SEC. ___. ADMISSION OF ESSENTIAL SCIENTISTS AND OTHER EXPERTS TO ENHANCE THE TECHNOLOGICAL SUPERIORITY OF THE UNITED STATES.

(a) SPECIAL IMMIGRANT STATUS.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by adding a semicolon at the end of subparagraph (L);

(2) by striking the period at the end of subparagraph (M) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(N) an immigrant (and the immigrant's spouse and children if accompanying or following to join the immigrant) who—

"(i) has been recommended for a special immigrant visa, or, if in the United States, special immigrant status, by the Secretary of Defense, the Secretary of Energy, or the head of any other United States national security agency designated for purposes of this subparagraph by the Secretary of Homeland Security, with the concurrence of the Secretary of State, based on a finding that the individual—

"(I) is a current or past participant in research funded by the recommending agency;

"(II) is a current or past employee or contracted employee with the recommending agency; or

"(III) as determined by the recommending agency—

"(aa) earned a master's, doctoral, or professional degree from an accredited United States institution of

higher education, or completed a graduate fellowship or graduate medical education at an accredited United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), that entailed research in a field of importance to national security;

"(bb) is a current employee with, or has a documented job offer from, a company that develops new technologies or cutting-edge research that contributes to the national security of the United States;

"(cc) is a founder or co-founder of a United States-based company that develops new technologies or cutting-edge research that contributes to the national security of the United States; or

"(dd) has extensive expertise and scientific knowledge of crucial national security importance that would advance national security; and

"(ii) based on a recommendation described in clause (i), the Secretary of Homeland Security or the Secretary of State, as applicable, finds that the individual possesses scientific or technical expertise that will contribute to the national security of the United States and approves such status.".

(b) EXEMPTION FROM NUMERICAL LIMITS.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

"(F) Special immigrants (and the spouses and children of such immigrants) who are described in section 101(a)(27)(N), until the number of principal immigrants (excluding their spouses and children) under section 101(a)(27)(N)(i) during a fiscal year reaches 200.".

Section-by-Section Analysis

This proposal expands the definition of "special immigrant" described in 8 U.S.C. 1101(a)(27)) to include immigrants with skills or expertise of importance to U.S. technological superiority, and to their accompanying spouses and children. To qualify for this category, the Secretary of Defense, the Secretary of Energy, or the head of any other United States national security agency must determine that the immigrant will make contributions to the national security of the United States through the immigrant's scientific or technical expertise, and the Secretary of State and the Secretary of Homeland Security must concur and approve the immigrants for special immigrant status. If qualified, immigrants will be eligible to self-petition for immigrant classification Employment Based category 4 (EB4) and then apply for lawful permanent resident status through the United States Citizenship and Immigration Services (USCIS). This proposal limits the number of special immigrant visas under this category to no more than 200 per year, excluding spouses and children, and exempts these 200 visas from other numerical limitations on special immigrant visas.

(a) EXPANSION OF THE DEFINITION OF SPECIAL IMMIGRANT

The United States has less than 5 percent of the world's population, which means that the majority of the best scientific minds will be born outside U.S. borders. Current U.S immigration policy affords some opportunity for skilled scientific talent to immigrate to the United States, but the Department of Defense, the Department of Energy, and other United States national security agencies have no mechanism by which to select or encourage immigration for researchers with technical or scientific skills important for national security.

This proposal provides the Department of Defense, the Department of Energy, and other United States national security agencies an opportunity to recommend high-skilled foreign nationals, whose scientific or technical expertise are important for the national security interests of the United States, for lawful permanent residence in the United States. Lawful permanent residence will enable these skilled researchers to stay and work in the United States, contributing to the national security research enterprise through work at academic institutions and private industry. This will help ensure that the United States is first in developing new capabilities and

maintain the U.S. technological edge. If top talent contributes skills to economic competitors or adversary nations, the U.S. warfighter risks being technologically surprised.

This proposal does not grant the Department of Defense, the Department of Energy, or other United States national security agencies authority to issue visas or grant lawful permanent resident status. The authority to issue visas belongs to the Department of State, and the authority to grant lawful permanent resident status belongs to the Department of Homeland Security and the Department of Justice. The authority that would be granted to the Department of Defense, the Department of Energy, or other United States national security agencies in this proposal is only to recommend certain immigrants for this special category that will make them eligible to apply for lawful permanent residence. USCIS and State Department processes, including background checks and general eligibility criteria, will not be affected if this proposal is enacted. Further, this proposal does not modify any rules pertaining to lawful permanent residence or hiring rules and is not intended to recruit individuals for direct employment with the Department of Defense, the Department of Energy, or other United States national security agencies.

If this authority is granted, each agency will create a process to evaluate immigrants for this category.

(b) EXEMPTION FROM NUMERICAL LIMITS.

This proposal exempts individuals who fall under the expanded definition of special immigrant from the current numerical limitations on visas allotted to special immigrants.

Numerical limitations on visas can create delays in an individual's ability to obtain status as a lawful permanent resident. By excluding special immigrants that meet the criteria described in this proposal from existing numerical caps on visas, these skilled immigrants will be able to enter the workforce with fewer delays and will be placed on an expedited path to contribute their skills and expertise to growing the national security research base.

The proposal also sets a cap on the number of special immigrant visas made available under the new definition to identify immigrants specifically working to support U.S. national security interests. The identified principal immigrants, plus, in addition, their spouses and children, are exempt from both the worldwide limitations and per-country caps.

