

111TH CONGRESS
1ST SESSION

H. R. 4221

To amend title 38, United States Code, to provide for improved acquisition practices by the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2009

Mr. BUYER (for himself, Mr. ROE of Tennessee, Mr. BILBRAY, Mr. LAMBORN, Mr. BROWN of South Carolina, and Mr. BOOZMAN) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 38, United States Code, to provide for improved acquisition practices by the Department of Veterans Affairs, 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 Vet-
5 erans Affairs Acquisition Improvement Act of 2009”.

1 **SEC. 2. ASSISTANT SECRETARY OF VETERANS AFFAIRS FOR**
2 **ACQUISITION, CONSTRUCTION, AND ASSET**
3 **MANAGEMENT; ADDITIONAL DEPUTY ASSIST-**
4 **ANT SECRETARIES.**

5 (a) IN GENERAL.—Section 308 of title 38, United
6 States Code, is amended—

7 (1) in subsection (b), by adding at the end the
8 following new paragraph:

9 “(12) Acquisition, Construction, and Asset
10 Management.”; and

11 (2) in subsection (d)—

12 (A) in paragraph (1), by striking “19” and
13 inserting “26”; and

14 (B) by inserting at the end the following
15 new paragraph:

16 “(3) The Secretary shall assign one Deputy Assistant
17 Secretary to each of the following areas of responsibility:

18 “(A) Information technology acquisition.

19 “(B) Acquisition services for the Veterans Ben-
20 efits Administration, the National Cemetery Admin-
21 istration, and the Department headquarters.

22 “(C) Construction acquisitions and leasing.

23 “(D) Acquisition services for the Veterans
24 Health Administration.

25 “(E) National contracts, including contracts for
26 health care products and services awarded by the

1 National Acquisition Center (other than contracts
2 for information technology).

3 “(F) Policy.

4 “(G) Asset Enterprise Management and Logis-
5 tics.”.

6 (b) DEADLINE FOR APPOINTMENTS.—By not later
7 than one year after the date of the enactment of this Act,
8 the Secretary of Veterans Affairs shall assign an indi-
9 vidual to carry out the responsibilities of the Assistant
10 Secretary for Acquisition, Construction, and Asset Man-
11 agement, pursuant to paragraph (12) of section 308(b)
12 of title 38, United States Code, as added by subsection
13 (a), and individuals to carry out the responsibilities of the
14 Deputy Assistant Secretaries pursuant to section 308(d)
15 of such title, as amended by subsection (a).

16 **SEC. 3. CHIEF ACQUISITION OFFICER.**

17 (a) ESTABLISHMENT.—Chapter 3 of title 38, United
18 States Code, is amended by inserting after section 310 the
19 following new section:

20 **“§ 310A. Chief Acquisition Officer; other acquisition**
21 **officers**

22 “(a) ESTABLISHMENT.—There is in the Department
23 a Chief Acquisition Officer. The Assistant Secretary for
24 Acquisition, Construction, and Asset Management shall
25 serve as the Chief Acquisition Officer.

1 “(b) RESPONSIBILITIES.—In addition to the respon-
2 sibilities of the Chief Acquisition Officer under section 16
3 of the Office of Federal Procurement Policy Act (41
4 U.S.C. 414), the Chief Acquisition Officer shall carry out
5 the following additional responsibilities:

6 “(1) Managing and monitoring the performance
7 of Department acquisition activities.

8 “(2) Advising the Secretary on appropriate
9 business strategies to meet the missions of the De-
10 partment.

11 “(3) Awarding and administering contracts and
12 purchases.

13 “(4) Increasing the use of full and open com-
14 petition in the acquisitions processes of the Depart-
15 ment.

16 “(5) Increasing the appropriate use of perform-
17 ance-based contracting and performance specifica-
18 tions in such processes.

19 “(6) Ensuring that acquisitions decisions are
20 consistent with applicable laws.

21 “(7) Managing the direction of acquisition pol-
22 icy for the Department.

23 “(8) Establishing clear lines of authority, ac-
24 countability, and responsibility for decision making
25 within the Department with respect to acquisitions.

1 “(9) Developing and maintaining an acquisition
2 career management program.

