

**TEMPORARY LIMITATION ON AGGREGATE ANNUAL AMOUNT AVAILABLE FOR
CONTRACT SERVICES (SEC. 808)**

The Senate amendment contained a provision (sec. 823) that would limit Department of Defense spending for contract services in fiscal years 2012 and 2013 (not including spending from the Overseas Contingency Operations account).

The House bill contained no similar provision.

The House recesses

**SEC. 808. TEMPORARY LIMITATION ON AGGREGATE ANNUAL AMOUNT AVAILABLE
FOR CONTRACT SERVICES.**

- (a) **LIMITATION.**—Except as provided in subsection (b), the total amount obligated by the Department of Defense for contract services in fiscal year 2012 or 2013 may not exceed the total amount requested for the Department for contract services in the budget of the President for fiscal year 2010 (as submitted to Congress pursuant to section 1105(b) of title 31, United States Code) adjusted for net transfers from funding for overseas contingency operations.
- (b) **EXCEPTION.**—Notwithstanding the limitation in subsection (a), the total amount obligated by the Department for contract services in fiscal year 2012 or 2013 may exceed the amount otherwise provided pursuant to subsection (a) by an amount elected by the Secretary of Defense that is not greater than the cost of any increase in such fiscal year in the number of civilian billets at the Department that has been approved by the Secretary over the number of such billets at the Department in fiscal year 2010.
- (c) **GUIDANCE.**—Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue guidance to the military departments and the Defense Agencies on implementation of this section during fiscal years 2012 and 2013. The guidance shall, at a minimum—
- (1) establish a negotiation objective that labor rates and overhead rates in any contract or task order for contract services with an estimated value in excess of \$10,000,000 awarded to a contractor in fiscal year 2012 or 2013 shall not exceed labor rates and overhead rates paid to the contractor for contract services in fiscal year 2010;
 - (2) require the Secretaries of the military departments and the heads of the Defense Agencies to approve in writing any contract or task order for contract services with an estimated value in excess of \$10,000,000 awarded to a contractor in fiscal year 2012 or 2013 that provides for continuing services at an annual cost that exceeds the annual cost paid by the military department or Defense Agency concerned for the same or similar services in fiscal year 2010;
 - (3) require the Secretaries of the military departments and the heads of the Defense Agencies to eliminate any contractor positions identified by the military department or Defense Agency concerned as being responsible for the performance of inherently governmental functions;
 - (4) require the Secretaries of the military departments and the heads of the Defense Agencies to reduce by 10 percent per fiscal year in each of fiscal years 2012 and 2013 the funding of the military department or Defense Agency concerned for—
 - (A) staff augmentation contracts; and
 - (B) contracts for the performance of functions closely associated with inherently governmental functions; and
 - (5) assign responsibility to the management officials designated pursuant to section 2330 of title 10, United States Code, and section 812(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3378; 10 23 U.S.C. 2330 note) to provide

oversight and ensure the implementation of the requirements of this section during fiscal years 2012 and 2013.

(d) DEFINITIONS.—In this section:

- (1) The term “contract services” has the meaning given that term in section 235 of title 10, United States Code, except that the term does not include services that are funded out of amounts available for overseas contingency operations.
- (2) The term “function closely associated with inherently governmental functions” has the meaning given that term in section 2383(b)(3) of title 10, United States Code.
- (3) The term “staff augmentation contracts” means contracts for personnel who are subject to the direction of a government official other than the contracting officer for the contract, including, but not limited to, contractor personnel who perform personal services contracts (as that term is defined in section 2330a(g)(5) of title 10, United States Code).
- (4) The term “transfers from funding for overseas contingency operations” means amounts funded out of amounts available for overseas contingency operations in fiscal year 2010 that are funded out of amounts other than amounts so available in fiscal year 2012 or 2013.