Resource Information: This proposal has no significant impact on the use of resources. Resources affected by this proposal are incidental in nature and amount and are included within the Fiscal Year (FY) 2023 President's Budget request.

Changes to Existing Law: This proposal would amend section 101(a)(27) and section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27) and 8 U.S.C. 1151(b)) as follows:

DEFINITIONS

SECTION 101. As used in this Act—

* * * * *

(27) The term “special immigrant” means-

(A) an immigrant, lawfully admitted for permanent residence, who is returning from a temporary visit abroad;

(B) an immigrant who was a citizen of the United States and may, under 324(a) or 327 of title III [8 U.S.C. 1435(a) or 1438], apply for reacquisition of citizenship;

(C) an immigrant, and the immigrant's spouse and children if accompanying or following to join the immigrant, who-

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States-

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before September 30, 2015, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before September 30, 2015, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);

(D) an immigrant who-

(i) is an employee, or an honorably retired former employee, of the United States Government abroad, or of the American Institute in Taiwan, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: *Provided*, That the principal officer of a Foreign Service establishment (or, in the case of the American Institute in Taiwan, the Director thereof), in his discretion, shall have recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status; or

(ii) is the surviving spouse or child of an employee of the United States Government abroad: *Provided*, That the employee performed faithful service for a total of not less than 15 years or was killed in the line of duty;

(E) an immigrant, and his accompanying spouse and children, who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as described in section 3(a)(1) of the Panama Canal Act of 1979 [22 U.S.C. 3602(a)(1)]) enters into force [October 1, 1979], who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty [April 1, 1979], and who has performed faithful service as such an employee for one year or more;

(F) an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which such Panama Canal Treaty of 1977 enters into force [October 1, 1979], has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or (ii) who, on the date on which such Treaty enters into force, has been employed by the United States Government in

the Canal Zone with a total of 15 years or more of faithful service and who subsequently is honorably retired from such employment or continues to be employed by the United States Government in an area of the former Canal Zone;

(G) an immigrant, and his accompanying spouse and children, who was an employee of the Panama Canal Company or Canal Zone Government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of 1977 [April 1, 1979], who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is reasonably placed in danger because of the special nature of any of that employment;

(H) an immigrant, and his accompanying spouse and children, who-

(i) has graduated from a medical school or has qualified to practice medicine in a foreign state,

(ii) was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date,

(iii) entered the United States as a nonimmigrant under subsection (a)(15)(H) or (a)(15)(J) before January 10, 1978, and

(iv) has been continuously present in the United States in the practice or study of medicine since the date of such entry;

(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for a visa or adjustment of status under this subparagraph no later than his twenty-fifth birthday or six months after October 24, 1988, whichever is later;

(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) files a petition for status under this subparagraph no later than six months after the date of such death or six months after October 24, 1988, whichever is later;

(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II) files a petition for status under this subparagraph no later than six months after the date of such retirement or six months after October 25, 1994, whichever is later; or

(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family;

(J) an immigrant who is present in the United States-

(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;

(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status, except that-

(I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction; and

(II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter;

(K) an immigrant who has served honorably on active duty in the Armed Forces of the United States after October 15, 1978, and after original lawful enlistment outside the United States (under a treaty or agreement in effect on October 1, 1991) for a period or periods aggregating-

(i) 12 years and who, if separated from such service, was never separated except under honorable conditions, or

(ii) 6 years, in the case of an immigrant who is on active duty at the time of seeking special immigrant status under this subparagraph and who has reenlisted to incur a total active duty service obligation of at least 12 years,

and the spouse or child of any such immigrant if accompanying or following to join the immigrant, but only if the executive department under which the immigrant serves or served recommends the granting of special immigrant status to the immigrant;

(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause-

(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the "Protocol on the Status of International Military Headquarters" set up pursuant to the North Atlantic Treaty, or as a dependent); and

(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness and Workforce Improvement Act of 1998;

(M) subject to the numerical limitations of section 203(b)(4) [8 U.S.C. 1153(b)(4)], an immigrant who seeks to enter the United States to work as a broadcaster in the United States for the International Broadcasting Bureau of the Broadcasting Board of Governors, or for a

grantee of the Broadcasting Board of Governors, and the immigrant's accompanying spouse and children. ; or

(N) an immigrant (and the immigrant's spouse and children if accompanying or following to join the immigrant) who—

(i) has been recommended for a special immigrant visa, or, if in the United States, special immigrant status, by the Secretary of Defense, the Secretary of Energy, or the head of any other United States national security agency designated for purposes of this subparagraph by the Secretary of Homeland Security, with the concurrence of the Secretary of State, based on a finding that the individual—

(I) is a current or past participant in research funded by the recommending agency;

(II) is a current or past employee or contracted employee with the recommending agency; or

(III) as determined by the recommending agency—

(aa) earned a master's, doctoral, or professional degree from an accredited United States institution of higher education, or completed a graduate fellowship or graduate medical education at an accredited United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), that entailed research in a field of importance to national security;

(bb) is a current employee with, or has a documented job offer from, a company that develops new technologies or cutting-edge research that contributes to the national security of the United States;

(cc) is a founder or co-founder of a United States-based company that develops new technologies or cutting-edge research that contributes to the national security of the United States; or

(dd) has extensive expertise and scientific knowledge of crucial national security importance that would advance national security; and

(ii) based on a recommendation described in clause (i), the Secretary of Homeland Security or the Secretary of State, as applicable, finds that the individual possesses scientific or technical expertise that will contribute to the national security of the United States and approves such status.

