

115TH CONGRESS  
1ST SESSION

# H. R. 3019

To require executive agencies to avoid using lowest price technically acceptable source selection criteria in certain circumstances, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2017

Mr. MEADOWS (for himself, Mr. BEYER, Mr. CONNOLLY, and Mr. WITTMAN) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

---

## A BILL

To require executive agencies to avoid using lowest price technically acceptable source selection criteria in certain circumstances, 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 “Promoting Value  
5 Based Procurement Act of 2017”.

6 **SEC. 2. USE OF LOWEST PRICE TECHNICALLY ACCEPTABLE**  
7 **SOURCE SELECTION PROCESS.**

8 (a) STATEMENT OF POLICY.—It shall be the policy  
9 of the United States Government to avoid using lowest

1 price technically acceptable source selection criteria in cir-  
2 cumstances that would deny the Government the benefits  
3 of cost and technical tradeoffs in the source selection proc-  
4 ess.

5 (b) REVISION OF FEDERAL ACQUISITION REGULA-  
6 TION.—Not later than 120 days after the date of the en-  
7 actment of this Act, the Federal Acquisition Regulation  
8 shall be revised to require that, for solicitations issued on  
9 or after the date that is 120 days after the date of the  
10 enactment of this Act, lowest price technically acceptable  
11 source selection criteria are used only in situations in  
12 which—

13 (1) an executive agency is able to comprehen-  
14 sively and clearly describe the minimum require-  
15 ments expressed in terms of performance objectives,  
16 measures, and standards that will be used to deter-  
17 mine acceptability of offers;

18 (2) the executive agency would realize no, or  
19 minimal, value from a contract proposal exceeding  
20 the minimum technical or performance requirements  
21 set forth in the request for proposal;

22 (3) the proposed technical approaches will re-  
23 quire no, or minimal, subjective judgment by the  
24 source selection authority as to the desirability of  
25 one offeror's proposal versus a competing proposal;

1           (4) the source selection authority has a high de-  
2           gree of confidence that a review of technical pro-  
3           posals of offerors other than the lowest bidder would  
4           not result in the identification of factors that could  
5           provide value or benefit to the executive agency;

6           (5) the contracting officer has included a jus-  
7           tification for the use of a lowest price technically ac-  
8           ceptable evaluation methodology in the contract file;  
9           and

10          (6) the executive agency has determined that  
11          the lowest price reflects full life-cycle costs, including  
12          for operations and support.

13          (c) AVOIDANCE OF USE OF LOWEST PRICE TECH-  
14          NICALLY ACCEPTABLE SOURCE SELECTION CRITERIA IN  
15          CERTAIN PROCUREMENTS.—To the maximum extent  
16          practicable, the use of lowest price technically acceptable  
17          source selection criteria shall be avoided in the case of a  
18          procurement that is predominately for the acquisition of—

19               (1) information technology services, cybersecu-  
20               rity services, systems engineering and technical as-  
21               sistance services, advanced electronic testing, audit  
22               or audit readiness services, or other knowledge-based  
23               professional services;

24               (2) personal protective equipment; or

1           (3) knowledge-based training or logistics serv-  
2           ices in contingency operations or other operations  
3           outside the United States, including in Afghanistan  
4           or Iraq.

5           (d) REPORTING.—Not later than one year after the  
6           date of the enactment of this Act, and annually thereafter  
7           for three years, the Comptroller General of the United  
8           States shall submit to the appropriate congressional com-  
9           mittees a report on the number of instances in which low-  
10          est price technically acceptable source selection criteria is  
11          used for a contract exceeding \$2,000,000, including an ex-  
12          planation of how the situations listed in subsection (b)  
13          were considered in making a determination to use lowest  
14          price technically acceptable source selection criteria.

15          (e) DEFINITIONS.—In this section:

16               (1) EXECUTIVE AGENCY.—The term “executive  
17               agency” has the meaning given that term in section  
18               102 of title 40, United States Code, except that the  
19               term does not include the Department of Defense.

20               (2) CONTINGENCY OPERATION.—The term  
21               “contingency operation” has the meaning given that  
22               term in section 101 of title 10, United States Code.

23               (3) APPROPRIATE CONGRESSIONAL COMMIT-  
24               TEES.—The term “appropriate congressional com-  
25               mittees” means the Committee on Oversight and

1 Government Reform of the House of Representatives  
2 and the Committee on Homeland Security and Gov-  
3 ernmental Affairs of the Senate.

