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June 20, 2006

The Honorable Susan M. Collins
Chairman
The Honorable Joseph I. Lieberman
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Tom Davis
Chairman
The Honorable Henry A. Waxman
Ranking Member
Committee on Government Reform
House of Representatives

The Honorable Peter T. King
Chairman
The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
House of Representatives

Subject: *Department of Homeland Security's Use of Special Streamlined Acquisition Authorities in Section 833 of the Homeland Security Act of 2002*

In creating the Department of Homeland Security (DHS) in the wake of September 11, 2001, some in Congress were concerned that the Department might not be able to conduct acquisitions with sufficient speed, particularly in an emergency. To that end, Congress enacted section 833 of the Homeland Security Act of 2002, which provides DHS with special streamlined acquisition authorities. Before those authorities could be used, however, the Secretary of Homeland Security or a delegate would have to determine in writing that the DHS mission would be seriously impaired without the use of the authorities. The special streamlined acquisition authorities included:

- Increasing the micro-purchase threshold from \$2,500 to \$7,500. Purchases below the micro-purchase threshold do not require competitive quotes or compliance with the "Buy America" act. Only certain employees would be authorized to make procurements under this authority.

- Increasing the limit on the use of simplified acquisition procedures from \$100,000 to \$200,000 for contracts awarded and performed within the United States, and to \$300,000 for contracts awarded and performed outside the United States. Simplified acquisition procedures permit agencies to use streamlined techniques to acquire good and services.¹
- Increasing from \$5,000,000 to \$7,500,000 the ceiling on the use of special simplified procedures to acquire property and services the Secretary deems to be “commercial items” under federal procurement laws.

These authorities are scheduled to expire on September 30, 2007.

Section 833 of the act directed us to report on the Department’s use of these special streamlined acquisition authorities. Our objectives were to determine (1) the extent to which DHS has used the special authorities and (2) whether DHS sees a need to extend the authorities beyond September 2007. We conducted our review from April to May 2006 in accordance with generally accepted government auditing standards.

RESULTS

The Department of Homeland Security has never used the special streamlined acquisition authorities provided in section 833. According to the Director of Acquisition Oversight at DHS, use of the special authorities has not been needed because existing authorities have been sufficient to meet DHS requirements. For example, the Department makes frequent use of the current \$2,500 micro-purchase threshold and that threshold may increase up to \$15,000 for domestic purchases made in support of a contingency operation if certain determinations are made. With respect to simplified acquisition procedures, the Department currently uses these procedures for nearly 2,000 procurements annually up to \$100,000, and according to DHS, increasing the limit to \$200,000 would make only 100 additional procurements eligible for these procedures. For these or other procurements, including those involving commercial items, there is authority under Part 16.603 of the Federal Acquisition Regulation (FAR) to award letter contracts in emergencies or other appropriate circumstances, up to the warranted level of the procurement official. Finally, DHS can use the flexibility provided by FAR Part 6.3, which provides for contracting without full and open competition if the required justifications and approvals are obtained.

Agency officials also said that the increased authorities provided for under section 833 are not worth the time and effort required to justify their use given the relatively modest increase in flexibility those authorities provide. Specifically, officials said that the approval procedures for using the authorities are time consuming and noted that

¹ While simplified acquisition procedures promote competition to the maximum extent practicable, they are designed to: (1) reduce administrative costs; (2) improve opportunities for small, disadvantaged, and women-owned businesses to obtain a fair proportion of government contracts; (3) promote efficiency and effectiveness in contracting; and (4) avoid unnecessary burdens for agencies and contractors. Federal Acquisition Regulation, at 13.002.

approval can only be delegated to a presidential appointee who has been confirmed by the Senate. At this time, this limits the approving officials within the Department to just the Secretary, the Deputy Secretary, and the Under Secretary for Management.

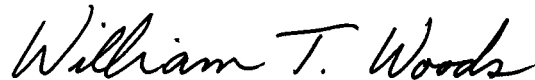
DHS officials told us that the Department has no interest in extending the special acquisition authorities of section 833. They believe the authorities should be allowed to expire at the end of September 2007.

AGENCY COMMENTS

We provided a draft of this letter to the Department of Homeland Security for its review and comment. Department officials indicated in an e-mail message that the letter was accurate and that the Department had no additional comments.

We are sending copies of this letter to other interested congressional committees and Members, and to the Secretary of Homeland Security. We will make copies available to others upon request. In addition, it will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you have any questions regarding this letter, please contact me at (202) 512-4841 or John Needham, Assistant Director, at (202) 512-5274. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this letter. Other contributors to this effort include Myra Watts Butler, John Krump, and Robert Swierczek.



William T. Woods
Director
Acquisition and Sourcing Management

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