3 “(c) QUALIFICATIONS.—The individual appointed as
4 Chief Acquisition Officer shall have the following qualifica-
5 tions:

6 “(1) Executive experience in acquisition in the
7 Federal Government—

8 “(A) managing large projects or having re-
9 sponsibility for managing a corporate-type sup-
10 ply chain function;

11 “(B) defining and achieving performance
12 results;

13 “(C) developing, negotiating, delivering,
14 and managing successful and complex business
15 arrangements across large organizations with
16 competing interests;

17 “(D) building and managing executive re-
18 lationships across organizational and functional
19 boundaries; and

20 “(E) successfully using strategic resource
21 management to achieve organizational goals.

22 “(2) Knowledge of the Federal Acquisition Reg-
23 ulation.

24 “(3) Knowledge of the Federal budget, appro-
25 priations, and legislative processes.

1 “(d) ACQUISITION WORKFORCE.—All employees of
2 the Department whose responsibilities relate to acquisition
3 shall report directly to the Chief Acquisition Officer. Be-
4 ginning on the date of the enactment of this section, no
5 new employee may be hired as a Head of Contracting Au-
6 thority or Chief Logistics Officer unless the Principal Dep-
7 uty Assistant Secretary for Acquisition, Construction, and
8 Asset Management approves the hire.

9 “(e) PRINCIPAL DEPUTY ASSISTANT SECRETARY
10 FOR ACQUISITION, CONSTRUCTION, AND ASSET MANAGE-
11 MENT.—(1) There is in the Department a Principal Dep-
12 uty Assistant Secretary for Acquisition, Construction, and
13 Asset Management. The Principal Deputy Assistance Sec-
14 retary for Acquisition, Construction, and Asset Manage-
15 ment shall be the senior procurement executive for the De-
16 partment and shall report directly to the Chief Acquisition
17 Officer.

18 “(2) The position of Principal Deputy Assistant Sec-
19 retary for Acquisition, Construction, and Asset Manage-
20 ment shall for all purposes be considered to be a career
21 reserve position within the meaning of section 3132(a)(8)
22 of title 5.

23 “(3) The Principal Deputy Assistant Secretary for
24 Acquisition, Construction, and Asset Management shall
25 have primary responsibility for the following:

1 “(A) Acquisition policy and oversight.

2 “(B) Oversight of the Office of the Business
3 Ombudsman, including the Competition Advocate
4 and the Office of Business Oversight.

5 “(C) Training, management, and oversight of
6 the acquisition workforce, including the Acquisition
7 Academy of the Department.

8 “(D) Management and oversight of the Deputy
9 Assistant Secretary responsible for awarding and ad-
10 ministering contracts and purchases.

11 “(f) DEPUTY ASSISTANT SECRETARIES FOR ACQUI-
12 TION.—There are in the Department seven Deputy Assist-
13 ant Secretaries for Acquisition who shall report directly
14 to the Principal Deputy Assistant for Acquisition, Con-
15 struction, and Asset Management. The Secretary or the
16 Secretary’s designee shall assign to each Deputy Assistant
17 Secretary one of the following functions:

18 “(1) Information technology acquisition.

19 “(2) Acquisition services for the Veterans Bene-
20 fits Administration, the National Cemetery Adminis-
21 tration and the Department headquarters.

22 “(3) Construction acquisition and leasing.

23 “(4) Veterans Health Administration acquisi-
24 tion.

1 “(5) National contracts, including contracts for
 2 health care products and services awarded by the
 3 National Acquisition Center.

4 “(6) Policy.

5 “(7) Asset enterprise management and logis-
 6 tics.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
 8 at the beginning of such chapter is amended by inserting
 9 after the item relating to section 310 the following new
 10 item:

“310A. Chief Acquisition Officer; other acquisition officers.”.

11 (c) DEADLINE FOR DESIGNATIONS.—

12 (1) DEADLINE FOR PLAN.—Not later than 180
 13 days after the date of the enactment of this Act, the
 14 Secretary of Veterans Affairs shall submit to Con-
 15 gress a plan for implementing section 310A of title
 16 38, United States Code, as added by subsection (a).

17 (2) DEADLINE FOR IMPLEMENTATION.—Not
 18 later than 18 months after the date of the enact-
 19 ment of this Act, the Secretary of Veterans Affairs
 20 shall fully implement the plan submitted under para-
 21 graph (1).