* * * * *

WORLDWIDE LEVEL OF IMMIGRATION

SEC. 201. [8 U.S.C. 1151] (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

(1) family-sponsored immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year the number specified in subsection (c) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year;

(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed in any fiscal year the number specified in subsection (d) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year; and

(3) for fiscal years beginning with fiscal year 1995, diversity immigrants described in section 203(c) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)) in a number not to exceed in any fiscal year the number specified in subsection (e) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year.

(b) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—Aliens described in this subsection, who are not subject to the worldwide levels or numerical limitations of subsection (a), are as follows:

(1)(A) Special immigrants described in subparagraph (A) or (B) of section 101(a)(27).

(B) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

(C) Aliens whose status is adjusted to permanent residence under section 210 or 245A.

(D) Aliens whose removal is cancelled under section 240A(a).

(E) Aliens provided permanent resident status under section 249.

(F) Special immigrants (and the spouses and children of such immigrants) who are described in section 101(a)(27)(N), until the number of principal immigrants (excluding their spouses and children) under section 101(a)(27)(N)(i) during a fiscal year reaches 200.

(2)(A)(i) IMMEDIATE RELATIVES.—For purposes of this subsection, the term ''immediate relatives'' means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age. In the case of an alien who was the spouse of a citizen of the United States and was not legally separated from the citizen at the time of the citizen's death, the alien (and each child of the alien) shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A)(ii) within 2 years after such date and only until the date the spouse remarries. For purposes of this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) of this Act remains an immediate relative in the event that the United States citizen spouse or parent loses United States citizenship on account of the abuse.

(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

* * * * *

SEC. ___. MULTIYEAR PROCUREMENT AUTHORITY FOR ARLEIGH BURKE CLASS DESTROYER PROGRAM.

(a) AUTHORITY FOR MULTIYEAR PROCUREMENT.—Subject to section 3501(a) of title 10, United States Code, the Secretary of the Navy may enter into multiyear contracts, beginning with the fiscal year 2023 program year, for the procurement of up to ten Arleigh Burke class guided missile destroyers.

(b) AUTHORITY FOR ADVANCE PROCUREMENT.—The Secretary of the Navy may enter into one or more contracts, beginning in fiscal year 2023, for advance procurement associated with the destroyers for which authorization to enter into a multiyear procurement contract is provided under subsection (a), and for the systems and subsystems associated with the destroyer program, in economic order quantities when cost savings are achievable.

(c) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2023 is subject to the availability of appropriations or funds for that purpose for such later fiscal year.

Section-by-Section Analysis

This proposal would allow the Secretary of the Navy to enter into multiyear contracts for up to ten Arleigh Burke (DDG 51) class guided missile destroyers that are funded by the Navy beginning in fiscal year (FY) 2023, to be funded with both FY 2023 and FY 2022 advance procurement funds used to achieve economic order quantity savings. The Navy's Long-Range Plan for Construction of Naval Vessels (Fiscal Year 2023 30-Year Shipbuilding Plan) is expected to include procurement of up to ten destroyers from FY 2023 through FY 2027, and the cost savings analysis is based upon a quantity of nine firm ships within the MYP to maintain flexibility for the Navy and industry. The DDG 51 program has had multiyear procurement (MYP) authority for vessels and associated systems procured from FY 1998 through FY 2001, FY 2002 through FY 2005, FY 2013 through FY 2017, and FY 2018 through FY 2022, realizing over five billion dollars in program savings across 47 ships, including competitively awarded option ships with significant savings. It is expected that the follow-on MYP contracts starting in FY 2023 would yield similar benefits.

This proposal would provide the following benefits: (1) generate savings compared to the annual procurement cost estimates; (2) provide stable production of ballistic missile defense–capable surface combatants; (3) provide a long-term commitment to the shipbuilding industrial base that stabilizes shipyard employment levels; (4) provide an incentive for industry capital investment for productivity improvements that benefit several Navy shipbuilding programs; (5) reduce disruptions in sub-tier vendor delivery schedules; and (6) provide a stable Total Obligating Authority profile for the Department of the Navy's procurement of large surface combatants.

Resource Information: The resources affected by this proposal are reflected in the table below and are included within the Fiscal Year (FY) 2023 President's Budget request.

	RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
QTY		2	2	2	2	2 (1 firm / 1 option)				
DDG 51 Full Funding		$4,377	$4,032	$4,221	$4,264	$ 4,292	Shipbuilding and Conversion, Navy	02	2122	0204222N
DDG 51 Advance Procurement	$120	$618	$227				Shipbuilding and Conversion, Navy	02	2122 Advance Procurement	0204222N
Total	$120	$4,995	$4,259	$4,221	$4,264	$4,292	--	--	--	--

The cost savings associated with nine ships across the FY 2023 through FY 2027 MYP contracts are projected at $1,702 million versus annual procurement for the same five-year period. MYP savings are identified as follows:

Multiyear Procurement Summary: Arleigh Burke (DDG 51) Class Guided Missile Destroyers

($Millions)

	Annual Contracts	MYP Alternative
Quantity	10	9 firm / 1 option
Total MYP Budget	$23,853	$22,151
$ Cost Avoidance Over Annual Budget		$1,702
% of Cost Avoidance Over Annual Budget		7.1%

The Arleigh Burke Class Guided Missile Destroyer program is budgeted to support a follow-on MYP strategy and not annual contracting. If MYP is not authorized, the $1,702 million in cost avoidance will need to be added to program funding levels to ensure the annual contracts are executable.

