

HOMELAND PROCUREMENT REFORM ACT

OCTOBER 5, 2021.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 2915]

The Committee on Homeland Security, to whom was referred the bill (H.R. 2915) to amend the Homeland Security Act of 2002 regarding the procurement of certain items related to national security interests for Department of Homeland Security frontline operational components, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	4
Background and Need for Legislation	4
Hearings	6
Committee Consideration	6
Committee Votes	6
Committee Oversight Findings	6
C.B.O. Estimate, New Budget Authority, Entitlement Authority, and Tax Expenditures	6
Federal Mandates Statement	7
Duplicative Federal Programs	7
Statement of General Performance Goals and Objectives	7
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	7
Advisory Committee Statement	7
Applicability to Legislative Branch	7
Section-by-Section Analysis of the Legislation	7
Changes in Existing Law Made by the Bill, as Reported	8

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Homeland Procurement Reform Act” or the “HOPR Act”.

SEC. 2. REQUIREMENTS TO BUY CERTAIN ITEMS RELATED TO NATIONAL SECURITY INTERESTS ACCORDING TO CERTAIN CRITERIA.

(a) **IN GENERAL.**—Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is amended by adding at the end the following:

“SEC. 836. REQUIREMENTS TO BUY CERTAIN ITEMS RELATED TO NATIONAL SECURITY INTERESTS.

“(a) **DEFINITIONS.**—In this section:

“(1) **COVERED ITEM.**—The term ‘covered item’ means any of the following:

- “(A) Footwear provided as part of a uniform.
- “(B) Uniforms.
- “(C) Holsters and tactical pouches.
- “(D) Patches, insignia, and embellishments.
- “(E) Chemical, biological, radiological, and nuclear protective gear.
- “(F) Body armor components intended to provide ballistic protection for an individual, consisting of 1 or more of the following:
 - “(i) Soft ballistic panels.
 - “(ii) Hard ballistic plates.
 - “(iii) Concealed armor carriers worn under a uniform.
 - “(iv) External armor carriers worn over a uniform.
- “(G) Any other item of clothing or protective equipment as determined appropriate by the Secretary.

“(2) **FRONTLINE OPERATIONAL COMPONENT.**— The term ‘frontline operational component’ means any of the following organizations of the Department:

- “(A) U.S. Customs and Border Protection.
- “(B) U.S. Immigration and Customs Enforcement.
- “(C) The United States Secret Service.
- “(D) The Transportation Security Administration.
- “(E) The Coast Guard.
- “(F) The Federal Protective Service.
- “(G) The Federal Emergency Management Agency.
- “(H) The Federal Law Enforcement Training Centers.
- “(I) The Cybersecurity and Infrastructure Security Agency.

“(b) **REQUIREMENTS.**—

“(1) **IN GENERAL.**—The Secretary shall ensure that any procurement of a covered item for a frontline operational component meets the following criteria:

“(A) To the maximum extent possible, not less than one-third of funds obligated in a specific fiscal year for the procurement of such covered items shall be covered items that are manufactured or supplied in the United States by entities that qualify as small business concerns, as such term is described under section 3 of the Small Business Act (15 U.S.C. 632).

“(B) Each contractor with respect to the procurement of such a covered item, including the end-item manufacturer of such a covered item—

- “(i) is an entity registered with the System for Award Management (or successor system) administered by the General Services Administration; and
- “(ii) is in compliance with ISO 9001:2015 of the International Organization for Standardization (or successor standard) or a standard determined appropriate by the Secretary to ensure the quality of products and adherence to applicable statutory and regulatory requirements.

“(C) Each supplier of such a covered item with an insignia (such as any patch, badge, or emblem) and each supplier of such an insignia, if such covered item with such insignia or such insignia, as the case may be, is not produced, applied, or assembled in the United States, shall—

- “(i) store such covered item with such insignia or such insignia in a locked area;
- “(ii) report any pilferage or theft of such covered item with such insignia or such insignia occurring at any stage before delivery of such covered item with such insignia or such insignia; and
- “(iii) destroy any such defective or unusable covered item with insignia or insignia in a manner established by the Secretary, and maintain records, for three years after the creation of such records, of such destruction that include the date of such destruction, a description of the covered item with insignia or insignia destroyed, the quantity of the covered item with insignia or insignia destroyed, and the method of destruction.

