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Acquisition Reform in the House and Senate Versions of the FY2017 National Defense Authorization Act

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Introduction

This report focuses on the sections of the House and Senate versions of the Fiscal Year 2017 National Defense Authorization Act (H.R. 4909 and S. 2943, respectively) that appear closely linked to the respective armed services committees' stated efforts to reform the acquisition system.[1] For purposes of this analysis, CRS selected 31 sections of the House bill and 67 sections of the Senate bill. Each section is identified as fitting into one or more of the following six overarching categories:

1. Gathering information for future action,
2. Streamlining the current process (focusing on schedule and minimizing bureaucratic effort),
3. Improving the effectiveness of the current process (focusing on cost, performance, and public policy),
4. Improving the performance of the workforce (through recruitment/retention, professional development, or empowering decisionmaking),
5. Improving the use of data in decisionmaking, or
6. Reorganizing the acquisition management structure within the Department of Defense.

Comparison of House and Senate Bills

Conceptually, both bills prioritize general reform in the Department of Defense (DOD), and call specific attention to acquisition reform. The House committee report states

> The committee believes that reform of the Department of Defense is necessary to increase the effectiveness and efficiency of the defense enterprise to get more defense for the dollar. But more importantly, reform is necessary to improve the military's agility and the speed at which it can adapt and respond to an increasingly complex security environment and unprecedented technological challenges.[2]

The House report goes on to outline five major reform initiatives contained in the bill, the first of which is acquisition reform.[3]

The Senate bill also addresses reform, stating

> The National Defense Authorization Act for Fiscal Year 2017 continues the committee's commitment to defense reforms that enable our military to rise to the challenges of a more dangerous world both today and in the future. The NDAA…

[1] Because the House Armed Services Committee's focus on small business predates the current reform effort, and because small business provisions also affect a specific segment of the industrial base, not the overall acquisition system, such sections were generally excluded from this analysis. Sections making pilot programs permanent were also generally excluded from this analysis as were sections clarifying or conforming prior legislation.

[2] See U.S. Congress, House Committee on Armed Services, Report of the Committee on Armed Services House of Representatives on H.R. 4909 , 114th Cong., 2nd sess., May 4, 2016, H.Rept. 114-537, p. 3.

[3] Ibid., The initiatives, as listed, are "(1) acquisition reform, (2) healthcare reform, (3) commissary reform, (4) military justice reform, and (5) Goldwater-Nichols reform."

> Continues a comprehensive reform of the defense acquisition system designed to drive innovation and ensure accountability for delivering military capabilities to our warfighters on time, on budget, and as promised.[4]

Substantively, the acquisition reform sections of H.R. 4909 and S. 2943 have many similarities and in a number of instances seek to address the same issues. (See **Appendix A** and **Appendix B** for lists of corresponding sections in the two bills.)

Both bills have a subtitle dedicated exclusively to commercial items (Senate bill Title VIII, Subtitle E; House bill Title VIII, Subtitle C). Both take aim at what is perceived as improper use of Lowest Price Technically Acceptable (LPTA) source selection criteria, with each bill setting forth similar criteria for when LPTA can be used (House §§847, 804, 841; Senate §§825, 829D). And both require reports on bid protests (House §831; Senate §822) and amend protests on task orders (House §1862; Senate §819). The Senate bill goes further, seeking to require large contractors who lose a GAO protest to cover the cost of processing the protest, and withhold payments above costs to an incumbent who receives a bridge or temporary contract when the bridge or extension occurred because the incumbent filed a protest (§821).[5]

Both bills also have a number of sections aimed at updating and rationalizing acquisition laws. These sections seek to clarify statutory language (i.e., House §806; Senate §§802, 813, 814) conform statutes (i.e. Senate §§801, 833), re-categorize sections of law to create a more structured taxonomy (i.e., House §842; Senate §803), or otherwise update statutes and regulations (i.e., House §839; Senate §§812, 833). Taken as a whole, these sections are not intended to change acquisitions, but seek to help create a more consistent, clear, streamlined, and updated statutory governance structure.

