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REPORT
115–402

# FEDERAL ACQUISITION SAVINGS ACT OF 2017

NOVEMBER 8, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOWDY, from the Committee on Oversight and Government Reform, submitted the following

# R E P O R T

[To accompany H.R. 3071]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 3071) to require executive agencies to consider equipment rental in any cost-effectiveness analysis for equipment acquisition, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## COMMITTEE STATEMENT AND VIEWS

### PURPOSE AND SUMMARY

H.R. 3071, the Federal Acquisition Savings Act of 2017, requires the federal government to analyze the cost effectiveness of renting

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equipment compared to buying or leasing such equipment and to revise the Federal Acquisition Regulation (FAR) to implement this requirement. This bill also requires the Government Accountability Office (GAO) to submit a report to Congress two years after enactment on agency decisions to acquire equipment by purchase, lease, or rental.

## BACKGROUND AND NEED FOR LEGISLATION

In 2012, the GAO reported that agencies annually spent more than $200 billion on average purchasing or leasing equipment, with purchasing accounting for almost all of this spending.[1] Current rules encourage agencies to assess the cost and effectiveness of options to obtain equipment, but this analysis is limited to comparing only purchasing versus leasing.[2] Notably, the GAO found that agencies often fail to perform the lease-versus-purchase analysis.[3]

Beginning in 2013, there was an attempt to prompt a policy change to reemphasize the need for cost effectiveness analysis and consideration of the rental option. On July 16, 2013, the General Services Administration (GSA) issued a Request For Information (RFI) to examine whether there was a distinction between leasing and renting of equipment that should be considered in the FAR directed cost effectiveness analysis.[4] However, GSA did not pursue further action after the RFI.

H.R. 3071 makes clear that agencies should consider a range of options for obtaining equipment, to include purchasing, leasing, and renting, by directing a change to the FAR. H.R. 3071 reemphasizes the need to perform cost effectiveness analysis and include in this analysis the rental option. This policy change is a significant opportunity for cost savings in obtaining equipment.

Renting equipment can provide a more cost effective and flexible alternative to buying or even leasing, which becomes clear after analyzing these acquisition options. In purchasing equipment, the purchaser makes a long-term investment and assumes the total cost of ownership for the equipment. This is appropriate in many cases.

However, there may be short-term needs that can be met with acquisition solutions without assuming the total cost of ownership that purchasing equipment requires. Instead of purchasing, leasing or renting may offer better solutions.

It is important to consider the distinct attributes of leasing and renting in considering equipment acquisition options.[5] In the case of leasing, there are defined leasing periods—which can be years—and leases are specific to a particular piece of equipment. Leasing may also require capital to finance the lease whereas renting typically does not. Further, the costs of maintenance, insurance, and storage are typically the responsibility of the lessee and not the lessor. In contrast to leasing, renting equipment may provide for a temporary period with no fixed duration and is generally more

[1] Gov't Accountability Office, GAO–12–281R, Air Force and Interior Can Benefit From Additional Guidance When Deciding Whether to Lease or Purchase Equipment (2012).

[2] 48 C.F.R subpart 7.4 (2017).

[3] Gov't Accountability Office, *supra* note 1.

[4] 78 Fed. Reg. 42524 (July 16, 2013) (request for information).

[5] Letter from Christine L. Wehrman, CEO/Executive Vice President, American Rental Association, to the Honorable Daniel Tangherlini, Acting Administrator, General Services Administration (June 14, 2012).

flexible. Typically, rental agreements will cover cost of ownership, including storage, maintenance, insurance, transport, and licensing. Renting may be a particularly cost effective option when there will be low utilization rates for the equipment.

State and local governments have used the equipment rental option with great success, but the federal government has not widely adopted it. For example, the Texas Department of Transportation reported savings of $10.8 million due to a rental program implemented by their Fleet Operations Division.[6] The Director of the Fleet Operations Division reported renting more than 1,200 pieces of equipment at a cost of $18.9 million and purchasing 931 assets at a cost of more than $40 million.[7] In Mississippi, the Department of Transportation commissioned a study on its equipment management processes and systems and found renting equipment to supplement their fleet was the most cost effective option.[8] The study found Mississippi could realize over $13,000 in annual cost savings and $180,000 in life-cycle cost savings per bulldozer unit.[9]

## LEGISLATIVE HISTORY

On June 27, 2017, Representative Earl L. "Buddy" Carter (R–GA) introduced H.R. 3071, the Federal Acquisition Savings Act of 2017, with Representatives James Himes (D–CT) and Glenn Grothman (R–WI). H.R. 3071 was referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 3071 at a business meeting on September 13, 2017, and ordered the bill reported favorably to the House, by voice vote.

## SECTION-BY-SECTION

### *Section 1. Short title*

Section 1 establishes the short title of the bill.

### *Section 2. Cost-effectiveness analysis of equipment rental*

Section 2 directs agencies to consider equipment rental in any cost effectiveness analysis for equipment acquisitions conducted 180 days after enactment, and requires the Federal Acquisition Regulation (FAR) be updated accordingly. In addition, Section 2 requires a GAO report on agency decisions made to acquire equipment by purchase, lease, or renting pursuant to the FAR.

## EXPLANATION OF AMENDMENTS

There were no amendments to H.R. 3071 offered or adopted during Committee consideration of the bill.

## COMMITTEE CONSIDERATION

On September 13, 2017, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported to the House, by voice vote.

[6] Letter from Dalton Pratt, Director, Fleet Operations Division, Texas Department of Transportation, to John W. McClelland, Vice President Government Affairs and Chief Economist, American Rental Association (May 19, 2017).
[7] *Id.*
[8] Dye Management Group, Inc., Equipment Management Review Final Recommendation Report (Nov. 2013) (Report for the Mississippi Department of Transportation).
[9] *Id.* at 27.

## ROLL CALL VOTES

There were no roll call votes requested or conducted during Full Committee consideration of H.R. 3071.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill helps ensure the federal government makes cost effective decisions in obtaining equipment by analyzing various acquisition strategies. As such, this bill does not relate to employment or access to public services and accommodations.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of this bill is to ensure the federal government makes cost effective decisions in obtaining equipment by analyzing various acquisition strategies.

## DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of section 551 or title 5, United States Code. However, this bill does direct a revision of the Federal Acquisition Regulation.

## FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

## UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the Congressional Budget and Impoundment Control Act (Pub. L. 113–67) the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, October 4, 2017.*

Hon. TREY GOWDY,
*Chairman, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3071, the Federal Acquisition Savings Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL,
*Director.*

Enclosure.

*H.R. 3071—Federal Acquisition Savings Act of 2017*

H.R. 3071 would amend the Federal Acquisition Regulation to require agencies to consider equipment rental in any analysis performed prior to acquiring a piece of equipment. The bill also would require a report within two years by the Government Accountability Office on equipment acquisitions. According to the General Services Administration, agencies are already required to consider purchasing or leasing when evaluating the acquisition of equipment. This bill would clarify that renting equipment is an acceptable method for acquiring equipment. Because H.R. 3071 would not materially change how agencies acquire equipment, CBO estimates that implementing H.R. 3071 would have no significant effect on the federal budget.

H.R. 3071 could affect direct spending by agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would not be significant. Enacting H.R. 3071 would not affect revenues.

CBO estimates that enacting H.R. 3071 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3071 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.