“(2) **WAIVER.**—

“(A) **IN GENERAL.**—In the case of a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) or a major disaster declared by the President under section 401 of the Robert

T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), the Secretary may waive a requirement in subparagraph (A), (B) or (C) of paragraph (1) if the Secretary determines there is an insufficient supply of a covered item that meets the requirement.

“(B) NOTICE.—Not later than 60 days after the date on which the Secretary determines a waiver under subparagraph (A) is necessary, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on Oversight and Reform, and the Committee on Appropriations of the House of Representatives notice of such determination, which shall include—

“(i) identification of the national emergency or major disaster declared by the President;

“(ii) identification of the covered item for which the Secretary intends to issue the waiver; and

“(iii) a description of the demand for the covered item and corresponding lack of supply from contractors able to meet the criteria described in subparagraph (B) or (C) of paragraph (1).

“(c) PRICING.—The Secretary shall ensure that covered items are purchased at a fair and reasonable price, consistent with the procedures and guidelines specified in the Federal Acquisition Regulation.

“(d) REPORT.—Not later than 1 year after the date of enactment of this section and annually thereafter, the Secretary shall provide to the Committee on Homeland Security, the Committee on Oversight and Reform, and the Committee on Appropriations of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate a briefing on instances in which vendors have failed to meet deadlines for delivery of covered items and corrective actions taken by the Department in response to such instances.

“(e) EFFECTIVE DATE.—This section applies with respect to a contract entered into by the Department or any frontline operational component on or after the date that is 180 days after the date of enactment of this section.”.

(b) STUDY.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a study of the adequacy of uniform allowances provided to employees of frontline operational components (as defined in section 836 of the Homeland Security Act of 2002, as added by subsection (a)).

(2) REQUIREMENTS.—The study conducted under paragraph (1) shall—

(A) be informed by a Department-wide survey of employees from across the Department of Homeland Security who receive uniform allowances that seeks to ascertain what, if any, improvements could be made to the current uniform allowances and what, if any, impacts current allowances have had on employee morale and retention;

(B) assess the adequacy of the most recent increase made to the uniform allowance for first year employees; and

(C) consider increasing by 50 percent, at minimum, the annual allowance for all other employees.

(c) ADDITIONAL REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide a report with recommendations on how the Department of Homeland Security could procure additional items from domestic sources and bolster the domestic supply chain for items related to national security to—

(A) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate; and

(B) the Committee on Homeland Security, the Committee on Oversight and Reform, and the Committee on Appropriations of the House of Representatives.

(2) CONTENTS.—The report required under paragraph (1) shall include the following:

(A) A review of the compliance of the Department of Homeland Security with the requirements under section 604 of title VI of division A of the American Recovery and Reinvestment Act of 2009 (6 U.S.C. 453b) to buy certain items related to national security interests from sources in the United States.

(B) An assessment of the capacity of the Department of Homeland Security to procure the following items from domestic sources:

- (i) Personal protective equipment and other items necessary to respond to a pandemic such as that caused by COVID-19.
- (ii) Helmets that provide ballistic protection and other head protection and components.
- (iii) Rain gear, cold weather gear, and other environmental and flame resistant clothing.

(d) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107-296; 116 Stat. 2135) is amended by inserting after the item relating to section 835 the following:

“Sec. 836. Requirements to buy certain items related to national security interests.”.

PURPOSE AND SUMMARY

H.R. 2915, the “Homeland Procurement Reform Act” or the “HOPR Act,” would reform the way the Department of Homeland Security (DHS) procures uniforms and related gear (e.g., body armor) for its operational components. It seeks to ensure that the Department issues high-quality uniforms and gear to frontline personnel by encouraging the procurement of domestically sourced items. Under the Act, the Secretary of Homeland Security is required to ensure, to the maximum extent possible, that at least one-third of the funds obligated for the procurement of uniforms and gear be used to purchase goods manufactured or supplied by entities that qualify as a U.S. small business. Moreover, the bill requires DHS to study whether uniform allowances provided to personnel are adequate and to also report on opportunities to procure additional items, such as personal protective equipment (PPE), from domestic sources. Lastly, the bill strengthens supply chain security by mandating locked storage, reports of stolen goods, and the destruction of defective or unusable items bearing official DHS insignia not manufactured in the United States.