Despite these similarities, the bills have striking differences: in length (the Senate version is longer), the philosophical approach taken to reform acquisitions, and the content of the bills. The acquisition reform effort in the House version is generally intended to be part of a continuation of a comprehensive, long-term, and collaborative effort that builds upon the FY2016 NDAA.[6] The House bill requests more information than does its Senate counterpart, in part as a way to inform reform efforts that are expected to occur in the next few years. In contrast, the Senate bill takes a more sweeping, immediate, and in some instances, controversial, approach to acquisition reform.

House Version

Of the sections in the House bill related to acquisition reform, approximately

- 20% seek to gather information by requiring reports or mandating reviews;
- 40% seek to streamline the acquisition process;
- 35% seek to improve the effectiveness of the acquisition process; and
- 15% seek to improve the use of data to inform acquisition decision.[7]

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[4] See U.S. Congress, Senate Committee on Armed Services, *National Defense Authorization Act for Fiscal Year 2017*, report to accompany S. 2943, 114th Cong., 2nd sess., May 18, 2016, S.Rept. 114-225 (Washington: GPO, 2016), p. 2.

[5] Both the House and Senate passed versions of the FY2016 NDAA had sections that would have required a report on bid protests but no such provision survived conference.

[6] U.S. Congress, House Committee on Armed Services, *Report of the Committee on Armed Services House of Representatives on H.R. 1735*, 114th Cong., 2nd sess., May 5, 2015, H.Rept. 114-102, p. 3. This is consistent with numerous prior statements of Chairman Mac Thornberry.

[7] Percentages do not equal 100% because some sections of the bill fall into more than one category.

As the data above indicate, many of the sections in the House bill seek to streamline the acquisition system, in some cases waiving or amending recurring reporting requirements (§§803, 811, 813, 836, 921), establishing specific deadlines for activities (§802) or providing various authorities and flexibilities that may enable faster procurement cycles (§§807, 1702).

The House bill has five provisions that focus on the acquisition of commercial items, which taken together seek to expand the definition of commercial items, promote a more effective use of data to promote commercial item acquisition decisions, and establish a pilot program for acquiring innovative commercial items (§§821-825).

Among the committee's chief concerns is the time it takes to develop and field Major Defense Acquisition Programs (MDAPs)[8] and related technologies. To address these concerns, a separate section of the bill—Title XVII (entitled *Department of Defense Acquisition Agility*)—promotes designing weapon system platforms as open-system architectures to allow components and technologies to evolve faster and be incorporated into platforms more easily.[9] Specifically, this title would require MDAPs to be designed and developed using a modular open system approach (§1701) and require that only sufficiently mature technologies that will not delay scheduled deployment be incorporated into a program (§1702). The title would also provide additional authorities for developing and incubating technologies for insertion into MDAPs (§1702); require creation of a scorecard against which to measure key acquisition metrics (such as cost and schedule) at each milestone; and make a number of amendments to technical data rights (§1705).

H.R. 4909 would provide the Secretary of Defense flexibility in funding the Defense Acquisition Workforce Development Fund for FY2017 and transfer funds from the fund to the Treasury (§§839 and 1002, respectively). This section does not eliminate the fund; as the committee report notes, the section "addresses an overfunding of the fund that has resulted from carryovers from prior years."[10] (To see how each section is categorized, see **Appendix A**, **Table A-1**.)

Senate Version

Of the sections in the Senate version of S. 2943 that relate to acquisition reform, approximately

- 40% seek to streamline the acquisition process;
- 50% seek to improve the effectiveness of the acquisition process;
- 10% seek to improve the performance of the acquisition workforce; and
- 10% seek to improve the use of data to inform decisionmaking.[11]

One of the more controversial sections of the Senate bill is Section 901, which aims to alter the structure of DOD by eliminating the position of Under Secretary of Defense for Acquisition, Technology, and Logistics (AT&L), as enshrined in 10 U.S.C. 133, and instead creating the position of Under Secretary of Defense for Research and Engineering (to serve as the chief acquisition officer and chief technology officer). Section 901 would also amend 10 U.S.C. 132a

[8] An MDAP is defined in 10 USC 2430 as an acquisition program (that is not a highly sensitive classified program), that is either

1. designated by the Secretary of Defense as such,
2. estimated to exceed $300 million in research, development, test, and evaluation costs (in 1990 dollars), or
3. estimated to exceed $1.8 billion in procurement costs (including increments)(in 1990 dollars).

[9] *Report of the Committee on Armed Services House of Representatives on H.R. 4909*, page 336.