Changes to Existing Law: None.

A BILL

To authorize the transfer of excess naval vessels to a foreign country.

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

SECTION 1. TRANSFER OF EXCESS NAVAL VESSELS TO A FOREIGN COUNTRY.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer to the Government of Egypt the OLIVER HAZARD PERRY class guided missile frigates ex-USS CARR (FFG-52) and ex-USS ELROD (FFG-55) on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(b) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to the Government of Egypt on a grant basis pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred in any fiscal year under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(c) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the Government of Egypt notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)).

(d) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the Government of Egypt have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of Egypt, performed at a shipyard located in the United States, including a United States Navy shipyard.

(e) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the three-year period beginning on the date of the enactment of this Act.

Section-by-Section Analysis

This proposal would authorize the President to transfer two OLIVER HAZARD PERRY class guided missile frigates by grant to Egypt. Because these naval vessels displace in excess of 3,000 tons or are less than 20 years of age, statutory approval for the transfer is required under section 8677(a) of title 10, United States Code.

This proposed transfer is a priority for both the Department of the Navy and the Department of Defense. Egypt's Navy has been a reliable and capable partner in maintaining maritime security in the Eastern Mediterranean and Red Sea, locations where it currently operates four former U.S. Navy frigates. The grant of two additional frigates would enhance Egypt's naval capabilities and interoperability with U.S. Naval forces in the region.

Section 1(a) would authorize the transfer under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), which provides the general authority for the grant transfer of excess defense articles from stock.

In accordance with section 8677(a) of title 10, for the vessels specifically authorized for transfer by name in section 1(a) of the proposal, the Secretary of Defense may substitute another vessel of the same class if the vessel substituted has virtually identical capabilities as the named vessel.

Section 1(b) would provide that the value of the naval vessels authorized for transfer by grant by this proposal will not be included in determining the aggregate value of transferred excess defense articles.

Section 1(c) would provide for the Government of Egypt to be charged with any expense incurred by the United States in connection with a transfer.

Section 1(d) would provide that, to the maximum extent practicable, any necessary repair or refurbishment of a vessel to be transferred shall be performed in a United States shipyard.

Section 1(e) would provide that the transfer authority provided by this proposal must be executed within three years –after the date of the enactment of the Act containing this proposal.

Resource Information: Under this proposal, the cost to transfer a vessel and the cost of repair and refurbishment of a vessel would be funded by Foreign Military Sales case funding; there would be no cost to the United States. The Department of Defense estimates it would cost an average of $82,400 per year to maintain, rather than transfer, each excess naval vessel considered in this proposal located in Philadelphia, Pennsylvania. Therefore, this proposal represents a cost avoidance that is factored into the Fiscal Year (FY) 2023 President's Budget request.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
Navy Ex CARR (FFG 52)	.08	.08	.08	.09	.09	Operation & Maintenance, Navy	02	2B2G	
Navy Ex ELROD (FFG 55)	.08	.08	.08	.09	.09	Operation & Maintenance, Navy	02	2B2G	
Total	.16	.16	.16	.18	.18				

Changes to Existing Law: This proposal would not change the text of any current law.

SEC. ___. WORKFORCE ISSUES FOR MILITARY REALIGNMENT IN THE PACIFIC.

Section 6 of the Joint Resolution titled "A Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America', and for other purposes", approved March 24, 1976 (Public Law 94–241; 90 Stat. 263; 48 U.S.C. 1806), is amended in subsection (b)(1)—

(1) in subparagraph (B), in the matter preceding clause (i)—

(A) by inserting "during the transition period, as described in subsection (a)(2)," after "admission"; and

(B) by striking ", before December 31, 2023,"; and

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

"(C) PORTABILITY.—A Federal contractor or subcontractor providing services or labor qualified under subparagraph (B) on a Federal contract or subcontract that has obtained approval of the contractor's or subcontractor's application for temporary labor certification, and on the basis of such approved certification has properly filed with U.S. Citizen and Immigration Services a petition to classify a worker or workers under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) and implementing regulations, may recruit and, upon filing of such petition, immediately employ persons on Guam or in the Commonwealth of the Northern Mariana Islands (hereafter in this paragraph referred to as "CNMI") who were validly employed in H-2B status with another employer on Guam or the CNMI at the time of filing of the petition, in accordance with subparagraph (B) on the

Federal contract or subcontract. The recruitment and subsequent employment by such a Federal contractor or subcontractor shall be subject to all existing laws and regulations, including subparagraph (B), this subparagraph, and subparagraphs (D) through (G) of this paragraph, except that such persons shall be allowed to begin employment with the Federal contractor or subcontractor prior to approval of the Federal contractor's or subcontractor's petition, and that such persons are not required to depart from Guam or the CNMI before commencing such employment. The beneficiaries of the new petition shall be authorized to continue to work with the Federal contractor or subcontractor until the earliest of—

"(i) the final date of employment stated in the Federal contractor's or subcontractor's new petition;

"(ii) the date the Federal contractor's or subcontractor's new petition is denied or revoked; or

"(iii) the date the Federal contractor's or subcontractor's new approved temporary labor certification is revoked.

