AMENDMENT TO COMMITTEE PRINT 117-13
OFFERED BY MR. AUSTIN SCOTT OF GEORGIA

At the end of subtitle B of title VIII, add the following new section:

SEC. 8. EXTENSION AND REVISIONS TO NEVER CONTRACT WITH THE ENEMY PROGRAM.

(a) In general.—Section 841 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (10 U.S.C. 2302 note) is amended—

(1) in the heading, by striking “PROHIBITION ON PROVIDING FUNDS TO THE ENEMY” and inserting “THREAT MITIGATION IN COMMERCIAL SUPPORT TO OPERATIONS”;

(2) in subsection (a)—

(A) in the heading, by striking “IDENTIFICATION OF PERSONS AND ENTITIES” and inserting “PROGRAM”;

(B) in the matter preceding paragraph (1), by striking “establish in each covered combatant command a program to identify persons and entities within the area of responsibility of such command that—” and inserting the fol-
following: “establish a program to mitigate threats posed by vendors supporting operations. The program shall use available intelligence, security, and law enforcement information to identify persons and entities that—”;

(C) in paragraph (1), by striking “; or” and inserting a semicolon;

(D) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following new paragraphs:

“(3) directly or indirectly support a covered person or entity or otherwise pose a force protection risk to personnel of the United States or coalition forces; or

“(4) pose an unacceptable national security risk.”;

(3) by striking subsection (g);

(4) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively;

(5) in subsection (g)(1), as so redesignated, by striking “may be providing” and all that follows through “or entity” and inserting “have been identified under the program established under subsection (a)”;}
(6) by amending subsection (h), as so redesignated, to read as follows:

“(h) WAIVER.—The Secretary of Defense or the Secretary of State, with the concurrence of the other Secretary, in consultation with the Director of National Intelligence, may waive any requirement of this section upon determining that to do so is in the national interest of the United States.”;

(7) by striking subsection (j);

(8) by redesignating subsections (k) and (l) as subsections (i) and (j), respectively;

(9) in subsection (j), as so redesignated, by striking “Except as provided in subsection (m), the” and inserting “The”;

(10) by striking subsection (m); and

(11) by striking subsection (n).

(b) AUTHORITIES TO TERMINATE, VOID, AND RESTRICT.—Section 841(c) of such Act is further amended—

(1) in paragraph (1)—

(A) by inserting “to a person or entity” after “concerned”; and

(B) by striking “the contract” and all that follows and inserting “the person or entity has
been identified under the program established under subsection (a).”;

(2) in paragraph (2), by striking “has failed” and all that follows and inserting “has been identified under the program established under subsection (a).”; and

(3) in paragraph (3), by striking “the contract” and all that follows and inserting “the contractor, or the recipient of the grant or cooperative agreement, has been identified under the program established under subsection (a).”.

(c) CONTRACT CLAUSE.—Section 841(d)(2)(B) of such Act is amended by inserting after “subsection (c)” the following: “and restrict future award to any contractor, or recipient of a grant or cooperative agreement, that has been identified under the program established under subsection (a)”.

(d) DISCLOSURE OF INFORMATION EXCEPTION.—Section 841(e) of such Act is amended by adding at the end the following new paragraph:

“(3) To provide that full disclosure of information to the contractor or recipient of a grant or cooperative agreement justifying an action taken under subsection (c) need not be provided when such disclosure would compromise national security or would
pose an unacceptable threat to the personnel of the
United States or coalition forces.”.

(c) Participation of Secretary of State.—Section 841 of such Act (10 U.S.C. 2302 note) is further amended—

(1) in subsection (a) in the matter preceding paragraph (1), by striking “in consultation with”; and

(2) in subsection (f)(1), by striking “in consultation with”.

(f) Additional Access to Records.—Section 842 of such Act (10 U.S.C. 2302 note) is amended—

(1) in subsection (a), by striking paragraph (4);

(2) by striking subsection (b);

(3) by striking subsection (c);

(4) by redesignating paragraphs (1) through (3) of subsection (a) as subsections (a) through (c), respectively;

(5) by striking “(a) Contracts, Grants, and Cooperative Agreements.—”;

(6) in subsection (a), as so redesignated, by striking “, except as provided under subsection (e)(1), the clause described in paragraph (2)” and inserting “the clause described in subsection (b)”;

(7) in subsection (b), as so redesignated—
(A) by striking “paragraph (3)” and inserting “subsection (c)”; and

(B) by striking “ensure that funds” and all that follows and inserting “support the program established under section 841(a).”; and

(8) in subsection (c), as so redesignated—

(A) by striking “paragraph (2)” and inserting “subsection (b)”; and

(B) by striking “that funds” and all that follows and inserting “that the examination of such records will support the program established under section 841(a).”.

(g) INCLUSION OF ALL CONTRACTS.—Sections 841 and 842 of such Act (10 U.S.C. 2302 note) are further amended by striking “covered contract” each place it appears and inserting “contract”.

(h) INCLUSION OF ALL COMBATANT COMMANDS.—

Sections 841 and 842 of such Act (10 U.S.C. 2302 note) are further amended by striking “covered combatant command” each place it appears and inserting “combatant command”.

(i) DELEGATION AUTHORITY OF COMBATANT COMMANDER.—Sections 841 and 842 of such Act (10 U.S.C. 2302 note) are further amended by striking “specified deputies” each place it appears and inserting “designee”.
(j) DEFINITION REVISIONS.—Section 843 of such Act (10 U.S.C. 2302 note) is amended—

(1) by striking paragraphs (2), (3), (4), and (5);

(2) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (2), (3), (4), and (5), respectively; and

(3) by amending paragraph (2), as so redesignated, to read as follows:

“(2) COVERED PERSON OR ENTITY.—The term ‘covered person or entity’ means a person that is—

“(A) engaging in acts of violence against personnel of the United States or coalition forces;

“(B) providing financing, logistics, training, or intelligence to a person described in subparagraph (A);

“(C) engaging in foreign intelligence activities against the United States or against coalition forces;

“(D) engaging in transnational organized crime or criminal activities; or

“(E) engaging in other activities that present a direct or indirect risk to the national
security of the United States or coalition forces.”