[10] *Report of the Committee on Armed Services House of Representatives on H.R. 490, page 198.*

[11] Percentages do not equal 100% because some sections of the bill fall into more than one category.

by changing the name of the Under Secretary of Defense for Business Management and Information to the Under Secretary of Defense for Management and Support. Under this section, the responsibilities of the current AT&L would generally be divided between the Under Secretary for R&E, the Under Secretary for Management and Support, and the military services. Related to Section 901 is Section 894, which would move certain testing offices out of AT&L and place them under the authority of the Director of Operational Test and Evaluation (who reports directly to the Secretary of Defense). According to the committee report:

> In the 1960s and the 1970s, the Director of Defense for Research and Engineering which later became the Undersecretary of Defense for Research and Engineering.... led technological innovation in the Department of Defense. The position was held by leaders such as Harold Brown and William Perry, each of whom later became the Secretary of Defense. The USD(R&E) was the catalyst behind the Department's Second Offset program, which led to the development of stealth, precision guided munitions, and other revolutionary capabilities that advanced our nation's military technological dominance to this day.
>
> During a series of hearings on defense reform, the committee heard from a wide range of experts that the U.S. military was falling behind technologically and that the current acquisition structure and process were significant factors in the inability to access new sources of innovation. The committee believes that reestablishing the position of USD(R&E) is particularly important in a time when U.S. technological dominance is eroding....

Section 901 would also establish an Assistant Secretary of Defense for Acquisition Policy and Oversight; eliminate the statutory requirement for four Assistant Secretary positions (Acquisition; Logistics and Materiel Readiness; Research and Engineering; and Energy, Installations, and Environment); and eliminate the statutory requirement for three Deputy Assistant Secretary of Defense positions (Developmental Test and Evaluation; Systems Engineering; and Manufacturing and Industrial Base). While Section 901 would eliminate the statutory *requirement* for certain positions, it does not abolish the positions, thus granting the Secretary of Defense discretion in organizing these positions and responsibilities as deemed appropriate. The Administration strongly objects to Section 901. According to the Statement on Administration Policy,

> Unlike the USD/AT&L, the new Under Secretary for Research and Engineering would not have responsibility for developmental testing, which provides critical feedback regarding the early identification of design problems that is crucial for successful acquisition programs. The new Under Secretary would not have responsibility for contractor oversight and life-cycle sustainment costs, which would undermine DOD's ability to control contractor costs and oversee performance through the life of a program. And the new Under Secretary would not have the authority to direct the military departments and DOD components, undermining the ability of the Secretary of Defense to provide guidance and direction to the military services on major acquisition programs. Finally, the assignment of logistics oversight functions to both a new Deputy Assistant Secretary of Defense for Logistics and Sustainment under the new Assistant Secretary for Acquisition Policy and Oversight and a new Under Secretary of Defense for Business Management would fracture and misalign logistics authorities, management, and execution and ignore the key logistics authorities and policies related to deploying, sustaining, and retrograding forces in contingency operations. Taken together, these changes would roll back the acquisition reforms of the last two decades and risk returning the Department to an era in which overly optimistic cost estimates, inadequate system engineering and developmental testing, inappropriate reliance on immature technologies, ineffective contractor management, and lack of focus on life-cycle costs by the military departments led to explosive cost growth and the failure of multiple major defense acquisition programs. It is particularly inappropriate for the Congress to do this now, when the data clearly shows that recent

> performance of the Department's acquisition system has improved markedly in recent years.[12]

The Senate bill has a number of sections that seek to push DOD into using more fixed price contracts. Section 826 would generally penalize military departments and defense agencies for using cost-type contracts (the section would sunset in 2021); Section 827 would require the Defense Federal Acquisition Regulation Supplement (DFARS) to be updated to reflect a preference for fixed-price contracts and would require approvals for certain cost-type contracts; and Section 828 would require the use of fixed-price contracts for foreign military sales.[13] According to the committee report,

> The committee is frustrated by the continuous dependence of the Department of Defense on the use of cost type contracts. While there are some circumstances where cost-type contracts may be appropriate, the Department has over the years expanded the use of these types of contacts as a forcing mechanism to achieve absolute certainty in visibility over contractor costs.... The effect of the overuse of cost-type contracts is the narrowing of the industrial base as commercial firms make a choice not to invest in the unique accounting and financial systems necessary to execute a cost contract. While the committee has not mandated a complete ban on cost contracting this provision is designed to set up incentives that limit its use to appropriate exceptional cases.