22 **SEC. 4. ACQUISITION POLICY OF DEPARTMENT OF VET-**
 23 **ERANS AFFAIRS.**

24 (a) DEPARTMENT-WIDE POLICY REQUIRED.—

1 (1) REQUIREMENT.—Subchapter II of chapter
2 81 of title 38, United States Code, is amended by
3 adding at the end the following new section:

4 **“§ 8129. Department-wide acquisition policy**

5 “(a) POLICY REQUIRED.—The Secretary shall estab-
6 lish and maintain a comprehensive Department-wide ac-
7 quisition program under which the Secretary shall develop,
8 implement, and enforce a streamlined approach to enter-
9 ing into contracts and purchasing goods and services.
10 Such program shall include the elements described in sub-
11 section (b).

12 “(b) ELEMENTS.—The Secretary shall ensure that
13 the Department-wide acquisition program includes the fol-
14 lowing elements:

15 “(1) The centralization under the Chief Acqui-
16 sition Officer of all contracting activities of the De-
17 partment, including purchasing, and including all
18 contracting activities carried out by each Adminis-
19 tration and staff office of the Department as of the
20 date of the enactment of this section.

21 “(2) The establishment of acquisition goals to
22 meet the mission needs of the Department.

23 “(3) The development of Department require-
24 ments with respect to acquisition.

1 “(4) The establishment of an overall acquisition
2 strategy for the Department.

3 “(5) Soliciting and awarding contracts.

4 “(6) The management of acquisition system
5 and contract performance.

6 “(c) ACQUISITION REQUIREMENTS.—(1) Except as
7 provided in paragraph (2), an acquisition of any health
8 care item by the Department shall be made through the
9 use of a Federal supply schedule 65 or 66 contract award-
10 ed by the Department or a national contract that is
11 awarded by or approved by the Department.

12 “(2)(A) Paragraph (1) does not apply to an acquisi-
13 tion of a health care item in any of the following cases:

14 “(i) An acquisition necessary to meet a current
15 or near-term medical emergency at a medical center.

16 “(ii) An acquisition for an item not listed in the
17 Federal supply schedule or as part of a national con-
18 tract and for which there is a valid clinical need.

19 “(iii) An acquisition for a specialized health
20 care item not listed in the Federal supply schedule
21 or as part of a national contract for the special
22 needs of an individual patient who has one of the
23 special needs identified in section 1706(b) of this
24 title and who has a valid clinical need for the item.

1 “(iv) An acquisition that is part of an approved
2 sharing agreement between the Department of De-
3 fense and the Department of Veterans Affairs with
4 demonstrable cost-per-item savings for an item listed
5 on the Federal supply schedule or a national con-
6 tract.

7 “(B) An acquisition referred to in any of clauses (i)
8 through (v) of subparagraph (A) may be made only if the
9 acquisition is specifically authorized in advance in writing
10 by the Secretary. The authority of the Secretary under
11 the preceding sentence with respect to contracts awarded
12 by the Department may be delegated only to the Assistant
13 Secretary for Acquisition, Construction, and Asset Man-
14 agement.

15 “(3) Before entering into either a new Federal supply
16 schedule contract or a new national contract, the Chief
17 Acquisition Officer may amend any clause of the Federal
18 Acquisition Regulation otherwise required to be included
19 in the contract in such manner as the Chief Acquisition
20 Officer determines necessary to protect the interests of the
21 Government.

22 “(4) In the case of an emergency acquisition of a
23 health care item under paragraph (2)(B), the quantity of
24 the item procured may not exceed the quantity of that
25 item that meets the reasonably foreseeable need for the

1 item at the medical facility concerned until resupply can
2 be achieved through an acquisition action other than an
3 emergency acquisition.

4 “(d) PROCEDURES TO ASSURE COMPLIANCE.—(1)
5 The Secretary shall establish procedures to assure compli-
6 ance by each Department medical facility with the provi-
7 sions of this section and with applicable Federal and De-
8 partment acquisition regulations.

9 “(2) The procedures established by the Secretary
10 under paragraph (1) shall be designed to maximize the
11 availability of health care items and the use of the Federal
12 supply schedule by the Department.

13 “(3) The procedures established by the Secretary
14 under paragraph (1) shall include procedures designed to
15 standardize items at the local, regional, or national level
16 to provide special patient populations (as identified in sec-
17 tion 1706(b) of this title) with the range and types of
18 health care items required to meet their clinical and qual-
19 ity-of-life needs.

20 “(4) The Advisory Committee on Prosthetics and
21 Special-Disabilities Programs established under section
22 543 of this title shall review the procedures referred to
23 in paragraph (3), including the implementation of those
24 procedures.