Nothing in this subparagraph shall be interpreted to prohibit, or otherwise restrict the ability of, an alien who obtains admission as an H-2B nonimmigrant under subparagraph (B) from applying for, and if determined by the Department of Homeland Security to be eligible under existing law, being admitted to any other part of the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)).

"(D) EMPLOYERS OF H-2B WORKERS.—An employer who employs an alien worker described in subparagraph (A) and a prospective employer who applies for temporary labor certification for an alien worker described in subparagraph (A) shall—

"(i) provide annual training to all employees of the employer and employees of any subcontractors on human trafficking and applicable U.S. law through the Secretary of Labor, the Guam Department of Labor, or a third party training provider approved by the Secretary of Labor;

"(ii) remain neutral with regard to all employees' choice to form or join a union;

"(iii) make available safe and sanitary housing, which shall, at a minimum, meet Occupational Safety and Health Administration Standards for Temporary Labor Camps or Department of Labor Farmworker housing standards, and such housing—

"(I) shall be made available to all workers, including United States workers, at no cost to the worker;

"(II) shall, at employer expense, be inspected by the Secretary of Labor, the Guam Department of Labor, or a third party inspector approved by the Secretary of Labor prior to occupation and at least once every six months during occupancy;

"(iv) provide training, at employer expense, through the Secretary of Labor, the Guam Department of Labor, or a third party training provider approved by the Secretary of Labor, to all employees of the

employer and employees of any subcontractors on labor and employment rights during the first full week after commencement of employment or within one week of contract execution, and at least once every six months during employment;

"(v) provide to all employees—

"(I) at least one one-half hour unpaid meal break per workday;

"(II) at least two paid 10-minute rest breaks per eight-hour workday; and

"(III) at least one additional paid 10- minute rest break for each hour beyond eight in a workday;

"(vi) provide to all employees—

"(I) not less than seven paid sick days per year;

"(II) not less than four additional paid sick leave hours (per dose) to receive a COVID-19 vaccine if it is not made available on the jobsite or at the site of employee-provided housing without charge to leave; and

"(III) Not less than 20 additional paid sick leave hours (per dose) to recover from an adverse reaction to a COVID-19 vaccine;

"(vii) make available unpaid family and medical leave for up to 12 weeks for any employee who needs leave at any point during the employee's employment for qualifying reasons under the Family and Medical Leave Act under the condition that such unpaid leave shall be

available, entirely at the election of the employee, in full or in part as paid leave to the extent that—

"(I) the employee has available paid annual or sick leave; or

"(II) other employees voluntarily donate accrued annual or sick leave to the employee;

"(viii) create a formalized safety and health management system that complies with either ISO 45001 or ANSI Z10 and obtain certification of such system by a recognized third party certification entity. The Secretary of Labor shall issue a willful citation under the Occupational Safety and Health Act to any employer not in full compliance with the requirements of the employer's formalized system, but shall have the authority to issue variances or otherwise offer flexibility with regard to compliance;

"(ix) provide overtime pay for all workers at a rate of one-and-one-half times the employee's regular rate of pay for any hours beyond—

"(I) eight hours per day, and

"(II) 40 hours per week;

"(x) provide pay at an hourly rate to all employees at a rate not lower than the highest of—

"(I) the minimum wage applicable to Federal contractor employees;

"(II) an applicable Davis-Bacon Act prevailing wage rate in the locality,

"(III) the applicable statutory minimum wage of Guam or the CNMI; or

"(IV) an applicable Service Contract Act prevailing wage rate in the locality;

"(xi) provide physical pay stubs to all employees at the end of each pay period documenting all hours worked, rate of pay, itemized deductions from pay, and any other information deemed necessary by the Secretary of Labor; and

"(xii) if the employer had within the preceding five-year period any labor or employment violations of any law within the jurisdiction of the Secretary of Labor, National Labor Relations Board, or Equal Employment Opportunity Commission, enter into a compliance agreement, within 90 days after commencement of employment of an alien worker under subparagraph (A), with the Secretary of Labor to agree to resolve such violations to the satisfaction of the agency that issued the citation and to implement additional measures designed by the Secretary of Labor to prevent such violations in the future, with the employer being obligated to pay a fine to the Secretary of Labor of $1,000 per worker per each week past 90 days that such agreement is not entered into unless an extension is granted by the Secretary of Labor.

"(E) JOINT AND SEVERAL LIABILITY.—An employer of an alien worker described in subparagraph (A,) or a contractor whose project uses H2-B labor on or in connection with the project, whether as a prime contractor or subcontractor, shall be jointly and severally liable for any labor violation or other violation of law related to workers, including any recruitment violation or fraud, committed by a subcontractor or recruiter in connection with such employment or project. Joint and several liability under this subparagraph shall extend to any fraudulent or discriminatory practices by contractors, subcontractors, or recruiters, including the requirements and prohibitions of clauses (i) through (iv) of this subparagraph. The Secretary of Labor shall have the authority to investigate such conduct and issue citations requiring appropriate remedies and relief. Contractors, subcontractors, and recruiters—

"(i) shall not, in solicitation or recruitment, target or have a preference in favor of male workers or workers without spouses or children;

"(ii) shall not solicit or collect money from workers in exchange for offering them employment contracts or charge workers or jobseekers any recruitment fees, certification fees, or other related costs;

"(iii) shall not confiscate, destroy, or retain workers' identity documents or contracts; and

"(iv) shall provide workers with a work contract that contains all significant conditions of employment, as defined by the Secretary of

Labor, in a language they understand prior to the worker departing their country of origin for the United States.