The Administration objects to Sections 826 and 827, stating

> Section 826 would unnecessarily constrain flexibility to tailor contract types for a given requirement. It also creates a complex financial transaction process that, to be auditable, will require extremely burdensome procedures. The Administration also objects to section 827, which would require higher level approval for the use of other than fixed-price contracts. This requirement is unnecessary and would result in the Department experiencing increased costs in situations where a cost-type contract would have been more appropriate. Acquisition officials and contracting officers should have the full range of contract types available to structure business arrangements that achieve a reasonable balance of risk between the Government and the contractor, while providing the contractor with the greatest incentive for efficient and economical performance. There is extensive history that demonstrates conclusively that fixed-price development is not in the Government or industry's interest in many circumstances.[14]

The Senate bill also seeks to repeal the ban on A-76 public-private competitions (§806),[15] and has sections that may have a significant effect on workforce policies, including Section 509, which could be used to retain uniform program managers and other senior uniform acquisition personnel beyond the regular mandatory retirement date. (To see how each section is categorized, see **Appendix B**, **Table B-1**.)

[12] Executive Office of the President, Office of Management and Budget, *Statement of Administration Policy*, S. 2943 - National Defense Authorization Act for Fiscal Year 2017, July 7, 2016, p. 4.

[13] Other sections in the Senate bill also seek to promote the use of fixed-price contracting, including sections 816, 832, 833, 867, and 868.

[14] See *Statement of Administration Policy*, p. 13.

[15] For a discussion on A-76, see CRS Report R40854, *Circular A-76 and the Moratorium on DOD Competitions: Background and Issues for Congress*, by Valerie Bailey Grasso.

Appendix A. Sections in the House Version Relating to Acquisition Reform

Table A-1 categorizes select sections of the House-passed H.R. 4909 into six overarching categories:

1. Gathering information for future action,
2. Streamlining the current process (focusing on schedule and minimizing bureaucratic effort),
3. Improving the effectiveness of the current process (focusing on cost, performance, and public policy),
4. Improving the performance of the workforce (through recruitment/retention, professional development, or empowering decisionmaking),
5. Improving the use of data in decisionmaking, or
6. Reorganizing the acquisition management structure within the Department of Defense.

Table A-1. Selected Sections in the House Version Relating to Acquisition Reform

Section	Description	Category	Senate (S. 2943) equivalent
	Title VIII—Acquisition Policy, Acquisition Management, and Related Matters		
	Subtitle A—Amendments to General Contracting Authorities, Procedures, and Limitations		
802	Amending the requirement to definitize undefinitized contracts in 180 days	Streamlining process	816
803	Revising requirement to track and report data on contracts for services	Improving data/Streamlining	804/820
807	Amending special emergency procurement authority	Streamlining process	—
809	Requiring procurement policy checklist to be used when acquiring services	Workforce (developing)	804
	Subtitle B—Provisions Relating to Major Defense Acquisition Programs		
811	Reducing time for DOD to submit a Selected Acquisition Report from 45 to 10 days	Streamlining process	—
812	Amending requirements for independent cost estimates, the role of the office of Cost Assessment and Program Evaluation (CAPE), and data gathering	Improving data/Streamlining	803/836
813	Amending Milestone B certification to require total life cycle (not the currently required acquisition cost) be taken into account to determine affordability; require certification that funding is expected to be available for the program (currently required to certify that funding is available).	Improving effectiveness	835
814	Requiring report on the extent to which sustainment is considered in the acquisition process	Gathering information/Data	834