1 “(e) ANNUAL GOALS.—(1) The Secretary shall estab-
2 lish annual goals for Department medical facilities for the
3 purchase of health care items from Federal supply sched-
4 ule contracts and national contracts meeting the require-
5 ments of subsection (d). Such goals shall be designed to
6 maximize the percentage of such purchases that are made
7 through such contracts.

8 “(2) Achievement of the goals established under this
9 subsection shall be an element in the performance stand-
10 ards for employees of the Department who have the au-
11 thority and responsibility for achieving those goals.

12 “(f) RELATIONSHIP TO OTHER PROVISIONS OF
13 LAW.—A provision of law that is inconsistent with any
14 provision of this section shall not apply, to the extent of
15 the inconsistency, to the acquisition of a health care item
16 for the Department.

17 “(g) REPORT.—(1) Not later than December 31 each
18 year, the Secretary shall submit to the Committees on Vet-
19 erans’ Affairs of the Senate and House of Representatives
20 a report on the acquisition of health care items during
21 the preceding fiscal year. Each such report shall include,
22 for the year covered by the report, the following:

23 “(A) The total dollar amount of all items listed
24 in Federal supply schedule 65 or 66 and the total
25 dollar value of the exceptions to subsection (c)(1)

1 under each of clauses (i), (ii), (ii), (iv), and (v) of
2 subsection (c)(2)(A), shown by medical facility.

3 “(B) A detailed explanation for such exceptions,
4 including—

5 “(i) any uses of emergency acquisition au-
6 thority at Department medical facilities;

7 “(ii) any authorizations under subsection
8 (c)(2)(A) for acquisition of items not listed on
9 the Federal supply schedules or on national
10 contracts; and

11 “(iii) any exceptions granted for special
12 health care needs of veterans with disabilities
13 described in section 1706(b) of this title.

14 “(C) An analysis of sharing agreements be-
15 tween the Department and the Department of De-
16 fense, including the basic sharing initiative and the
17 division of financial responsibility between the two
18 Departments.

19 “(D) The stated Department goal under each
20 acquisition preference program, together with an as-
21 sessment of the performance of the Department to-
22 ward achievement of such goals, including any goals
23 for contracting with businesses that are owned and
24 controlled by veterans or veterans with service-con-
25 nected disabilities.

1 “(2) The Advisory Committee on Prosthetics and
2 Special-Disabilities Programs of the Department shall
3 submit comments on each report under paragraph (1) be-
4 fore the report is submitted under that paragraph, and
5 the Secretary shall include those comments in the report
6 as submitted.

7 “(3) For the purposes of this subsection:

8 “(A) The term ‘health care item’ includes any
9 item other than services listed in any Federal Supply
10 Classification other than Federal supply schedule 65
11 or 66 over which the Department has been delegated
12 authority.

13 “(B) The term ‘national contract’ means a con-
14 tract for the acquisition of an item that is entered
15 into by the National Acquisition Center of the De-
16 partment or another Department acquisition activ-
17 ity, as authorized by the Secretary, that is available
18 for use by all Department medical facilities.

19 “(C) The term ‘valid clinical need’ means a
20 clinical need that is valid in the professional judg-
21 ment of an appropriate clinician. Such term applies
22 to health care items, prosthetic appliances, sensory
23 or mobility aids and supplies that are prescribed by
24 a physician for special patient populations such as
25 veterans with spinal cord dysfunction, blindness, am-

1 putations, and other veterans included in section
2 1706(b) of this title.

3 “(D) The term ‘Federal supply schedule con-
4 tract’ means a contract that is awarded and admin-
5 istered by the National Acquisition Center of the
6 Department, under a delegation of authority as of
7 the date of the enactment of this section or a con-
8 tract that is awarded and administered by the De-
9 partment under regulations prescribed under section
10 8130 of this title.

11 “(E) The term ‘emergency acquisition’ means
12 an acquisition necessary to meet an emergency need
13 affecting the health or safety of a person being fur-
14 nished health care services by the Department.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions at the beginning of such chapter is amended
17 by inserting after the item relating to section 8128
18 the following new item:

“8129. Department-wide acquisition policy.”.

19 (b) DEADLINE FOR IMPLEMENTATION.—The acquisi-
20 tion policy required by section 8129 of title 38, United
21 States Code, as added by subsection (a), shall be fully im-
22 plemented by the date that is 18 months after the date
23 of the enactment of this Act.

