

Union Calendar No. 48

109TH CONGRESS
1ST SESSION

H. R. 2066

[Report No. 109-91]

To amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2005

Mr. TOM DAVIS of Virginia (for himself and Mr. HUNTER) introduced the following bill; which was referred to the Committee on Government Reform

MAY 23, 2005

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on May 4, 2005]

A BILL

To amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, 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,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “General Services Admin-*
3 *istration Modernization Act”.*

4 **SEC. 2. FEDERAL ACQUISITION SERVICE.**

5 (a) *ESTABLISHMENT.*—

6 (1) *IN GENERAL.*—Section 303 of title 40,
7 *United States Code, is amended to read as follows:*

8 **“§ 303. Federal Acquisition Service**

9 “(a) *ESTABLISHMENT.*—*There is established in the*
10 *General Services Administration a Federal Acquisition*
11 *Service. The Administrator of General Services shall ap-*
12 *point a Commissioner of the Federal Acquisition Service,*
13 *who shall be the head of the Federal Acquisition Service.*

14 “(b) *FUNCTIONS.*—*Subject to the direction and control*
15 *of the Administrator of General Services, the Commissioner*
16 *of the Federal Acquisition Service shall be responsible for*
17 *carrying out functions related to the uses for which the Ac-*
18 *quisition Services Fund is authorized under section 321 of*
19 *this title, including any functions that were carried out by*
20 *the entities known as the Federal Supply Service and the*
21 *Federal Technology Service and such other related functions*
22 *as the Administrator considers appropriate.*

23 “(c) *REGIONAL EXECUTIVES.*—*The Administrator*
24 *may appoint up to five Regional Executives in the Federal*
25 *Acquisition Service, to carry out such functions within the*

1 *Federal Acquisition Service as the Administrator considers*
2 *appropriate.”.*

3 (2) *CLERICAL AMENDMENT.—The item relating*
4 *to section 303 at the beginning of chapter 3 of such*
5 *title is amended to read as follows:*

“303. Federal Acquisition Service.”.

6 (b) *EXECUTIVE SCHEDULE COMPENSATION.—Section*
7 *5316 of title 5, United States Code, is amended by striking*
8 *“Commissioner, Federal Supply Service, General Services*
9 *Administration.” and inserting the following:*

10 *“Commissioner, Federal Acquisition Service,*
11 *General Services Administration.”.*

12 (c) *REFERENCES.—Any reference in any other Federal*
13 *law, Executive order, rule, regulation, reorganization plan,*
14 *or delegation of authority, or in any document—*

15 (1) *to the Federal Supply Service is deemed to*
16 *refer to the Federal Acquisition Service;*

17 (2) *to the GSA Federal Technology Service is*
18 *deemed to refer to the Federal Acquisition Service;*

19 (3) *to the Commissioner of the Federal Supply*
20 *Service is deemed to refer to the Commissioner of the*
21 *Federal Acquisition Service; and*

22 (4) *to the Commissioner of the GSA Federal*
23 *Technology Service is deemed to refer to the Commis-*
24 *sioner of the Federal Acquisition Service.*

1 **SEC. 3. ACQUISITION SERVICES FUND.**

2 (a) *ABOLISHMENT OF GENERAL SUPPLY FUND AND*
3 *INFORMATION TECHNOLOGY FUND.*—*The General Supply*
4 *Fund and the Information Technology Fund in the Treas-*
5 *ury are hereby abolished.*

6 (b) *TRANSFERS.*—*Capital assets and balances remain-*
7 *ing in the General Supply Fund and the Information Tech-*
8 *nology Fund as in existence immediately before this section*
9 *takes effect shall be transferred to the Acquisition Services*
10 *Fund and shall be merged with and be available for the*
11 *purposes of the Acquisition Services Fund under section 321*
12 *of title 40, United States Code (as amended by this Act).*

13 (c) *ASSUMPTION OF OBLIGATIONS.*—*Any liabilities,*
14 *commitments, and obligations of the General Supply Fund*
15 *and the Information Technology Fund as in existence im-*
16 *mediately before this section takes effect shall be assumed*
17 *by the Acquisition Services Fund.*

18 (d) *EXISTENCE AND COMPOSITION OF ACQUISITION*
19 *SERVICES FUND.*—*Subsections (a) and (b) of section 321*
20 *of title 40, United States Code, are amended to read as fol-*
21 *lows:*

22 “(a) *EXISTENCE.*—*The Acquisition Services Fund is*
23 *a special fund in the Treasury.*

24 “(b) *COMPOSITION.*—

1 “(1) *IN GENERAL.*—*The Fund is composed of*
2 *amounts authorized to be transferred to the Fund or*
3 *otherwise made available to the Fund.*

4 “(2) *OTHER CREDITS.*—*The Fund shall be cred-*
5 *ited with all reimbursements, advances, and refunds*
6 *or recoveries relating to personal property or services*
7 *procured through the Fund, including—*

