

110TH CONGRESS
1ST SESSION

H. R. 803

To amend the Homeland Security Act of 2002 to enhance the procurement-related activities of the Department of Homeland Security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2007

Mr. CARNEY (for himself, Mr. ROGERS of Alabama, Mr. THOMPSON of Mississippi, Mr. KING of New York, Mr. DICKS, Mr. SHAYS, Ms. HARMAN, Mr. SOUDER, Mr. DEFAZIO, Mr. McCUAUL of Texas, Ms. JACKSON-LEE of Texas, Mrs. CHRISTENSEN, Mr. ETHERIDGE, Mr. LANGEVIN, Mr. CUELLAR, and Mr. AL GREEN of Texas) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To amend the Homeland Security Act of 2002 to enhance the procurement-related activities of the Department of Homeland Security, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the “Department of Home-
- 5 land Security Procurement Improvement Act of 2007”.

1 **SEC. 2. HOMELAND SECURITY PROCUREMENT TRAINING.**

2 (a) IN GENERAL.—Subtitle D of title VIII of the
3 Homeland Security Act of 2002 is amended by adding at
4 the end the following new section:

5 **“SEC. 836. HOMELAND SECURITY PROCUREMENT TRAIN-
6 ING.**

7 “(a) ESTABLISHMENT.—The Chief Procurement Of-
8 ficer shall provide homeland security procurement training
9 to acquisition employees.

10 “(b) RESPONSIBILITIES OF CHIEF PROCUREMENT
11 OFFICER.—The Chief Procurement Officer shall carry out
12 the following responsibilities:

13 “(1) Establish objectives to achieve the efficient
14 and effective use of available acquisition resources
15 by coordinating the acquisition education and train-
16 ing programs of the Department and tailoring them
17 to support the careers of acquisition employees.

18 “(2) Develop, in consultation with the Council
19 on Procurement Training established under sub-
20 section (d), the curriculum of the homeland security
21 procurement training to be provided.

22 “(3) Establish, in consultation with the Council
23 on Procurement Training, training standards, re-
24 quirements, and courses to be required for acqui-
25 sition employees.

1 “(4) Establish an appropriate centralized mech-
2 anism to control the allocation of resources for con-
3 ducting such required courses and other training
4 and education.

5 “(5) Select course providers and certify courses
6 to ensure that the procurement training curriculum
7 supports a coherent framework for the educational
8 development of acquisition employees, including the
9 provision of basic, intermediate, and advanced
10 courses, as well as training on the SAFETY Act (6
11 U.S.C. 441).

12 “(6) Publish an annual catalog that includes a
13 list of the acquisition education and training
14 courses.

15 “(7) Develop a system of maintaining records
16 of student enrollment, and other data related to stu-
17 dents and courses conducted pursuant to this sec-
18 tion.

19 “(c) PROVISION OF INSTRUCTION.—The Chief Pro-
20 curement Officer shall provide procurement training to ac-
21 quisition employees of any agency under subsection (d)(3).
22 The appropriate member of the Council on Procurement
23 Training may direct such an employee to receive procure-
24 ment training.

25 “(d) COUNCIL ON PROCUREMENT TRAINING.—

1 “(1) ESTABLISHMENT.—The Secretary shall es-
2 tablish a Council on Procurement Training to advise
3 and make policy and curriculum recommendations to
4 the Chief Procurement Officer.

5 “(2) CHAIR OF COUNCIL.—The chair of the
6 Council on Procurement Training shall be the Dep-
7 uty Chief Procurement Officer.

8 “(3) MEMBERS.—The members of the Council
9 on Procurement Training are the chief procurement
10 officers of each of the following:

11 “(A) United States Customs and Border
12 Protection.

13 “(B) The Transportation Security Admin-
14 istration.

15 “(C) The Office of Procurement Oper-
16 ations.

17 “(D) The Bureau of Immigration and Cus-
18 toms Enforcement.

19 “(E) The Federal Emergency Management
20 Agency.

21 “(F) The Coast Guard.

22 “(G) The Federal Law Enforcement
23 Training Center.

24 “(H) The United States Secret Service.

1 “(I) Such other entity as the Secretary de-
2 termines is appropriate.

3 “(e) ACQUISITION EMPLOYEE DEFINED.—For pur-
4 poses of this section, the term ‘acquisition employee’
5 means an employee serving under a career or career-condi-
6 tional appointment in the competitive service or appoint-
7 ment of equivalent tenure in the excepted service of the
8 Federal Government, at least 50 percent of whose as-
9 signed duties include acquisitions, procurement-related
10 program management, or procurement-related oversight
11 functions.

12 “(f) REPORT REQUIRED.—Not later than March 1
13 of each year, the Chief Procurement Officer shall submit
14 to the Secretary a report on the procurement training pro-
15 vided under this section, which shall include information
16 about student enrollment, students who enroll but do not
17 attend courses, graduates, certifications, and other rel-
18 evant information.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 in section 1(b) of such Act is amended by adding at the
21 end of the items relating to such subtitle the following:

“Sec. 836. Homeland security procurement training.”.