1 **SEC. 5. AUTHORITY FOR SECRETARY OF VETERANS AF-**
2 **FAIRS TO ENTER INTO CERTAIN PERSONAL**
3 **SERVICES CONTRACTS.**

4 (a) **CONTRACTS FOR SCARCE MEDICAL SPECIALIST**
5 **SERVICES.**—Section 7409(a) of title 38, United States
6 Code, is amended, in the first sentence, by inserting “,
7 including personal services contracts,” after “contracts”.

8 (b) **SHARING OF HEALTH CARE RESOURCES WITH**
9 **DEPARTMENT OF DEFENSE.**—Section 8111(a) of such
10 title is amended by inserting “, including personal services
11 contracts,” after “contracts”.

12 (c) **SHARING OF HEALTH CARE RESOURCES.**—Sec-
13 tion 8153(a) of such title is amended by inserting “, in-
14 cluding a personal services contract,” after “contract”.

15 (d) **DEADLINE FOR REGULATIONS.**—Not later than
16 180 days after the date of the enactment of this Act, the
17 Secretary of Veterans Affairs shall prescribe regulations
18 to carry out the amendments made by this section.

19 **SEC. 6. AWARD AND ADMINISTRATION OF CERTAIN FED-**
20 **ERAL SUPPLY SCHEDULES BY SECRETARY OF**
21 **VETERANS AFFAIRS.**

22 (a) **EXPANSION OF DEFINITION OF COMPETITIVE**
23 **PROCEDURES.**—Section 309(b) of the Federal Property
24 and Administrative Services Act of 1949 (41 U.S.C. 259)
25 is amended—

1 (1) in paragraph (4), by striking “and” at the
2 end;

3 (2) in paragraph (5), by striking the period and
4 inserting “; and”; and

5 (3) by adding at the end the following new
6 paragraph:

7 “(6) the procedures established by the Sec-
8 retary of Veterans Affairs for the use of certain
9 Federal supply schedules, pursuant to regulations
10 prescribed under section 8130 of title 38, United
11 States Code, if—

12 “(A) the procedures provide that the use of
13 any such supply schedule has been open to all
14 responsible sources; and

15 “(B) orders and contracts under such pro-
16 cedures result in the lowest cost alternative to
17 meet the needs of the Government.”.

18 (b) AUTHORITY OF SECRETARY OF VETERANS AF-
19 FAIRS.—

20 (1) IN GENERAL.—Subchapter II of chapter 81
21 of title 38, United States Code, as amended by sec-
22 tion 3, is further amended by adding at the end the
23 following new section:

1 **“§ 8130. Award and administration of certain Federal**
2 **supply schedules**

3 “(a) REGULATIONS.—The Secretary shall prescribe
4 regulations to provide procedures for soliciting, negoti-
5 ating, awarding, and administering the Federal supply
6 schedules described in subsection (c).

7 “(b) CONTRACT CLAUSE REQUIREMENTS.—The reg-
8 ulations prescribed under subsection (a) shall require that
9 a contract entered into by the Secretary under a Federal
10 supply schedule shall include pre- and post-award audit
11 clauses, an economic price adjustment clause, a price re-
12 ductions clause, and a price adjustment for failure to pro-
13 vide accurate information clause.

14 “(c) APPLICABILITY.—This section shall apply with
15 respect to any Federal supply schedule for which the au-
16 thority to administer such schedule is transferred from the
17 Administrator of General Services to the Secretary of Vet-
18 erans Affairs, whether such authority is transferred be-
19 fore, on, or after the date of the enactment of this sec-
20 tion.”.

21 (2) GENERAL SERVICES ADMINISTRATION
22 RULES AND REGULATIONS.—Until the Secretary of
23 Veterans Affairs prescribes regulations under section
24 8130(a) of title 38, United States Code (as added by
25 paragraph (1)), the Secretary shall comply with the
26 rules and regulations relating to the Federal supply

1 schedules prescribed by the Administrator of General
 2 Services that were in effect on the date of the enact-
 3 ment of this Act.

4 (3) CLERICAL AMENDMENT.—The table of sec-
 5 tions at the beginning of such chapter is amended
 6 by inserting after the item relating to section 8130,
 7 as added by section 3, the following new item:

“8130. Administration of Federal supply schedule.”.