Section	Description	Category	Senate (S. 2943) equivalent
	Subtitle C—Provisions on Commercial Items		
821	Expanding the definition of commercial items	Improving effectiveness	—
822	Requiring market research to support determination of price reasonableness	Improving effectiveness	—
823	Expanding data that can be used to support price reasonableness determination	Improving effectiveness	—
824	Expanding data in centralized records to support commercial item acquisition decisionmaking	Improving data	—
825	Allowing pilot program for acquiring innovative commercial items through competitive general solicitation	Streamlining process	868
	Subtitle D—Other Matters		
831/845[a]	Requiring report on bid protests related to MDAPS/including in the GAO annual report the most common grounds for sustaining protests related to bids for contracts	Gathering information	821/822
832	Requiring GAO report on indefinite delivery contracts	Gathering information	—
833	Requiring review and report on contract flow-down provisions for MDAPS	Gathering information	—
834	Requiring review of specifications in IT acquisitions to increase competition; review of brand names and specifications for acquisitions of goods and services	Improving effectiveness	829E
836	Waiving congressional notification for acquisition of tactical missiles and munitions that exceed the quantity specified in law	Streamlining process	840
837	Authorizing the closing out of certain legacy contracts	Streamlining process	829J/829K
847	Articulating when DOD may use LPTA contract strategies	Improving effectiveness	825
848	Requiring report on contracts awarded to minority and women-owned small businesses	Gathering Information	—
	Title IX—Department of Defense Organization and Management (Subtitle B—Other Matters)		
921	Modifying required elements of annual report on corrosion, and sunsetting in 2021 requirement to submit the report to Congress	Streamlining process	—
	Title X—General Provisions (Subtitle G—Other Matters)		
1098L	Requiring development of standards, policies, and guidelines to improve career development, recruitment, and management of program manager workforce	Workforce (Developing)	—
	Title XI—Department of Defense Organization and Management		
1112	Requiring report on the size and makeup of the civilian and contractor personnel workforce	Gathering information	—

Section	Description	Category	Senate (S. 2943) equivalent
	Title XVII—Department of Defense Acquisition Agility		
1701	Requiring MDAPs to pursue a modular open system approach to acquisitions	Improving effectiveness	843
1702	Requiring MDAPS to only include mature technologies that will not delay deployment; providing authorities to develop and incubate technologies and capabilities for later insertion into platforms	Improving effectiveness/Streamlining process	843
1703	Requiring the Secretary of Defense to set cost and schedule targets for MDAPs; requiring independent technical risk assessments prior to Milestones	Improving effectiveness	—
1704	Requiring a report to Congress following a Milestone A, B, or C approval that includes key acquisition metrics, for use as a scorecard against which to measure program performance	Improving data	—
1705	Amending Technical Rights statutory language	Improving effectiveness/Streamlining	—
	Title XVIII—Matters Relating to Small Business Procurement (Subtitle G—Miscellaneous Provisions)		
1862	Amending bid protests for task orders	Streamlining process	819
	Sections That Could Significantly Affect Acquisitions		
	Title II—Research, Development, Test, and Evaluation (Subtitle C—Reports and Other Matters)		
232	Establishing Pilot Program to evaluate commercial IT		

Source: House passed H.R. 4909, the National Defense Authorization Act for FY2017; H.Rept. 114-537, *Report of the Committee on Armed Services of the House of Representatives on* H.R. 4909.

Notes:

a. Sections consolidated due to their similarity. For purposes of analysis, consolidated sections are counted as a single section.

Appendix B. Sections in the Senate Bill Relating to Acquisition Reform

Table B-1 categorizes select sections of the Senate-passed into six overarching categories or goals:

1. Gathering information for future action,
2. Streamlining the current process (focusing on schedule and minimizing bureaucratic effort),
3. Improving the effectiveness of the current process (focusing on cost, performance, and public policy),
4. Improving the performance of the workforce (through recruitment/retention, professional development, or empowering decisionmaking),
5. Improving the use of data in decisionmaking, or
6. Reorganizing the acquisition management structure within the Department of Defense.

Table B-1. Selected Sections in the Senate Bill Relating to Acquisition Reform

Section	Description	Category	House (H.R. 4909) Equivalent
	Title VIII—Acquisition Policy, Acquisition Management, and Related Matters		
	Subtitle A—Acquisition Policy and Management		
803	Clarifying the role of CAPE in conducting independent cost estimates; consolidating statutes	Streamlining process	812
804	Requiring DOD to update guidance on how to train the workforce on, and how to categorize, service acquisition	Workforce (developing)/ Data	803/809
806	Repealing ban on A-76 public-private competitions	Improving effectiveness	—
	Subtitle B—Amendments to General Contracting Authorities, Procedures, and Limitations		
811	Establishing a Defense Cost Accounting Standards Board within DOD responsible for CAS regulations and policies	Improving effectiveness	—
814	Requiring issuance of regulations to determine when independent research and development costs are fair, reasonable, and allowable expenses	Improving effectiveness	—
815	Exempting cost or price as an evaluation factor in the initial underlying award for certain multiple award task or delivery order contracts	Improving effectiveness	—
816	Modifying and expanding restrictions on undefinitized contract actions; requiring contracts to be definitized within 90 days	Improving effectiveness	802
817	Clarifying the definition of non-traditional contractors to include certain business units	Improving effectiveness	—

