

## Defense Policy Bill Could Affect Insourcing Efforts

By Robert Brodsky

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Many federal service contractors could see their jobs brought back in-house if provisions in the House and Senate Defense authorization bills are passed into law, according to an industry group.

The House version of the policy measure includes an amendment sponsored by Rep. John Sarbanes, D-Md., that would give "special consideration" to federal employees for any function that has been performed by a government worker during the past decade, was awarded without competition, is closely associated with an inherently governmental task, or that the private sector has performed poorly during the past five years.

The Sarbanes amendment also would prohibit insourcing quotas unless they were based on research or analysis, ask officials to give consideration to using federal employees for new functions, and require agencies to take inventories of their service contracts to determine which should not be outsourced.

Stan Soloway, president of the Professional Services Council, argued on Monday that the provision creates a preference to use federal employees and lacks a holistic, well-designed sourcing strategy.

"This sends a nonstrategic and unhelpful message to the community," said Soloway, whose group has criticized the Pentagon's insourcing policies in recent months. "And, it's a terribly imbalanced amendment. There seems to be no recognition of the management challenges agencies face and how they should be approaching this."

But, staffers in Sarbanes' office called PSC's complaints "misleading and largely disconnected from the text" of the amendment.

"To be clear, contractors performing these four categories of work will not automatically have their positions converted to federal employee performance," said Scott MaKeda, a Sarbanes spokesman. "The Sarbanes amendment asks agencies to evaluate whether performance by a contractor is appropriate, at which point the agency can elect to leave the contractor in place, eliminate the position entirely, or convert the position to one filled by a federal employee -- a far cry from a 'preference' for federal employee hiring."

The House approved its version of the Defense bill on May 28. The Senate's bill was reported out of the Armed Services Committee on June 4, but has yet to receive a vote in the full chamber.

Industry officials also were critical of a House-passed amendment that would exclude health care and retirement from any insourcing cost comparisons when contractors contribute less than the Defense Department. Soloway suggested the provision, sponsored by Rep. Tom Perriello, D-Va., "lacks a logical base," because it does not look at the quality of the benefits or the realities of the health coverage marketplace.

But, Perriello's office said the provision does not require contractors to provide, change, or increase their health care or retirement benefits.

"The amendment ensures that DoD won't make insourcing decisions that are biased toward contractors that provide their employees with inferior health care and retirement benefits," the office said in a statement. "If a bidding contractor does contribute less, then the costs of those benefits are excluded from consideration, and the decision-making process continues."

The measure is based on a law Congress passed in 2007 that excluded health care and retirement costs from consideration in public-private job competitions.

Federal labor unions said the Perriello amendment would level the playing field for government employees. "Contractors should not be rewarded for contributing less toward employee health care and retirement benefits than the federal government," said John Gage, president of the American Federation of Government Employees, in a statement earlier this month.

A third insourcing provision, favored by industry groups and sponsored by Rep. James Langevin, D-R.I., would prohibit the Pentagon from establishing "any arbitrary goals or targets to implement DoD's insourcing initiative." The measure also requires reports from the Defense Department and the Government Accountability Office on federal insourcing efforts.

The authorization bills also would have major implications for private security contractors.

The House legislation would establish a three-year pilot program at Defense to implement a best value procurement standard for private security contracts in Afghanistan and Iraq. Additional measures would establish a third-party certification process for the operations and business standards of private security contractors. And, private security contractors in Iraq and Afghanistan would have to hire their workers as direct employees rather than independent contractors.

An amendment that made it into the committee-passed Senate version, meanwhile, would allow the secretary of Defense to bar private security contractors that are found responsible for deaths or injuries on the battlefield from winning future contracts. The findings also would be included in the new Federal Awardee Performance and Integrity Information System database.

Other acquisition-related provisions in the House bill would:

- Implement the 2010 IMPROVE Acquisition Act, which overhauls how the Defense Department purchases services and technology;
- Penalize prime contractors that fail to provide information to databases on contracts in Iraq and Afghanistan;
- Make permanent the National Office for Cyberspace and position of federal chief technology officer.

The version awaiting the full Senate's consideration would:

- Allow Defense to withhold up to 10 percent of certain payments to contractors that are found to have significant deficient in their business systems. The department is considering a similar rule through a change to the Defense Acquisition Regulations System.
- Make permanent the ability of contractors to file protests for task and delivery orders;
- Extend the department's mentor-protégé program for another five years.