BACKGROUND AND NEED FOR LEGISLATION

Supporting the needs of DHS’s frontline employees is a priority of this Committee. It is imperative that these employees are equipped with quality uniforms and related safety gear at a reasonable price. In 2017, the Government Accountability Office found that less than half of the Department’s uniforms were manufactured in the United States with 58 percent of the funds allocated for the current DHS uniform contract being spent on imported items.¹ While DHS has incorporated restrictions in its procurement policies and practices pursuant to the Kissell Amendment (6 U.S.C. §453b)—which intended to restrict Federal agencies to procuring uniforms and other textiles from U.S. manufacturers—exceptions for international trade agreements have caused this provision to have little effect.

H.R. 2915 seeks to enable DHS to acquire quality, American-made products for DHS frontline personnel by ensuring that at least 33 percent of funding spent on uniforms and related gear is provided to American small businesses and new controls are placed around uniforms and gear with DHS insignia not produced in the U.S. Since the intent of H.R. 2915 is to support domestic manufac-

¹U.S. Government Accountability Office, *Government Procurement: Effect of Restriction on DHS’s Purchasing of Foreign Textiles Is Limited*, (Nov. 21, 2017), available at <https://www.gao.gov/products/gao-18-116>.

turing, the Committee expects DHS to prioritize purchasing uniforms and related gear from American small businesses that manufacture, produce, or assemble goods. The Committee expects DHS to only purchase items from American small businesses that serve as a pass through to supply foreign-manufactured goods when domestic manufacturing does not meet all the criteria identified in the bill. The Committee will carry out ongoing oversight of the implementation of this Act and, to that end, would seek reporting within 60 days of DHS awarding a contract, pursuant to this Act, for covered items procured for a covered component that are supplied by a U.S. small business but manufactured by a foreign manufacturer together with any market research conducted by the Department within the previous 180 days confirming that the items to be procured are unavailable in the quality or quantity, or at a fair and reasonable price, from any U.S. manufacturer and/or small business.

The Committee also seeks to address concerns from uniformed DHS personnel regarding the delivery of uniform items and the adequacy of uniform allowances. Regarding delivery, the Committee has been told that basic items such as duty shirts, belts, and socks are not always delivered in a timely fashion, forcing personnel to go without. Regarding the uniform allowance, the National Border Patrol Council and the Department have shared with the Committee that about 94 percent of Border Patrol Agents exhaust their annual uniform allowance as their uniforms are often subject to intense wear and tear in the field.

The HOPR Act gives attention to questions about delivery issues and the adequacy of uniform allowances by directing the Secretary to (1) brief Congress annually on instances in which vendors have failed to meet deadlines for delivery of DHS uniform items and the corrective actions taken by the Department in response to such instances, and (2) study the adequacy of uniform allowances provided to Department frontline personnel to determine what improvements can be made to current stipends to limit what law enforcement personnel spend out-of-pocket. When briefing Congress about delivery issues, the Department shall sufficiently detail the reasons for the vendor's failure to meet deadlines and the extent to which the items are manufactured in the U.S.

Additionally, given the Department's critical mission, DHS employees have worked on the frontlines throughout the COVID-19 pandemic. The Committee learned that DHS's operational components did not consistently provide frontline workers with adequate PPE or access to testing. Limited domestic production and high global demand for PPE, such as N-95 masks and gloves, led to persistent shortages for these critical supplies nationwide. As of July 2, 2021, more than 25,000 DHS employees had tested positive for COVID-19 and 45 had passed away.

To further bolster the domestic supply chain for other national security items, the HOPR Act directs the Secretary to report to Congress on the Department's compliance with the Kissell Amendment and assess DHS's capacity to procure other safety gear for frontline operators from domestic sources. This includes PPE and other items necessary to respond to a pandemic, such as that caused by COVID-19. While not included in the list of items for which the Department is expected to spend at least one-third of

funding with American small businesses, DHS shall endeavor to purchase PPE and other specified safety gear for frontline operators from such domestic manufacturers to the maximum extent possible.