818	Authorizing DOD to negotiate comprehensive small business subcontract plans with defense contractors	Streamlining process	—
819	Limiting protests on Task and Delivery Orders	Streamlining process	1862
820	Limiting data reporting requirements for service acquisitions	Streamlining process	803
821/822[a]	Amending certain GAO bid protest provisions/Requiring DOD to commission a report on the impact of bid protests on defense acquisitions	Improving effectiveness/ Gathering information	831/845
823	Permitting side-by-side testing of certain defense items and technologies manufactured and developed overseas to be deemed competitive procedures	Improving effectiveness	—
824	Expanding the scope of the Defense Acquisition Challenge Program	Improving effectiveness	—
825	Requiring DFARS to prescribe when Lowest Price Technically Acceptable source selection criteria can be used	Improving effectiveness	847
826/827[a]	Penalizing military services for using cost-type contracts/Establishing preference for fixed-price contracts	Improving effectiveness	—
828	Requiring fixed-price contracts for foreign military sales	Improving effectiveness	—
829	Amending the standards and process for using performance-based contract payments	Improving effectiveness/ Streamlining	—
829A	Requiring Defense Acquisition University to implement training on share-in-savings contracts	Workforce/developing	—
829C	Granting the Secretary of Defense special procurement authority for defending or recovering from cyber, nuclear, biological, chemical, or radiological attacks	Streamlining process	—
829E	Barring requirements in contracts that specify a brand name unless a justification is approved	Improving effectiveness	834
829F	Sunsetting 4 and repealing 5 acquisition-related statutes	Streamlining process	—
829G	Establishing award for superior use of acquisition flexibilities and authorities	Workforce (Empowering)	—
829J/ 829K[a]	Authorizing closing out certain legacy contracts without completing reconciliation audits or other corrective actions	Streamlining process	837
	Subtitle C—Provisions Relating to Major Defense Acquisition Programs		
831	Repealing Chapter 144A, removing Major Automated Information Systems as distinct from MDAPs	Streamlining process	—
832	Modifying definition of MDAPs to exclude programs using rapid fielding or prototyping process, or certain prototypes	Streamlining process	—
834	Implementing initiatives to improve life cycle cost controls, including requiring a review of sustainment costs five years after operational capability	Improving effectiveness	814
835	Modifying Milestone B certification	Improving effectiveness	813
836/803[a]	Removing requirement to disclose confidence levels in estimates for MDAPS; requiring guidance for including discussion on program risk in decision documents	Improving data	812

837	Expanding authority to designate increments or blocks of items as major subprograms of MDAPs	Improving effectiveness	—
838	Counting first and second tier subcontractors for MDAPs toward DOD small business goals	Improving effectiveness	—
840	Waiving requirement to notify Congress when DOD acquires tactical missiles and munitions above the budgeted quantity	Streamlining process	836
841	Establishing pilot program to use multi-year contracts for items produced at the same facility that are used by multiple defense programs	Improving effectiveness/ Streamlining	—
842	Establishing pilot program to reduce Key Performance Parameters for acquisition programs	Improving effectiveness	—
843	Requiring using a modular open system architecture approach in certain acquisition programs and buying appropriate data rights for interface to share and publish	Improving effectiveness/ Streamlining	1701/1702
	Subtitle D—Provisions Relating to Commercial Items		
851	Requiring development of standards, policies, and guidelines to improve career development, recruitment, and management of program manager workforce	Workforce (developing)	—
853	Requiring DOD to pursue initiatives to improve the use of data to support acquisition decisionmaking	Improving data	—
854	Expanding the authority to use Defense Acquisition Workforce Development Funds	Workforce (developing)/Data	—
	Subtitle E—Provisions Related to Commercial Items		
861	Exempting acquisition of commercial items and commercially available off-the-shelf items from certain contract-clauses	Streamlining process/Improving effectiveness	—
862	Exempting acquisitions of commercially available off-the-shelf items from certain executive orders; allows waiver from said executive orders for any other purchases	Streamlining process/Improving effectiveness	—
863	Requiring use of commercial and performance specifications in lieu of military specifications	Improving effectiveness	—
865	Expanding definition of commercial items to include certain items valued at less than $10,000 purchased by prospective contractors	Streamlining process	—
867	Requiring, to the extent practicable, the use of fixed-price contracts for purchase of commercial items	Improving effectiveness	—
868	Authorizing a pilot program for acquiring innovative commercial items, technologies, and services using competitive procedures (only with fixed-price contracts)	Improving effectiveness	825
	Subtitle F—Industrial Base Matters		
871/872[a]	Requiring plan to better integrate the entities that constitute the national technical industrial base; requiring increased reliance on commercial technologies	Improving effectiveness/ Data	—
873	Authorizing DOD to make storage and distribution services available to weapon system support contractors	Streamlining process	—