"(F) INITIAL RECRUITMENT OF H-2B WORKERS.—A prospective employer who applies for an initial temporary labor certification for an alien worker described in subparagraph (A) shall, at least 60 days before the desired start date—

"(i) engage in efforts to recruit United States workers in accordance with all applicable Guam and CNMI statutes and regulations as well as all applicable Federal statutes and regulations, and shall, at a minimum—

"(I) submit a job order posting for each position or category of position to the State Workforce Agency and American Job Center on Guam (The Guam Department of Labor);

"(II) in addition to the postings described in subclause (I), provide written notification to the American Federation of Labor and Congress of Industrial Organizations office in Washington D.C., provided that this provision may be waived by the Secretary of Labor;

"(III) provide a copy of the job order posting to any former United States employee who left a similar position within the three proceeding years, including any employee laid off or furloughed, at their last known address; and

"(IV) post a copy of the job order in at least two conspicuous locations at the employer's place of business or job site, or on an internal or external website maintained by the employer and customarily used for notices to employees about the terms and conditions of employment;

"(ii) keep the job posted in Guam and the CNMI until 21 days before the desired start date;

"(iii) continue to accept referrals of United States workers until at least 21 days before the desired start date;

"(iv) interview any apparently qualified and available United States worker; and

"(v) maintain documentation of lawful, job-related reasons for any failure to offer the position to a qualified United States applicant on terms no less favorable than those advertised in the posting for at least three years.

"(G) RECRUITMENT FOR H-2B WORKER EXTENSIONS.—An employer who applies for renewal of a temporary labor certification for an alien worker described in subparagraph (A) shall—

"(i) no earlier than 120 days prior to expiration of the current temporary labor certification and no later than 50 days prior to such expiration, engage in efforts to recruit United States workers in accordance with all applicable requirements in subparagraph (F)(i) and maintain postings in Guam and CNMI for at least 21 days;

"(ii) continue to accept referrals of United States workers for at least 21 days after initial posting;

"(iii) interview any apparently qualified and available United States worker who applies; and

"(iv) maintain documentation of job-related reasons for any failure to offer the position to a United States applicant on terms no less favorable than those advertised in the posting for at least three years.".

[Please note: The "Changes to Existing Law" section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

Section 1045 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232) (NDAA FY19) made various amendments to Section 6 of the Joint Resolution titled "A Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America', and for other purposes" (48 U.S.C. 1806) in order to address certain workforce issues in Guam and the Commonwealth of the Northern Mariana Islands (CNMI) which had the potential to disrupt the implementation of the United States military realignment in the Pacific. Section 6(a) (48 U.S.C. 1806(a)) established a transition period effective November 27, 2009, in the CNMI during which the Secretary of Homeland Security would establish, administer, and enforce a transition program to regulate immigration to the CNMI. As part of the Northern Mariana Islands U.S. Workforce Act of 2018, Pub. L. 115-218, Congress extended the transition program's expiration date from December 31, 2019, to December 31, 2029. During this transition period, employers on Guam and CNMI are exempt from the national H-2B visa cap and other H caps until December 31, 2029.

Section 1045 of the NDAA FY19 also made amendments to the "H-2B Workers" provision that had been enacted in the National Defense Authorization Act for Fiscal Year 2018 which provided a limited exemption on Guam and the CNMI from the statutory requirement that H-2B nonimmigrant foreign workers may only be admitted to fill temporary employment positions for a period of up to 3 years. Under section 1045 of the NDAA FY19, this only applied to foreign nonimmigrant workers who were needed to perform service or labor on Guam or in the CNMI that was directly connected to, or associated with, the military realignment occurring on Guam and in the CNMI, and certain health care workers; this was expanded by the NDAA for FY 2021 (sec. 9502 of Pub. L. 116-283) to include employment adversely affected by the military realignment. Unlike the transition program and its associated exemption from the national H-2B visa cap which expire on December 31, 2029, this exemption from the temporary work requirement expires on December 31, 2023. The proposed amendments would provide

conformity between the expiration dates of the transition program and the exemption from the temporary work requirement.

In addition, the proposed amendment would add new subparagraphs (C) through (F) to section 6(b)(1) of the Joint Resolution (48 U.S.C. 1806(a)) Subparagraph (C) would provide flexibility to DOD contractors, enabling them to hire H-2B workers already on Guam or CNMI, pending approval by U.S. Citizen and Immigration Services (USCIS). Subparagraph (D) would impose new statutory requirements on employers of H-2B workers in Guam and the CNMI to improve working conditions, wages, and housing conditions and to reduce the likelihood of human trafficking and labor violations. Subparagraph (D) would also impose minimum wage requirements, similar to those already applied on federal relocation contracts, on all employers of H-2B aliens in Guam and the CNMI and would create new requirements for provision of paid sick leave and unpaid family medical leave to all workers. Subparagraph (E) would address recruitment fraud by creating joint and several liability to hold prime contractors responsible for labor violations of their subcontractors and recruiters. Subparagraph (F) would establish new statutory standards for initial recruitment of H-2B labor in Guam and the CNMI, similar to standards already applied for H-2B labor for military relocation projects. Subparagraph (G) would impose recruitment standards for all Guam and H-2B extensions similar to those currently used for military relocation projects.