HEARINGS

For the purposes of clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, the following hearings were used to develop H.R. 2915:

The Committee did not hold a legislative hearing on H.R. 2915 in the 117th Congress. However, the legislation was informed by a hearing held in the 116th Congress where frontline employees' access to PPE and testing during the COVID-19 pandemic was discussed. On June 16, 2020, the Subcommittee on Oversight, Management, and Accountability held a hearing entitled, "Business as Usual? Assessing How DHS Can Resume Operations Safely." The Subcommittee received testimony from Dr. Everett Kelley, National President, American Federation of Government Employees, AFL-CIO; Mr. Anthony M. Reardon, National President, National Treasury Employees Union; and Mr. Brandon Judd, National President, National Border Patrol Council.

COMMITTEE CONSIDERATION

The Committee met on July 28, 2021, a quorum being present, to consider H.R. 2915 and ordered the measure to be favorably reported to the House, with amendment, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 2915.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 2915 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of H.R. 2915 is to reform how DHS procures uniforms and related gear for its components to ensure that high-quality, American-made uniforms and gear are issued to Department frontline personnel.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 2915 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section states that the Act may be cited as the “Homeland Procurement Reform Act” or the “HOPR Act”.

Sec. 2. Requirements to Buy Certain Items Related to National Security Interests According to Certain Criteria.

Subsection 2(a) amends subtitle D of title VIII of the Homeland Security Act of 2002 to add a new section that requires the Secretary to ensure that any procurement of covered items for a frontline operational component meet the following criteria: (1) to the maximum extent possible, at least one-third of the funds obligated for the procurement of uniforms and related gear be used to purchase goods manufactured or supplied by entities that qualify as a U.S. small business; (2) each contractor, with respect to the procurement of covered items, is registered in the System for Award Management (or successor system) and is in compliance with qual-

ity control standards deemed appropriate by the Secretary of Homeland Security; and (3) each supplier of covered items bearing DHS insignia that are not produced, applied, or assembled within the U.S. secures such items in locked storage, reports any theft of such items, and ensures the destruction of defective or unusable items in a manner established by the Secretary.

In the event the President declares a national emergency or major disaster, the Secretary may waive the requirements if the Secretary determines there is insufficient supply of covered items to meet the requirements. If the Secretary determines a waiver is necessary, the Secretary shall provide a notice to Congress, not later than 60 days after making the determination, that includes: (1) identification of the national emergency or major disaster declared by the President; (2) identification of the covered item for which the Secretary intends to issue the waiver; and (3) a description of the demand for the item and corresponding lack of supply from contractors to meet the requirements.

This subsection also requires the Secretary to ensure that uniform items and related gear are purchased at fair and reasonable prices. Additionally, the Secretary is required to brief Congress no later than 1 year after enactment of the section, and annually thereafter, on instances in which vendors have failed to meet deadlines for delivery of covered items and corrective actions taken by the Department in response to such instances. Subsection 2(a) further clarifies that the requirements in this section apply to contracts entered into by the Department or any of its frontline operational components on or after a date that is 180 days after the enactment of the section. Lastly, this subsection defines the terms “Department frontline operational component” and “covered items.”

Subsection 2(b) directs the Secretary to submit to Congress a study of the adequacy of uniform allowances provided to frontline personnel not later than 18 months after the enactment of the Act. The study shall: (1) be informed by a Department-wide survey of employees who receive uniform allowances to determine what improvements can be made to current uniform allowances and what impact current allowances have had on employee morale and retention; (2) assess the adequacy of the most recent increase to the allowance for first-year employees; and (3) consider increasing by at least 50 percent the annual allowance for all other employees.

Subsection 2(c) directs the Secretary to submit to Congress a report with recommendations on how the Department could procure additional items from domestic sources and bolster the domestic supply chain for items related to national security not later than 180 days after the enactment of the Act. The report shall include: (1) a review of the Department’s compliance with the requirements outlined in the Kissell Amendment (6 U.S.C. §453b); and (2) an assessment of the capacity of the Department to procure other specified items from domestic sources, such as PPE, helmets that provide ballistic protection, and rain gear, among other things.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics)

and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Homeland Security Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

* * * * *

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

* * * * *

Subtitle D—Acquisitions

* * * * *

Sec. 836. Requirements to buy certain items related to national security interests.

* * * * *

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

* * * * *

Subtitle D—Acquisitions

* * * * *

SEC. 836. REQUIREMENTS TO BUY CERTAIN ITEMS RELATED TO NATIONAL SECURITY INTERESTS.

