

112TH CONGRESS
1ST SESSION

S. 189

To require the Secretary of Defense, in awarding a contract for the KC–X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2011

Mr. MORAN (for himself, Ms. CANTWELL, Mr. ROBERTS, Mrs. MURRAY, Mr. BLUNT, Mrs. MCCASKILL, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To require the Secretary of Defense, in awarding a contract for the KC–X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess.

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 “Defense Level Playing
5 Field Act”.

1 **SEC. 2. CONSIDERATION OF UNFAIR COMPETITIVE ADVAN-**
2 **TAGE IN EVALUATION OF OFFERS FOR KC-X**
3 **AERIAL REFUELING AIRCRAFT PROGRAM.**

4 (a) **REQUIREMENT TO CONSIDER UNFAIR COMPETI-**
5 **TIVE ADVANTAGE.**—In awarding a contract for the KC-
6 X aerial refueling aircraft program (or any successor to
7 that program), the Secretary of Defense shall, in evalu-
8 ating any offers submitted to the Department of Defense
9 in response to a solicitation for offers for such program,
10 consider any unfair competitive advantage that an offeror
11 may possess.

12 (b) **REPORT.**—Not later than 60 days after submis-
13 sion of offers in response to any such solicitation, the Sec-
14 retary of Defense shall submit to the congressional defense
15 committees a report on any unfair competitive advantage
16 that any offeror may possess.

17 (c) **REQUIREMENT TO TAKE FINDINGS INTO AC-**
18 **COUNT IN AWARD OF CONTRACT.**—In awarding a contract
19 for the KC-X aerial refueling aircraft program (or any
20 successor to that program), the Secretary of Defense shall
21 take into account the findings of the report submitted
22 under subsection (b).

23 (d) **DEFINITIONS.**—In this section:

24 (1) The term “congressional defense commit-
25 tees” has the meaning given such term in section
26 101(a)(16) of title 10, United States Code.

1 (2) The term “unfair competitive advantage”,
2 with respect to an offer for a contract, means a situ-
3 ation in which the cost of development, production,
4 or manufacturing is not fully borne by the offeror
5 for such contract.

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