as follows:

“(4) CONTRACTOR.—The term ‘contractor’, with respect to a covered contract, means—

“(A) in the case of a covered contract that is a contract, subcontract, task order, or delivery order, the contractor or subcontractor carrying out the covered contract;

“(B) in the case of a covered contract that is a grant, the grantee; and

“(C) in the case of a covered contract that is a cooperative agreement, the recipient.”

(d) REVISION IN VALUE OF CONTRACTS COVERED BY CERTAIN REPORT.—Section 1248(c)(1)(B) of such Act (Public Law 110-181; 122 Stat. 400) is amended by striking “\$25,000” and inserting “\$100,000”.

8 USC 1157 note.

SEC. 814. AMENDMENT TO NOTIFICATION REQUIREMENTS FOR AWARDS OF SINGLE SOURCE TASK OR DELIVERY ORDERS.

(a) CONGRESSIONAL DEFENSE COMMITTEES.—Subparagraph (B) of section 2304a(d)(3) of title 10, United States Code, is amended to read as follows:

“(B) The head of the agency shall notify the congressional defense committees within 30 days after any determination under clause (i), (ii), (iii), or (iv) of subparagraph (A).”

Deadline.

(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 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 under that subparagraph—

10 USC 2304a note.

(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