

**AMENDMENT TO THE COMMITTEE PRINT FOR  
H.R. 4909  
OFFERED BY MR. THOMPSON OF CALIFORNIA**

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

**1 SEC. 843. POLICY AND REVISION OF REGULATIONS RELAT-  
2                   ING TO LOWEST PRICE TECHNICALLY AC-  
3                   CEPTABLE SOURCE SELECTION CRITERIA.**

4       (a) STATEMENT OF POLICY.—It shall be the policy  
5 of the Department of Defense to eliminate the use of low-  
6 est price technically acceptable source selection criteria in  
7 inappropriate circumstances that potentially deny the De-  
8 partment the benefits of cost, innovation, and technical  
9 tradeoffs in the source selection process. The use of such  
10 source selection criteria is appropriate only for cases in  
11 which best value is expected to result from selection of  
12 the technically acceptable proposal with the lowest evalu-  
13 ated price.

14       (b) REVISION OF REGULATIONS.—

15           (1) IN GENERAL.—Not later than 120 days  
16 after the date of the enactment of this Act, the Sec-  
17 retary of Defense shall revise the Defense Federal  
18 Acquisition Regulation Supplement to require that,

1 for solicitations issued on or after 120 days after  
2 such date of enactment, lowest price technically ac-  
3 ceptable source selection criteria are used only in sit-  
4 uations in which—

5 (A) the Department of Defense is able to  
6 comprehensively and clearly describe the min-  
7 imum requirements, expressed in terms of per-  
8 formance objectives, measures, and standards,  
9 that will be used to determine acceptability of  
10 offers;

11 (B) the Department would not realize any  
12 value from a contract proposal exceeding the  
13 minimum technical or performance require-  
14 ments set forth in the Request for Proposal;

15 (C) proposed technical approaches will re-  
16 quire no subjective judgment by the source se-  
17 lection authority regarding the desirability of  
18 one offeror's proposal versus a competing pro-  
19 posal;

20 (D) the Department would not gain by re-  
21 viewing technical proposals of offerors other  
22 than the lowest bidder; and

23 (E) the contracting officer has included a  
24 justification for the use of a lowest price tech-  
25 nically acceptable evaluation methodology in the

1 contract file approved one level above the con-  
2 tracting officer and supported by the program  
3 manager or Government customer, if the con-  
4 tract to be awarded is predominately for—

5 (i) acquisitions of advanced electronic  
6 technologies, information technology serv-  
7 ices, systems engineering and technical as-  
8 sistance services, or other knowledge-based  
9 professional services; or

10 (ii) acquisitions designed to advance  
11 the technology state of the art, including  
12 research and development and major de-  
13 fense and information technology pro-  
14 grams.

15 (2) **JUSTIFICATION.**—The justification referred  
16 to in paragraph (1)(E) shall include—

17 (A) an assessment, including, if feasible, a  
18 management plan, that the technical require-  
19 ments are sufficiently detailed and well-defined  
20 to evaluate qualification and acceptability under  
21 a lowest price technically acceptable process;

22 (B) a description of the market research  
23 performed;

24 (C) an analysis that demonstrates the best  
25 value is expected to result from selection of the

1           technically acceptable proposal with the lowest  
2           price, including evaluating any risk that an  
3           offer may be unrealistically low;

4           (D) an evaluation of the total life-cycle  
5           cost associated with the proposed contract; and

6           (E) a risk assessment that conclusively  
7           supports a low risk of non-performance.

8           (c) REPORT.—Not later than November 1 of each  
9   year, beginning with 2017 and ending with 2019, the Sec-  
10   retary of Defense shall submit to the Committees on  
11   Armed Services of the Senate and House of Representa-  
12   tives a report on the number of instances and total  
13   amount of contract awards made during the preceding fis-  
14   cal year in which lowest price technically acceptable source  
15   selection criteria were used, including an explanation of  
16   how the requirements in subsection (b) were considered  
17   when making a determination to use such source selection  
18   criteria.

