

# FY2024 NDAA: Department of Defense Acquisition Policy

Updated January 16, 2024

## Introduction

The Defense Acquisition System (DAS) is the process through which the U.S. Department of Defense (DOD) develops and buys goods and services from contractors. The process is based on [statute](#) and [regulation](#). [The process involves](#) numerous activities, including design, engineering, construction, testing, deployment, sustainment, and disposal of items purchased from a contractor. This product provides an overview of selected acquisition-related provisions in the National Defense Authorization Act for Fiscal Year 2024, which was enacted on December 22, 2023. (FY 2024 NDAA; P.L. 118-31) For more background on defense acquisitions, see CRS Report RL34026, *Defense Acquisitions: How DOD Acquires Weapon Systems and Recent Efforts to Reform the Process*.

## Legislative Proposals

Congress may incorporate provisions related to the defense acquisition process or individual acquisition programs in multiple titles in an NDAA. A recurring NDAA title (i.e., Title VIII of Division A) typically addresses acquisition policy, acquisition management, and related matters. In general, Congress uses the NDAA to establish or disestablish, amend, or direct a study of elements of, and processes related to, defense acquisitions. For example, the [FY2022 NDAA](#) established a commission to study the effectiveness of the department's Planning, Programming, Budgeting, and Execution (PPBE)—an internal strategic planning process for allocating resources among the military departments, defense agencies, and other components.

The FY2024 NDAA includes multiple provisions pertaining to acquisition policy, including those related to capability development, DOD contracting, and that may mitigate foreign influence over DOD contractors. **Table 1** below summarizes selected provisions.

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IN12225

**Table 1. Selected Acquisition Policy Provisions in the FY2024 NDAA**

House-Passed H.R. 2670	Senate-Passed S. 2226	Enacted (P.L. 118-31)
<b>DOD's Capability Development Process</b>		
No similar provision.	<a href="#">Sec. 802</a> proposed to require DOD to develop a “streamlined” and modernized capability development requirements process, aligned with the <a href="#">Adaptive Acquisition Framework</a> , by 2025.	<a href="#">Sec. 811</a> adopts the Senate provision with amendments including requisites for the DOD requirements management process that “maximize the use of commercial products or commercial services.”
<a href="#">Sec. 803</a> proposed to require the military services to designate a “Principal Technology Transition Advisor” to support service secretaries with the transition of new technologies from research and development to fielding. This would include interfacing with relevant DOD innovation organizations and program managers.	No similar provision.	<a href="#">Sec. 806</a> adopts the House provision with amendments including requiring that the Principal Technology Transition Advisor “develop policies and processes for promoting to small business concerns ... and nontraditional defense contractors ... opportunities to license intellectual property developed by the Department.”
No similar provision.	<a href="#">Sec. 803</a> proposed to give the Director of the Strategic Capabilities Office (SCO) the authority to conduct acquisition activities, including the authority to negotiate memoranda of agreement with DOD components and military departments to procure capabilities, equipment, and services on behalf of SCO.	<a href="#">Sec. 807</a> adopts the Senate provision and requires that SCO Director's staff include a “senior contracting official.” who shall have the authorities described in the Senate-passed version.
<a href="#">Sec. 851</a> proposed to require DOD to launch a pilot program to conduct competitions to procure and field “attributable systems that solve urgent operational needs.”	No similar provision.	Not adopted.
No similar provision.	<a href="#">Sec. 811</a> proposed to give Combatant Commanders rapid and streamlined contracting authorities for certain time-sensitive and urgent situations.	<a href="#">Sec. 843</a> adopts the Senate provision.
<b>DOD Contracting</b>		
<a href="#">Sec. 804</a> proposed to require DOD to launch a pilot program to determine whether certain contractors that unsuccessfully protest a contract bid loss should be required to reimburse DOD for the costs to the government of conducting the protest.	No similar provision.	Not adopted.
No similar provision.	<a href="#">Sec. 806</a> proposed to require a DOD study on the feasibility and advisability of establishing a default commercial determination for the products and services acquired by DOD.	<a href="#">Sec. 875</a> adopts the Senate provision.

House-Passed H.R. 2670	Senate-Passed S. 2226	Enacted (P.L. 118-31)
No similar provision.	<a href="#">Sec. 815</a> proposed to exempt all software contracts and subcontracts from <a href="#">Earned Value Management (EVM) requirements</a> in the Defense Federal Acquisition Regulation Supplement (DFARS), and would raise the dollar threshold for EVM requirements.	<a href="#">Sec. 827</a> adopts the Senate provision.
No similar provision.	<a href="#">Sec. 817</a> proposed to require DOD to launch a pilot program providing higher <a href="#">progress payment</a> rates to incentivize contractors to meet certain criteria, including meeting small business subcontracting goals and adhering to delivery schedule.  <a href="#">Sec. 844</a> proposed to amend the <a href="#">Small Business Act</a> to provide measures to encourage DOD contractors to provide more timely payments to subcontractors.	<a href="#">Sec. 874</a> adopts the Senate provision with amendments including requiring that DOD develop incentive criteria for the pilot program.  <a href="#">Sec. 862</a> adopts the Senate provision.
<b>Mitigating Foreign Influence in DOD Contracting</b>		
<a href="#">Sec. 808</a> proposed to require contractors providing consulting services to DOD to disclose any previous contracts or financial awards from covered entities, including entities with connections to the governments of the People's Republic of China or the Russian Federation, as well as several entity lists maintained by the Department of Commerce.	<a href="#">Sec. 812</a> proposed to amend <a href="#">10 U.S.C. 4871</a> to add additional restrictions and procedures for preventing covered persons or entities from contracting with DOD.  <a href="#">Sec. 819</a> proposed to increase statutory requirements to confirm that contractors do not have conflicts of interest, including contracts, with covered foreign entities, including entities with connections to the governments of the People's Republic of China or the Russian Federation. Contractors found to have conflicts of interest with covered entities would be subject to additional surveillance.	The House provision was not adopted. <a href="#">Sec. 823</a> adopts <a href="#">Sec. 812</a> of the Senate-passed NDAA. <a href="#">Sec. 812</a> adopts <a href="#">Sec. 819</a> of the Senate-passed NDAA, with additional definitions included.

**Source:** CRS analysis of legislation on Congress.gov.

## Discussion

### DOD's Capability Development Process

[Some defense experts](#) and policymakers have argued for a need for DOD to improve and/or accelerate its acquisition processes for new, innovative technologies.

Several provisions in the FY2024 NDAA aim to modify acquisition processes, delegate authorities and responsibilities, and create new organizations to improve both how DOD develops capabilities and the speed at which such capabilities are developed and fielded.

## DOD Contracting

DOD contracting is a longstanding issue of interest for Congress. [Media coverage](#) in 2023 concerning DOD [contract pricing](#) and [subcontractor cash flow](#) has generated congressional interest in the topic.

The FY2024 NDAA contains several provisions related to DOD contractor transparency and adherence to regulation.

## Mitigating Foreign Influence in DOD Contracting

Some Members of Congress have expressed interest in preventing adversarial governments from having financial and other ties to DOD contractors, particularly after DOD identified China as the “[pacing challenge](#)” (i.e., the challenge against which to “pace” armed forces development) as well as department [efforts](#) to prevent [foreign ownership, control, and influence](#) (FOCI) in its supply chain.

Such interest is reflected in FY2024 NDAA provisions that increase reporting requirements regarding FOCI and increase restrictions on contractors found to have FOCI risk.

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