

AMENDMENT TO RULES COMMITTEE PRINT 117–

54

OFFERED BY MR. GARAMENDI OF CALIFORNIA

Add at the end of subtitle F of title VIII the following new section:

1 **SEC. 8 ____ . PROGRESS PAYMENT INCENTIVE PILOT.**

2 (a) PILOT PROGRAM.—Notwithstanding the require-
3 ments of chapter 277 of title 10, United States Code, the
4 Secretary of Defense, acting through the Under Secretary
5 of Defense for Acquisition and Sustainment, shall estab-
6 lish and implement a pilot program to be known as the
7 “Progress Payment Incentive Pilot Program” to make ac-
8 celerated progress payments to defense contractors—

9 (1) that are in compliance with Department of
10 Defense goals for effective and efficient contractor
11 performance, including—

12 (A) meeting contract delivery dates;

13 (B) responding to Department solicitations
14 for required certified cost or pricing data;

15 (C) meeting small business contracting
16 goals; and

17 (D) provide subcontracting opportunities
18 under AbilityOne contracts; and

1 (2) that increase defense contracting opportuni-
2 ties for small business concerns in accordance with
3 section 4901 of title 10, United States Code, as de-
4 scribed in subsection (b).

5 (b) PROGRESS PAYMENTS.—

6 (1) LIMITATIONS FOR LARGE CONTRACTORS.—
7 Except as provided under paragraph (2), under the
8 pilot program, the Department of Defense may not
9 make progress payments to a large defense con-
10 tractor for more than 50 percent of the work accom-
11 plished under a contract.

12 (2) EXCEPTIONS.—The Department of Defense
13 may increase the rate of progress payments, up to
14 a total of 95 percent, by the following percentages:

15 (A) 10 percent if the relevant division of
16 the contractor met all contract delivery dates at
17 least 95 percent of the time during the pre-
18 ceding fiscal year.

19 (B) 10 percent if the division does not
20 have open level III or IV corrective action re-
21 quests (as determined by the Secretary of De-
22 fense).

23 (C) 7.5 percent if all applicable contractor
24 business systems are acceptable, without signifi-
25 cant deficiencies.

1 (D) 10 percent if at least 95 percent of the
2 time during the preceding Government fiscal
3 year, when responding to solicitations that re-
4 quired submission of certified cost or pricing
5 data, the division met the due date in the re-
6 quest for proposal.

7 (E) 5 percent if the contractor discloses
8 first tier subcontractor data, and beneficial
9 owners of the contractor, and total compensa-
10 tion for recipient executives.

11 (F) 5 percent if the contractor has met its
12 small business subcontracting goals during the
13 preceding Government fiscal year.

14 (G) 3 percent if the contractor has pro-
15 vided subcontracting opportunities for the blind
16 and other severely disabled individuals.

17 (c) DEFINITIONS.—In this section:

18 (1) The term “AbilityOne contract” means a
19 contract awarded pursuant to chapter 85 of title 41,
20 United States Code.

21 (2) The term “beneficial owner” has the mean-
22 ing given the term in section 847 of the National
23 Defense Authorization Act for Fiscal Year 2020
24 (Public Law 116–92; 133 Stat. 1505; 10 U.S.C.
25 2509 note).

1 (3) The term “blind” has the meaning given in
2 section 8501 of title 41, United States Code.

3 (4) The term “compensation for recipient ex-
4 ecutives” means the names and total compensation
5 of the five most highly compensated officers of the
6 entity pursuant to section 2(b)(1) of the Federal
7 Funding Accountability and Transparency Act of
8 2006 (Public Law 109–282; 31 U.S.C. 6101 note).

9 (5) The term “contractor business system” has
10 the meaning given in section 893 of the Ike Skelton
11 National Defense Authorization Act for Fiscal Year
12 2011 (Public Law 111-383).

13 (6) The term “cost or pricing data” has the
14 meaning given in section 3701 of title 10, United
15 States Code.

16 (7) The term “first tier subcontractor” means
17 a subcontractor who has a subcontract directly with
18 the prime contractor.

19 (8) The term “large defense contractor” means
20 a contractor (other than an institute of higher edu-
21 cation (as defined in section 101(a) of the Higher
22 Education Act of 1965 (20 U.S.C. 1001(a))) or a
23 federally funded research and development center)
24 that during a fiscal year, was awarded one or more
25 contracts valued greater than \$10,000,000 from the

1 Department of Defense during the three-year period
2 preceding the date of establishment of the pilot pro-
3 gram under this section.

4 (9) The term “other severely disabled” has the
5 meaning given in section 8501 of title 41, United
6 States Code.

7 (10) The term “progress payments” means pay-
8 ments provided for under section 3804 of title 10,
9 United States Code.

10 (11) The term “small business concern” has
11 the meaning given under section 3 of the Small
12 Business Act (15 U.S.C. 632).

13 (12) The term “small business contracting
14 goals” means the Governmentwide goals for prime
15 contracts awarded to small business concerns estab-
16 lished under section 15(g)(1)(A) of the Small Busi-
17 ness Act (15 U.S.C. 644(g)(1)(A)).

18 (13) The term “small business subcontracting
19 goals” means the Governmentwide goals for sub-
20 contracts awarded to small business concerns estab-
21 lished under section 15(g)(1)(A) of the Small Busi-
22 ness Act (15 U.S.C. 644(g)(1)(A)).

