

113TH CONGRESS  
1ST SESSION

# S. 1246

To amend title 10, United States Code, to require contracting officers to consider information regarding domestic employment before awarding a Federal defense contract, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 27, 2013

Mr. MURPHY (for himself, Mr. BROWN, Mr. MERKLEY, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to require contracting officers to consider information regarding domestic employment before awarding a Federal defense contract, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Jobs Matter  
5 Act of 2013”.

1 **SEC. 2. CONSIDERATION AND VERIFICATION OF INFORMA-**  
2 **TION RELATING TO EFFECT ON DOMESTIC**  
3 **EMPLOYMENT OF AWARD OF FEDERAL DE-**  
4 **FENSE CONTRACTS.**

5 (a) IN GENERAL.—Section 2305(a)(3) of title 10,  
6 United States Code, is amended by adding at the end the  
7 following new subparagraph:

8 “(C)(i) In prescribing the evaluation factors to be in-  
9 cluded in each solicitation for competitive proposals for  
10 covered contracts, an agency shall include the effects on  
11 employment within the United States of the contract as  
12 an evaluation factor that must be considered in the evalua-  
13 tion of proposals.

14 “(ii) In this subparagraph, the term ‘covered con-  
15 tract’ means—

16 “(I) a contract in excess of \$1,000,000 for the  
17 procurement of manufactured goods;

18 “(II) a contract in excess of \$1,000,000 for the  
19 procurement of goods or services listed in the report  
20 of industrial base capabilities required by section  
21 2504 of title 10; and

22 “(III) a contract in excess of \$1,000,000 for  
23 the procurement of any item procured as part of a  
24 major defense acquisition program.

25 “(iii) The head of an agency, in issuing a solicitation  
26 for competitive proposals, shall state in the solicitation

1 that the agency may consider, and in the case of a covered  
2 contract will consider as an evaluation factor under sub-  
3 paragraph (A), information (in this subsection referred to  
4 as a ‘jobs impact statement’) that the offeror includes in  
5 its offer related to the effects on employment within the  
6 United States of the contract if it is awarded to the offer-  
7 or.

8 “(iv) The information that may be included in a jobs  
9 impact statement may include the following:

10 “(I) The number of jobs expected to be created  
11 or retained in the United States if the contract is  
12 awarded to the offeror.

13 “(II) The number of jobs created or retained in  
14 the United States by the subcontractors expected to  
15 be used by the offeror in the performance of the con-  
16 tract.

17 “(III) A guarantee from the offeror that jobs  
18 created or retained in the United States will not be  
19 moved outside the United States after award of the  
20 contract unless doing so is required to provide the  
21 goods or services stipulated in the contract or is in  
22 the best interest of the Federal Government.

23 “(v) The contracting officer may consider, and in the  
24 case of a covered contract will consider, the information  
25 in the jobs impact statement in the evaluation of the offer

1 and may request further information from the offeror in  
2 order to verify the accuracy of any such information sub-  
3 mitted.

4 “(vi) In the case of a contract awarded to an offeror  
5 that submitted a jobs impact statement with the offer for  
6 the contract, the agency shall, not later than one year  
7 after the award of the contract and annually thereafter  
8 for the duration of the contract or contract extension, as-  
9 sess the accuracy of the jobs impact statement.

10 “(vii) The Secretary of Defense shall submit to Con-  
11 gress an annual report on the frequency of use within the  
12 Department of Defense of jobs impact statements in the  
13 evaluation of competitive proposals.

14 “(viii)(I) In any contract awarded to an offeror that  
15 submitted a jobs impact statement with its offer in re-  
16 sponse to the solicitation for proposals for the contract,  
17 the agency shall track the number of jobs created or re-  
18 tained during the performance of the contract.

19 “(II) If the number of jobs that the agency estimates  
20 will be created (by using the jobs impact statement) sig-  
21 nificantly exceeds the number of jobs created or retained,  
22 then the agency may consider this as a factor that affects  
23 a contractor’s past performance in the award of future  
24 contracts.

1       “(III) Contractors shall be provided an opportunity  
2 to explain any differences between their original jobs im-  
3 pact statement and the actual amount of jobs created or  
4 retained before the discrepancy affects the agency’s as-  
5 sessment of the contractor’s past performance.”.

6       (b) REVISION OF FEDERAL ACQUISITION REGULA-  
7 TION.—The Department of Defense Supplement to the  
8 Federal Acquisition Regulation shall be revised to imple-  
9 ment the amendment made by subsection (a).

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