Resource Information: No significant budgetary implications. However, workforce issues may be a cost factor for MILCON project estimates in Guam and the CNMI. The volume of Guam Marine Corps relocation-related construction is expected to gradually increase, creating a steep increase in the demand for construction workers through Fiscal Year (FY) 2028 with high demand continuing through at least 2029. This proposal may result in some cost creep; however, if this legislative proposal is not adopted contractors will face increased uncertainty regarding the availability of labor and there is likely to be a significant cost increase to the Department.

Changes to Existing Law: This proposal would make the following changes to section 6(b) of the Joint Resolution titled "A Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes" (Public Law 94–241; 90 Stat. 263; 48 U.S.C. 1806):

SEC. 6. IMMIGRATION AND TRANSITION.

(b) NUMERICAL LIMITATIONS FOR NONIMMIGRANT WORKERS.—

(1) IN GENERAL.—

* * * * *

(B) H-2B WORKERS.—In the case of an alien described in subparagraph (A) who seeks admission <u>during the transition period, as described in subsection (a)(2),</u> under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)), the alien, if otherwise qualified, may~~, before December 31, 2023,~~ be admitted under such section, notwithstanding the

requirement of such section that the service or labor be temporary, for a period of up to 3 years—

(i) to perform service or labor on Guam or in the Commonwealth pursuant to any agreement entered into by a prime contractor or subcontractor calling for services or labor required for performance of a contract or subcontract for construction, repairs, renovations, or facility services that is directly connected to, supporting, associated with, or adversely affected by the military realignment occurring on Guam and in the Commonwealth, with priority given to federally funded military projects; or

(ii) to perform service or labor as a health care worker (such as a nurse, physician assistant, or allied health professional) at a facility that jointly serves members of the Armed Forces, dependents, and civilians on Guam or in the Commonwealth, subject to the education, training, licensing, and other requirements of section 212(a)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(C)), as applicable, except that this clause shall not be construed to include graduates of medical schools coming to Guam or the Commonwealth to perform service or labor as members of the medical profession.

(C) Portability.—A Federal contractor or subcontractor providing services or labor qualified under subparagraph (B) on a Federal contract or subcontract that has obtained approval of the contractor's or subcontractor's application for temporary labor certification, and on the basis of such approved certification has properly filed with U.S. Citizen and Immigration Services a petition to classify a worker or workers under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) and implementing regulations, may recruit and, upon filing of such petition, immediately employ persons on Guam or in the Commonwealth of the Northern Mariana Islands (hereafter in this paragraph referred to as "CNMI") who were validly employed in H-2B status with another employer on Guam or the CNMI at the time of filing of the petition, in accordance with subparagraph (B) on the Federal contract or subcontract. The recruitment and subsequent employment by such a Federal contractor or subcontractor shall be subject to all existing laws and regulations, including subparagraph (B), this subparagraph, and subparagraphs (D) through (G) of this paragraph, except that such persons shall be allowed to begin employment with the Federal contractor or subcontractor prior to approval of the Federal contractor's or subcontractor's petition, and that such persons are not required to depart from Guam or the CNMI before commencing such employment. The beneficiaries of the new petition shall be authorized to continue to work with the Federal contractor or subcontractor until the earliest of—

(i) the final date of employment stated in the Federal contractor's or subcontractor's new petition;

(ii) the date the Federal contractor's or subcontractor's new petition is denied or revoked; or

(iii) the date the Federal contractor's or subcontractor's new approved temporary labor certification is revoked.

Nothing in this subparagraph shall be interpreted to prohibit, or otherwise restrict the ability of, an alien who obtains admission as an H-2B nonimmigrant under subparagraph (B) from applying for, and if determined by the Department of Homeland Security to be eligible under existing law, being admitted to any other part of the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)).

(D) Employers of H-2B Workers.—An employer who employs an alien worker described in subparagraph (A) and a prospective employer who applies for temporary labor certification for an alien worker described in subparagraph (A) shall—

(i) provide annual training to all employees of the employer and employees of any subcontractors on human trafficking and applicable U.S. law through the Secretary of Labor, the Guam Department of Labor, or a third party training provider approved by the Secretary of Labor;

(ii) remain neutral with regard to all employees' choice to form or join a union;

(iii) make available safe and sanitary housing, which shall, at a minimum, meet Occupational Safety and Health Administration Standards for Temporary Labor Camps or Department of Labor Farmworker housing standards, and such housing—

(I) shall be made available to all workers, including United States workers, at no cost to the worker;

(II) shall, at employer expense, be inspected by the Secretary of Labor, the Guam Department of Labor, or a third party inspector approved by the Secretary of Labor prior to occupation and at least once every six months during occupancy;

(iv) provide training, at employer expense, through the Secretary of Labor, the Guam Department of Labor, or a third party training provider approved by the Secretary of Labor, to all employees of the employer and employees of any subcontractors on labor and employment rights during the first full week after commencement of employment or within one week of contract execution, and at least once every six months during employment;

(v) provide to all employees—

(I) at least one one-half hour unpaid meal break per workday;

(II) at least two paid 10-minute rest breaks per eight-hour workday; and

(III) at least one additional paid 10- minute rest break for each hour beyond eight in a workday;

(vi) provide to all employees—

(I) not less than seven paid sick days per year;

(II) not less than four additional paid sick leave hours (per dose) to receive a COVID-19 vaccine if it is not made available on the jobsite or at the site of employee-provided housing without charge to leave; and

(III) Not less than 20 additional paid sick leave hours (per dose) to recover from an adverse reaction to a COVID-19 vaccine;