8 “(A) *the net proceeds of disposal of surplus*
9 *personal property; and*

10 “(B) *receipts from carriers and others for*
11 *loss of, or damage to, personal property; and*

12 “(C) *receipts from agencies charged fees*
13 *pursuant to rates established by the Adminis-*
14 *trator.*

15 “(3) *COST AND CAPITAL REQUIREMENTS.*—*The*
16 *Administrator shall determine the cost and capital re-*
17 *quirements of the Fund for each fiscal year and shall*
18 *develop a plan concerning such requirements in con-*
19 *sultation with the Chief Financial Officer of the Gen-*
20 *eral Services Administration. Any change to the cost*
21 *and capital requirements of the Fund for a fiscal year*
22 *shall be approved by the Administrator. The Adminis-*
23 *trator shall establish rates to be charged agencies pro-*
24 *vided, or to be provided, supply of personal property*

1 *and non-personal services through the Fund, in ac-*
2 *cordance with the plan.*

3 “(4) *DEPOSIT OF FEES.*—*Fees collected by the*
4 *Administrator under section 313 of this title may be*
5 *deposited in the Fund to be used for the purposes of*
6 *the Fund.*”.

7 (e) *USES OF FUND.*—*Section 321(c) of such title is*
8 *amended in paragraph (1)(A)—*

9 (1) *by striking “and” at the end of clause (i);*

10 (2) *by inserting “and” after the semicolon at the*
11 *end of clause (ii); and*

12 (3) *by inserting after clause (ii) the following*
13 *new clause:*

14 “(iii) *personal services related to the*
15 *provision of information technology (as de-*
16 *fined in section 11101(6) of this title);”.*

17 (f) *PAYMENT FOR PROPERTY AND SERVICES.*—*Section*
18 *321(d)(2)(A) of such title is amended—*

19 (1) *by striking “and” at the end of clause (iv);*

20 (2) *by redesignating clause (v) as clause (vi);*

21 *and*

22 (3) *by inserting after clause (iv) the following*
23 *new clause:*

24 “(v) *the cost of personal services em-*
25 *ployed directly in providing information*

1 *technology (as defined in section 11101(6)*
2 *of this title); and”.*

3 *(g) TRANSFER OF UNCOMMITTED BALANCES.—Sub-*
4 *section (f) of section 321 of such title is amended to read*
5 *as follows:*

6 *“(f) TRANSFER OF UNCOMMITTED BALANCES.—Fol-*
7 *lowing the close of each fiscal year, after making provision*
8 *for a sufficient level of inventory of personal property to*
9 *meet the needs of Federal agencies, the replacement cost of*
10 *motor vehicles, and other anticipated operating needs re-*
11 *flected in the cost and capital plan developed under sub-*
12 *section (b), the uncommitted balance of any funds remain-*
13 *ing in the Fund shall be transferred to the general fund*
14 *of the Treasury as miscellaneous receipts.”.*

15 *(h) CONFORMING AND CLERICAL AMENDMENTS.—*

16 *(1) Section 322 of such title is repealed.*

17 *(2) The heading for section 321 of such title is*
18 *amended to read as follows:*

19 **“§ 321. Acquisition Services Fund”.**

20 *(3) The table of sections for chapter 3 of such*
21 *title is amended by striking the items relating to sec-*
22 *tions 321 and 322 and inserting the following:*

“321. Acquisition Services Fund.”.

23 *(4) Section 573 of such title is amended by strik-*
24 *ing “General Supply Fund” both places it appears*
25 *and inserting “Acquisition Services Fund”.*

1 (5) *Section 604(b) of such title is amended—*

2 (A) *in the heading, by striking “GENERAL*
3 *SUPPLY FUND” and inserting “ACQUISITION*
4 *SERVICES FUND”; and*

5 (B) *in the text, by striking “General Supply*
6 *Fund” and inserting “Acquisition Services*
7 *Fund”.*

8 (6) *Section 605 of such title is amended—*

9 (A) *in subsection (a)—*

10 (i) *in the heading, by striking “GEN-*
11 *ERAL SUPPLY FUND” and inserting “AC-*
12 *QUISITION SERVICES FUND”; and*

13 (ii) *in the text, by striking “General*
14 *Supply Fund” and inserting “Acquisition*
15 *Services Fund”; and*

16 (B) *in subsection (b)(2)—*

17 (i) *by striking “321(f)(1)” and insert-*
18 *ing “321(f)”; and*

19 (ii) *by striking “General Supply*
20 *Fund” and inserting “Acquisition Services*
21 *Fund”.*

1 **SEC. 4. PROVISIONS RELATING TO ACQUISITION PER-**
2 **SONNEL.**

3 *Section 37 of the Office of Federal Procurement Policy*
4 *Act (41 U.S.C. 433) is amended by adding at the end the*
5 *following new subsections:*