22 SEC. 3. CONTRACTING REQUIREMENTS.

23 (a) IN GENERAL.—Such subtitle is further amended
24 by adding at the end the following:

1 **“SEC. 837. CONTRACTING REQUIREMENTS.**

2 “(a) ATTESTATION REQUIRED.—The Secretary shall
3 require any offeror for any contract to provide goods or
4 services to the Department to submit as part of the
5 offeror’s bid for such contract an attestation that affirma-
6 tively discloses any substantial role the offeror, the em-
7 ployees of the offeror, or any corporate parent or sub-
8 sidiary of the offeror may have played in creating a solici-
9 tation, request for proposal, statement of work, or state-
10 ment of objectives (as those terms are defined in the Fed-
11 eral Acquisition Regulation) for the Department.

12 “(b) ADDITIONAL REQUIREMENTS FOR CERTAIN
13 OFFERORS.—If an offeror submits an attestation under
14 subparagraph (a) that discloses that the offeror, the em-
15 ployees of the offeror, or any corporate parent or sub-
16 sidiary of the offeror played a substantial role in creating
17 a solicitation, request for proposal, statement of work, or
18 statement of objectives for the Department, the Secretary
19 shall require the offeror to submit to the Secretary a de-
20 scription of the safeguards used to ensure that precautions
21 were in place to prevent the offeror from receiving infor-
22 mation through such role that could be used to provide
23 the offeror an undue advantage in submitting an offer for
24 a contract.

25 “(c) CERTIFICATION REQUIREMENTS.—

1 “(1) IN GENERAL.—The Secretary shall require
2 any offeror for any contract to provide goods or
3 services to the Department to submit to the Sec-
4 retary as part of the offeror’s bid for such contract
5 a certification in writing whether, as of the date on
6 which the certification is submitted, the offeror—

7 “(A) is in default on any payment of any
8 tax to the Federal Government; or

9 “(B) owes the Federal Government for any
10 payment of any delinquent tax.

11 “(2) FAILURE OF CERTIFICATION.—Nothing in
12 this section shall prevent the Department from
13 awarding a contract to an offeror based solely on the
14 offeror’s certification.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 in section 1(b) of such Act is further amended by adding
17 at the end of the items relating to such subtitle the fol-
18 lowing:

“Sec. 837. Contracting requirements.”.

19 **SEC. 4. ADDITIONAL REQUIREMENTS TO REVIEW PAST**
20 **PERFORMANCE OF CONTRACTORS.**

21 (a) IN GENERAL.—Such subtitle is further amended
22 by adding at the end the following new section:

23 **“SEC. 838. REVIEW OF CONTRACTOR PAST PERFORMANCE.**

24 “(a) CONSIDERATION OF CONTRACTOR PAST PER-
25 FORMANCE.—In awarding a contract to a contractor, the

1 Secretary shall consider the past performance of that con-
2 tractor based on the review conducted under subsection
3 (b).

4 “(b) REVIEW REQUIRED.—Before awarding to a con-
5 tractor (including a contractor that has previously pro-
6 vided goods or services to the Department) a contract to
7 provide goods or services to the Department, the Sec-
8 retary, acting through the appropriate contracting officer
9 of the Department, shall require the contractor to submit
10 information regarding the contractor’s performance of
11 Federal, State, and local government and private sector
12 contracts.

13 “(c) CONTACT OF RELEVANT OFFICIALS.—As part
14 of any review of a contractor conducted under subsection
15 (b), the Secretary, acting through an appropriate con-
16 tracting officer of the Department, shall contact the rel-
17 evant official who administered or oversaw each contract
18 performed by that contractor during the five-year period
19 preceding the date on which the review begins.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 1(b) of such Act is amended by adding at the
22 end of the items relating to such subtitle the following:

“Sec. 838. Review of contractor past performance.”.

1 **SEC. 5. PURCHASE CARDS.**

2 (a) REVIEW REQUIRED.—Not later than 30 days
3 after the date of the enactment of this Act, the Secretary
4 shall—

5 (1) review and strengthen the policy governing
6 the use of purchase cards that the Department pro-
7 vides to employees of the Department for use in con-
8 ducting official business; and

9 (2) issue Department-wide guidance on such
10 policy.

11 (b) DISTRIBUTION OF POLICY.—The Secretary shall
12 distribute the policy or guidance developed under sub-
13 section (a) to each employee who possesses or is entitled
14 to possess a purchase card provided by the Department.

15 (c) REQUIREMENT TO INFORM EMPLOYEES.—Upon
16 distribution of the policy or guidance under subsection (b),
17 the Secretary shall ensure that all employees of the De-
18 partment who are entitled to possess a purchase card
19 issued by the Department have reviewed the policy or
20 guidance.

21 **SEC. 6. COMPTROLLER GENERAL REPORT ON DEPART-**
22 **MENT OF HOMELAND SECURITY CONTRACTING.**

24 Not later than 6 months after the date of the enact-
25 ment of this Act, the Comptroller General shall submit
26 to Congress a report on the contracting processes of the

- 1 Department of Homeland Security. The report shall con-
- 2 tain the findings of the Comptroller General with respect
- 3 to any improvements in such processes that could be made
- 4 through the use of new technologies.

○