876	Establishing pilot program for nontraditional contractors and small businesses to design, develop, and demonstrate innovative prototype military platforms	Improving effectiveness	—
	Subtitle G—International Contracting Matters		
881	Requiring plan to improve management and use of fees from transfer of defense articles to foreign entities under the Defense Security Cooperation Agency	Improving effectiveness	—
882	Authorizing a working capital fund for precision guided munitions exports in support of contingency operations	Streamlining process	—
	Subtitle H—Other Matters		
891	Requiring program for improving contractor business systems to improve data and decrease costs	Improving data/Streamlining	—
893	Requiring DOD entities to conduct business operations using commercial management practices and principles (allowing waivers from existing regulations)	Streamlining process/Improving effectiveness	—
894	Transferring Developmental Test and Evaluation, and Test Resource Management Center to the Director of Operational Test and Evaluation (DOT&E) and clarifying role of DOT&E	Reorganization	—
895	Exempting national security IT systems that are integral parts of weapon systems from capital planning and investment control requirement	Streamlining process	—
897	Allowing use of acquisition authorities for electronic warfare acquisitions	Streamlining process	—
899A	Amending FY2016 NDAA pilot program to allow each military service to also have funds for rapid fielding and prototyping	Streamlining process	—
899B	Clarifying and amending authority for authorizations for the Defense Modernization Account	Improving effectiveness	—
	Title IX—Department of Defense Organization and Management		
	Subtitle A—Office of the Secretary of Defense and Related Matters		
901	Establishing the Under Secretary of Defense for Research and Engineering; reorganizing Assistant Secretary positions and eliminating statutory requirement for other positions	Reorganization	—
	Subtitle C—Organization and Management of Other Department of Defense Offices and Elements		
943	Modifying the role, responsibility, and make-up of the Joint Requirements Oversight Council	Improving effectiveness/ Streamlining	—
	Title X—General Provisions (Subtitle H—Studies and Reports)		
1082/ 1083/ 1102[a]	Repealing certain required reports to Congress, including reports on strategic plan for acquisition workforce and Defense Acquisition Workforce Development Fund	Streamlining process	—
	Title XI—Civilian Personnel Matters (Subtitle A—Department of Defense Matters) Generally		

1104	Authorizing the establishment of pay flexibilities for the acquisition and supporting workforce (making permanent and expanding authorities from the AcqDemo pilot)	Workforce (recruiting)	—
1105	Authorizing Direct Hire authority for positions, including financial management, auditing, and cost estimating	Workforce (recruiting)	—
Sections that can affect acquisitions			
	Title V—Military Personnel Policy (Subtitle A—Personnel Policy)		
509	Allowing for retention of officers in specified positions beyond the regular mandatory retirement		
	Title XI—Civilian Personnel Management (Subtitle A—Department of Defense Matters Generally)		
1106	Authorizing Direct Hire authority for post-secondary students and recent graduates		

Source: Senate-passed S. 2943; S.Rept. 114-255, *Report of the Committee on Armed Services of the House of Representatives to Accompany S. 2943*.

Notes:

a. Sections consolidated due to their similarity. For purposes of analysis, consolidated sections are counted as a single section.

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