6 “(i) *PROVISIONS RELATING TO REEMPLOYMENT.—*

7 “(1) *POLICIES AND PROCEDURES.—The head of*
8 *each executive agency, after consultation with the Ad-*
9 *ministrator and the Director of the Office of Per-*
10 *sonnel Management, shall establish policies and proce-*
11 *dures under which the agency head may reemploy in*
12 *an acquisition-related position (as described in sub-*
13 *section (g)(1)(A)) an individual receiving an annuity*
14 *from the Civil Service Retirement and Disability*
15 *Fund, on the basis of such individual’s service, with-*
16 *out discontinuing such annuity. The head of each ex-*
17 *ecutive agency shall keep the Administrator informed*
18 *of the agency’s use of this authority.*

19 “(2) *SERVICE NOT SUBJECT TO CSRS OR FERS.—*
20 *An individual so reemployed shall not be considered*
21 *an employee for the purposes of chapter 83 or 84 of*
22 *title 5, United States Code.*

23 “(3) *CRITERIA FOR EXERCISE OF AUTHORITY.—*
24 *Polices and procedures established pursuant to this*
25 *subsection shall authorize the head of the executive*

1 agency, on a case-by-case basis, to continue an annu-
2 ity if—

3 “(A) the unusually high or unique quali-
4 fications of an individual receiving an annuity
5 from the Civil Service Retirement and Disability
6 Fund on the basis of such individual’s service, or

7 “(B) a special need of the agency for the
8 services of an employee,
9 makes the reemployment of an individual essential.

10 “(4) *REPORTING REQUIREMENT.*—The Adminis-
11 trator shall submit annually to the Committee on
12 Government Reform of the House of Representatives
13 and the Committee on Homeland Security and Gov-
14 ernmental Affairs of the Senate a report on the use
15 of the authority under this subsection, including the
16 number of employees reemployed under authority of
17 this subsection.

18 “(5) *SUNSET PROVISION.*—The authority under
19 this subsection shall expire on December 31, 2011.

20 “(j) *RETENTION BONUSES.*—

21 “(1) *IN GENERAL.*—The head of each executive
22 agency, after consultation with the Administrator,
23 shall establish policies and procedures under which
24 the agency head may pay retention bonuses to em-
25 ployees holding acquisition-related positions (as de-

1 *scribed in subsection (g)(1)(A)) within such agency,*
2 *except that the authority to pay a bonus under this*
3 *subsection shall be available only if—*

4 *“(A) the unusually high or unique quali-*
5 *fications of an employee or a special need of the*
6 *agency for the services of an employee makes the*
7 *retention of such employee essential; and*

8 *“(B) the agency determines that, in the ab-*
9 *sence of such a bonus, it is likely that the em-*
10 *ployee would leave—*

11 *“(i) the Federal service; or*

12 *“(ii) for a different position in the*
13 *Federal service under conditions described*
14 *in regulations of the Office.*

15 *“(2) SERVICE AGREEMENTS.—(A) Payment of a*
16 *bonus under this subsection shall be contingent upon*
17 *the employee entering into a written agreement with*
18 *the agency to complete a period of service with the*
19 *agency in return for the bonus.*

20 *“(B)(i) The agreement shall include—*

21 *“(I) the length of the period of service re-*
22 *quired;*

23 *“(II) the bonus amount;*

24 *“(III) the manner in which the bonus will*
25 *be paid (as described in paragraph (3)(B)); and*

1 “(IV) any other terms and conditions of the
2 bonus, including the terms and conditions gov-
3 erning the termination of an agreement.

4 “(3) TERMS AND CONDITIONS.—A bonus under
5 this subsection—

6 “(A) may not exceed 50 percent of the basic
7 pay of the employee;

8 “(B) may be paid to an employee—

9 “(i) in installments after completion of
10 specified periods of service;

11 “(ii) in a single lump sum at the end
12 of the period of service required by the
13 agreement; or

14 “(iii) in any other manner mutually
15 agreed to by the agency and the employee;

16 “(C) is not part of the basic pay of the em-
17 ployee; and

18 “(D) may not be paid to an employee who
19 holds a position—

20 “(i) appointment to which is by the
21 President, by and with the advice and con-
22 sent of the Senate;

23 “(ii) in the Senior Executive Service
24 as a noncareer appointee (as such term is

1 *defined under section 3132(a) of title 5,*
2 *United States Code); or*

3 *“(iii) which has been excepted from the*
4 *competitive service by reason of its con-*
5 *fidential, policy-determining, policy-mak-*
6 *ing, or policy-advocating character.”.*

7 **SEC. 5. EFFECTIVE DATE.**

8 *This Act and the amendments made by this Act shall*
9 *take effect 60 days after the date of the enactment of this*
10 *Act.*

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A BILL

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