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119TH CONGRESS
1ST SESSION

H. R. 767

To amend the Public Health Service Act to authorize the Biomedical Advanced Research and Development Authority to award follow-on production contracts or transactions, procure supplies for experimental or test purposes, and acquire innovative commercial products and commercial services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2025

Mr. GARCIA of California introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Public Health Service Act to authorize the Biomedical Advanced Research and Development Authority to award follow-on production contracts or transactions, procure supplies for experimental or test purposes, and acquire innovative commercial products and commercial services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fast-Track Logistics for Acquiring Supplies in a Hurry Act of 2025'' or the ''FLASH Act of 2025''.

SEC. 2. AUTHORITY TO AWARD FOLLOW-ON PRODUCTION CONTRACTS OR TRANSACTIONS, PROCURE SUPPLIES FOR EXPERIMENTAL OR TEST PURPOSES, AND ACQUIRE INNOVATIVE COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES.

Section 319L of the Public Health Service Act (42 U.S.C. 247d–7e) is amended—

(1) in subsection (a)(6)(B), by amending clause (ii) to read as follows:

"(ii) design and development of—

"(I) tests and prototypes, including obtaining sufficient quantities for evaluation of such tests and prototypes; and

"(II) models, including animal models, for such testing and prototypes;"; and

(2) in subsection (c)(5)—

(A) in subparagraph (A)—

(i) by redesignating clause (iv) as clause (v); and

(ii) by inserting after clause (iii) the following new clause:

"(iv) FOLLOW-ON PRODUCTION CONTRACTS OR TRANSACTIONS.—

''(I) IN GENERAL.—A transaction entered into under this subparagraph for the design or development of a prototype may provide for the award of a follow-on production contract or transaction to the participants in the transaction.

''(II) PROTOTYPE SUBPROJECTS.—A transaction entered into under this subparagraph includes all prototype subprojects awarded under the transaction to carry out authorities under this section.

''(III) EXCEPTION TO COMPETITIVE PROCEDURES.—Notwithstanding clause (ii), a follow-on production contract or transaction provided for in a transaction under this clause may be awarded to the participants in the transaction without the use of competitive procedures, even if explicit notification was not listed within the request for proposal for the transaction, if competitive procedures were used

for the selection of parties for participation in the initial transaction.''; and

(B) by adding at the end the following new subparagraphs:

''(I) PROCUREMENT FOR EXPERIMENTAL OR TEST PURPOSES.—

''(i) IN GENERAL.—The Secretary may purchase medical countermeasures, products, and supplies, chemical materials and reagents, manufacturing supplies, protective equipment, and such other supplies, including parts and accessories, and designs thereof, as the Secretary determines necessary for experimental or test purposes in the development of supplies that are necessary for national public health and health security.

''(ii) PROCEDURES.—Notwithstanding subparagraph (A)(ii), the Secretary may make purchases under this subparagraph by contract, or by entering into a transaction other than a contract, using noncompetitive procedures.

''(J) ACQUISITION OF INNOVATIVE COMMERCIAL PRODUCTS AND COMMERCIAL SERV-

ICES USING GENERAL SOLICITATION COMPETITIVE PROCEDURES.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A)(ii), the Secretary may acquire innovative commercial products and commercial services through a competitive selection of proposals resulting from a general solicitation and the peer review of such proposals.

"(ii) TREATMENT AS COMPETITIVE PROCEDURES.—Use of general solicitation competitive procedures under clause (i) shall be considered to be use of competitive procedures for purposes of chapter 33 of title 41, United States Code.

"(iii) LIMITATIONS.—

"(I) TRANSACTIONS IN EXCESS OF $100,000,000.—The Secretary may not enter into a contract or agreement in excess of $100,000,000 using the authority under clause (i), unless the Secretary makes a written determination of the efficacy of the effort to meet mission needs of the Department of Health and Human Services.

"(II) FIXED-PRICE.—Contracts or agreements entered into using the authority under clause (i) shall be fixed-price, including fixed-price incentive contracts.

"(iv) CONGRESSIONAL NOTIFICATION REQUIRED.—

"(I) SUBMISSION.—Not later than 45 days after the award of a contract for an amount exceeding $100,000,000 using the authority under clause (i), the Secretary shall provide notification of such award to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate.

"(II) CONTENTS.—Notification of an award under subclause (I) shall include the following:

"(aa) Description of the innovative commercial product or commercial service acquired.

"(bb) Description of the requirement, capability gap, or potential technological advancement with respect to which the innovative commercial product or commercial service acquired provides a solution or a potential new capability.

"(cc) Amount of the contract awarded.

"(dd) Identification of the contractor awarded the contract.

"(v) INNOVATIVE DEFINED.—In this subparagraph, the term 'innovative', with respect to a commercial product or commercial service, means—

"(I) any technology, process, or method, including research and development, that is new as of the date of submission of a proposal; or

"(II) with respect to a technology, process, or method, including

research and development, existing as of the date of submission of a proposal, any application of such technology, process, or method that is new to the Federal Government as of such date.''.

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