8 (4) DEADLINE FOR REGULATIONS.—Not later
 9 than 180 days after the date of the enactment of
 10 this Act, the Secretary of Veterans Affairs shall pre-
 11 scribe the regulations required under section 8130 of
 12 title 38, United States Code, as added by paragraph
 13 (1).

14 **SEC. 7. IMPROVEMENT OF DEPARTMENT OF VETERANS AF-**
 15 **FAIRS SMALL BUSINESS CONTRACTING**
 16 **GOALS.**

17 (a) ADDITIONAL REQUIREMENT.—Section 8127(c) of
 18 title 38, United States Code, is amended—

19 (1) in paragraph (2), by striking “and” at the
 20 end;

21 (2) in paragraph (3), by striking the period and
 22 inserting the following: “; and”; and

23 (3) by adding at the end the following new
 24 paragraph:

1 “(4) in the case of a contract for the purchase
2 of a commercial item, the vendor of the item is a
3 manufacturer or a regular dealer.”.

4 (b) COMPLAINT PROCESS FOR USE OF RESTRICTED
5 COMPETITION.—Subsection (d) of such section is amend-
6 ed—

7 (1) by striking “Except as provided” and in-
8 serting “(1) Except as provided”; and

9 (2) by adding at the end the following new
10 paragraph:

11 “(2) Any complaint regarding the noncompliance of
12 a contracting officer with this subsection shall be sub-
13 mitted to the Secretary.”.

14 (c) ELIGIBILITY.—Subsection (e) of such section is
15 amended—

16 (1) by striking “only if the small business con-
17 cern and the veteran” and all that follows and in-
18 serting “only if—”; and

19 (2) by adding at the end the following new
20 paragraphs:

21 “(1) the small business concern and the veteran
22 owner of the small business concern are listed in the
23 database of veteran-owned businesses maintained by
24 the Secretary under subsection (f);

1 “(2) the Secretary has performed the
2 verification functions of the Secretary under para-
3 graph (4) of such subsection with respect to the
4 small business concern; and

5 “(3) the contract is only for the procurement of
6 a good or service with an North American Industry
7 Classification System code specified by the Secretary
8 under paragraph (9) of that subsection for the small
9 business concern.”.

10 (d) DATABASE.—Subsection (f) of such section is
11 amended by adding at the end the following new para-
12 graphs:

13 “(7) The Secretary may not include in the database
14 a small business concern that is the vendor of a commer-
15 cial item unless the concern is the manufacturer or regular
16 dealer of the item, unless the Secretary specifically pro-
17 vides for a waiver of such requirement for such concern.

18 “(8) The Secretary shall establish specific criteria to
19 be used in carrying out the verification functions under
20 paragraph (4), including criteria requiring specific docu-
21 mentation and certifications from each small business con-
22 cern proposed to be included in the database.

23 “(9) For each small business concern included in the
24 database, the Secretary shall specify the North American
25 Industry Classification System code or codes of the goods

1 and services that may be procured by the Department
2 from such concern.”.

3 (e) DEFINITIONS.—Subsection (l) of such section is
4 amended by adding at the end the following new items:

5 “(3) The term ‘commercial item’ has the mean-
6 ing given that term in section 4(12) of the Office of
7 Federal Procurement Policy Act (41 U.S.C.
8 203(12)) as long as items and services directly relat-
9 ing to the sale of such a commercial item are offered
10 to commercial customers.

11 “(4) The term ‘management and daily business
12 operations’ includes—

13 “(A) with respect to a contract for the pro-
14 vision of services, the services to be performed
15 by a contract awarded under this section; and

16 “(B) with respect to a contract for the pro-
17 vision of goods that are not manufactured by
18 the small business concern in question, the pro-
19 vision of services relating directly to the sale of
20 such goods.

21 “(5) The term ‘regular dealer’ with respect to
22 any contract means a person who owns, operates, or
23 maintains a store, warehouse, or other establishment
24 in which the commodities or goods of the general
25 character described by the specifications and re-

1 quired under the contract are bought, kept in stock,
2 and sold to the public in the usual course of busi-
3 ness.”.

4 (f) DEADLINE FOR ESTABLISHMENT OF CRITERIA.—

5 Not later than 180 days after the date of the enactment
6 of this Act, the Secretary of Veterans Affairs shall estab-
7 lish criteria for the use of sole source contracts for Depart-
8 ment of Veterans Affairs contracts above the simplified
9 acquisition threshold.

○