(vii) make available unpaid family and medical leave for up to 12 weeks for any employee who needs leave at any point during the employee's employment for qualifying reasons under the Family and Medical Leave Act under the condition that such unpaid leave shall be available, entirely at the election of the employee, in full or in part as paid leave to the extent that—

(I) the employee has available paid annual or sick leave; or

(II) other employees voluntarily donate accrued annual or sick leave to the employee;

(viii) create a formalized safety and health management system that complies with either ISO 45001 or ANSI Z10 and obtain certification of such system by a recognized third party certification entity. The Secretary of Labor shall issue a willful citation under the Occupational Safety and Health Act to any employer not in full compliance with the requirements of the employer's formalized system, but shall have the authority to issue variances or otherwise offer flexibility with regard to compliance;

(ix) provide overtime pay for all workers at a rate of one-and-one-half times the employee's regular rate of pay for any hours beyond—

(I) eight hours per day, and

(II) 40 hours per week;

(x) provide pay at an hourly rate to all employees at a rate not lower than the highest of—

(I) the minimum wage applicable to Federal contractor employees;

_____

(II) an applicable Davis-Bacon Act prevailing wage rate in the locality,

(III) the applicable statutory minimum wage of Guam or the CNMI; or

(IV) an applicable Service Contract Act prevailing wage rate in the locality;

(xi) provide physical pay stubs to all employees at the end of each pay period documenting all hours worked, rate of pay, itemized deductions from pay, and any other information deemed necessary by the Secretary of Labor; and

(xii) if the employer had within the preceding five-year period any labor or employment violations of any law within the jurisdiction of the Secretary of Labor, National Labor Relations Board, or Equal Employment Opportunity Commission, enter into a compliance agreement, within 90 days after commencement of employment of an alien worker under subparagraph (A), with the Secretary of Labor to agree

to resolve such violations to the satisfaction of the agency that issued the citation and to implement additional measures designed by the Secretary of Labor to prevent such violations in the future, with the employer being obligated to pay a fine to the Secretary of Labor of $1,000 per worker per each week past 90 days that such agreement is not entered into unless an extension is granted by the Secretary of Labor.

(E) Joint and Several Liability.—An employer of an alien worker described in subparagraph (A,) or a contractor whose project uses H2-B labor on or in connection with the project, whether as a prime contractor or subcontractor, shall be jointly and severally liable for any labor violation or other violation of law related to workers, including any recruitment violation or fraud, committed by a subcontractor or recruiter in connection with such employment or project. Joint and several liability under this subparagraph shall extend to any fraudulent or discriminatory practices by contractors, subcontractors, or recruiters, including the requirements and prohibitions of clauses (i) through (iv) of this subparagraph. The Secretary of Labor shall have the authority to investigate such conduct and issue citations requiring appropriate remedies and relief. Contractors, subcontractors, and recruiters—

(i) shall not, in solicitation or recruitment, target or have a preference in favor of male workers or workers without spouses or children;

(ii) shall not solicit or collect money from workers in exchange for offering them employment contracts or charge workers or jobseekers any recruitment fees, certification fees, or other related costs;

(iii) shall not confiscate, destroy, or retain workers' identity documents or contracts; and

(iv) shall provide workers with a work contract that contains all significant conditions of employment, as defined by the Secretary of Labor, in a language they understand prior to the worker departing their country of origin for the United States.

(F) Initial Recruitment of H-2B Workers.—A prospective employer who applies for an initial temporary labor certification for an alien worker described in subparagraph (A) shall, at least 60 days before the desired start date—

(i) engage in efforts to recruit United States workers in accordance with all applicable Guam and CNMI statutes and regulations as well as all applicable Federal statutes and regulations, and shall, at a minimum—

(I) submit a job order posting for each position or category of position to the State Workforce Agency and American Job Center on Guam (The Guam Department of Labor);

(II) in addition to the postings described in subclause (I), provide written notification to the American Federation of Labor and Congress of Industrial Organizations office in Washington D.C., provided that this provision may be waived by the Secretary of Labor;

(III) provide a copy of the job order posting to any former United States employee who left a similar position within the three proceeding years, including any employee laid off or furloughed, at their last known address; and

(IV) post a copy of the job order in at least two conspicuous locations at the employer's place of business or job site, or on an internal or external website maintained by the employer and customarily used for notices to employees about the terms and conditions of employment;

(ii) keep the job posted in Guam and the CNMI until 21 days before the desired start date;

(iii) continue to accept referrals of United States workers until at least 21 days before the desired start date;

(iv) interview any apparently qualified and available United States worker; and

(v) maintain documentation of lawful, job-related reasons for any failure to offer the position to a qualified United States applicant on terms no less favorable than those advertised in the posting for at least three years.

(G) Recruitment For H-2B Worker Extensions.—An employer who applies for renewal of a temporary labor certification for an alien worker described in subparagraph (A) shall—

(i) no earlier than 120 days prior to expiration of the current temporary labor certification and no later than 50 days prior to such expiration, engage in efforts to recruit United States workers in accordance with all applicable requirements in subparagraph (F)(i) and maintain postings in Guam and CNMI for at least 21 days;

(ii) continue to accept referrals of United States workers for at least 21 days after initial posting;

(iii) interview any apparently qualified and available United States worker who applies; and

(iv) maintain documentation of job-related reasons for any failure to offer the position to a United States applicant on terms no less favorable than those advertised in the posting for at least three years.