(a) **DEFINITIONS.**—*In this section:*

(1) **COVERED ITEM.**—*The term “covered item” means any of the following:*

(A) *Footwear provided as part of a uniform.*

(B) *Uniforms.*

(C) *Holsters and tactical pouches.*

(D) *Patches, insignia, and embellishments.*

(E) *Chemical, biological, radiological, and nuclear protective gear.*

(F) *Body armor components intended to provide ballistic protection for an individual, consisting of 1 or more of the following:*

(i) *Soft ballistic panels.*

(ii) *Hard ballistic plates.*

(iii) *Concealed armor carriers worn under a uniform.*

(iv) *External armor carriers worn over a uniform.*

(G) *Any other item of clothing or protective equipment as determined appropriate by the Secretary.*

(2) *FRONTLINE OPERATIONAL COMPONENT.— The term “frontline operational component” means any of the following organizations of the Department:*

(A) *U.S. Customs and Border Protection.*

(B) *U.S. Immigration and Customs Enforcement.*

(C) *The United States Secret Service.*

(D) *The Transportation Security Administration.*

(E) *The Coast Guard.*

(F) *The Federal Protective Service.*

(G) *The Federal Emergency Management Agency.*

(H) *The Federal Law Enforcement Training Centers.*

(I) *The Cybersecurity and Infrastructure Security Agency.*

(b) *REQUIREMENTS.—*

(1) *IN GENERAL.—The Secretary shall ensure that any procurement of a covered item for a frontline operational component meets the following criteria:*

(A) *To the maximum extent possible, not less than one-third of funds obligated in a specific fiscal year for the procurement of such covered items shall be covered items that are manufactured or supplied in the United States by entities that qualify as small business concerns, as such term is described under section 3 of the Small Business Act (15 U.S.C. 632).*

(B) *Each contractor with respect to the procurement of such a covered item, including the end-item manufacturer of such a covered item—*

(i) *is an entity registered with the System for Award Management (or successor system) administered by the General Services Administration; and*

(ii) *is in compliance with ISO 9001:2015 of the International Organization for Standardization (or successor standard) or a standard determined appropriate by the Secretary to ensure the quality of products and adherence to applicable statutory and regulatory requirements.*

(C) *Each supplier of such a covered item with an insignia (such as any patch, badge, or emblem) and each supplier of such an insignia, if such covered item with such insignia or such insignia, as the case may be, is not produced, applied, or assembled in the United States, shall—*

(i) *store such covered item with such insignia or such insignia in a locked area;*

(ii) *report any pilferage or theft of such covered item with such insignia or such insignia occurring at any stage before delivery of such covered item with such insignia or such insignia; and*

(iii) *destroy any such defective or unusable covered item with insignia or insignia in a manner established by the Secretary, and maintain records, for three years*

after the creation of such records, of such destruction that include the date of such destruction, a description of the covered item with insignia or insignia destroyed, the quantity of the covered item with insignia or insignia destroyed, and the method of destruction.

(2) **WAIVER.**—

(A) **IN GENERAL.**—*In the case of a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) or a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), the Secretary may waive a requirement in subparagraph (A), (B) or (C) of paragraph (1) if the Secretary determines there is an insufficient supply of a covered item that meets the requirement.*

(B) **NOTICE.**—*Not later than 60 days after the date on which the Secretary determines a waiver under subparagraph (A) is necessary, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on Oversight and Reform, and the Committee on Appropriations of the House of Representatives notice of such determination, which shall include—*

- (i) identification of the national emergency or major disaster declared by the President;*
- (ii) identification of the covered item for which the Secretary intends to issue the waiver; and*
- (iii) a description of the demand for the covered item and corresponding lack of supply from contractors able to meet the criteria described in subparagraph (B) or (C) of paragraph (1).*

(c) **PRICING.**—*The Secretary shall ensure that covered items are purchased at a fair and reasonable price, consistent with the procedures and guidelines specified in the Federal Acquisition Regulation.*

(d) **REPORT.**—*Not later than 1 year after the date of enactment of this section and annually thereafter, the Secretary shall provide to the Committee on Homeland Security, the Committee on Oversight and Reform, and the Committee on Appropriations of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate a briefing on instances in which vendors have failed to meet deadlines for delivery of covered items and corrective actions taken by the Department in response to such instances.*

(e) **EFFECTIVE DATE.**—*This section applies with respect to a contract entered into by the Department or any frontline operational component on or after the date that is 180 days after the date of enactment of this section.*

* * * * *