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:

SEC. 8. PROGRESS PAYMENT INCENTIVE PILOT.

(a) Pilot Program.—Notwithstanding the requirements of chapter 277 of title 10, United States Code, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall establish and implement a pilot program to be known as the “Progress Payment Incentive Pilot Program” to make accelerated progress payments to defense contractors—

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

(A) meeting contract delivery dates;

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

(C) meeting small business contracting goals; and

(D) provide subcontracting opportunities under AbilityOne contracts; and
(2) that increase defense contracting opportunities for small business concerns in accordance with section 4901 of title 10, United States Code, as described in subsection (b).

(b) PROGRESS PAYMENTS.—

(1) LIMITATIONS FOR LARGE CONTRACTORS.—

Except as provided under paragraph (2), under the pilot program, the Department of Defense may not make progress payments to a large defense contractor for more than 50 percent of the work accomplished under a contract.

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

(A) 10 percent if the relevant division of the contractor met all contract delivery dates at least 95 percent of the time during the preceding fiscal year.

(B) 10 percent if the division does not have open level III or IV corrective action requests (as determined by the Secretary of Defense).

(C) 7.5 percent if all applicable contractor business systems are acceptable, without significant deficiencies.
(D) 10 percent if at least 95 percent of the
time during the preceding Government fiscal
year, when responding to solicitations that re-
quired submission of certified cost or pricing
data, the division met the due date in the re-
quest for proposal.

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

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

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

(c) DEFINITIONS.—In this section:

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

(2) The term “beneficial owner” has the mean-
ing given the term in section 847 of the National
Defense Authorization Act for Fiscal Year 2020
(Public Law 116–92; 133 Stat. 1505; 10 U.S.C.
2509 note).
(3) The term “blind” has the meaning given in section 8501 of title 41, United States Code.

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


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

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

(8) The term “large defense contractor” means a contractor (other than an institute of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) or a federally funded research and development center) that during a fiscal year, was awarded one or more contracts valued greater than $10,000,000 from the
Department of Defense during the three-year period preceding the date of establishment of the pilot program under this section.

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

(10) The term “progress payments” means payments provided for under section 3804 of title 10, United States Code.

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

(12) The term “small business contracting goals” means the Governmentwide goals for prime contracts awarded to small business concerns established under section 15(g)(1)(A) of the Small Business Act (15 U.S.C. 644(g)(1)(A)).

(13) The term “small business subcontracting goals” means the Governmentwide goals for subcontracts awarded to small business concerns established under section 15(g)(1)(A) of the Small Business Act (15 U.S.C. 644(g)(1)(A)).