

115TH CONGRESS
2D SESSION

S. 3377

To require the purchase of certain items related to national security according to certain criteria.

IN THE SENATE OF THE UNITED STATES

AUGUST 23, 2018

Mrs. SHAHEEN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require the purchase of certain items related to national security according to certain criteria.

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 “Homeland Procure-
5 ment Reform Act” or the “HOPR Act”.

6 **SEC. 2. REQUIREMENT TO BUY CERTAIN ITEMS RELATED**
7 **TO NATIONAL SECURITY INTERESTS AC-**
8 **CORDING TO CERTAIN CRITERIA; EXCEP-**
9 **TIONS.**

10 (a) REQUIREMENT.—

1 (1) IN GENERAL.—In order to ensure that cer-
2 tain components of the Department of Homeland
3 Security procure certain critical equipment of the
4 quality and innovation necessary to carry out effec-
5 tively their security, enforcement, and investigative
6 missions, except as provided in subsection (b), funds
7 appropriated or otherwise made available to the De-
8 partment of Homeland Security front line oper-
9 ational components may not be used for the procure-
10 ment of an item described in paragraph (2) unless
11 the item meets the criteria listed in paragraph (3).

12 (2) COVERED ITEMS.—The items referred to in
13 paragraph (1) are as follows:

14 (A) Body armor components intended to
15 provide ballistic protection for an individual
16 consisting of one or more of the following com-
17 ponents:

18 (i) Soft ballistic panels.

19 (ii) Hard ballistic panels.

20 (iii) Concealed armor carriers worn
21 under uniform.

22 (iv) External armor carriers worn
23 under uniform.

24 (B) Helmets and other head protection and
25 components that provide ballistic protection.

1 (C) Protective eyewear.

2 (D) Rain gear, cold weather gear, and
3 other environmental and flame-resistant cloth-
4 ing.

5 (E) Footwear.

6 (F) Uniforms.

7 (G) Bags and packs.

8 (H) Holsters and tactical pouches.

9 (I) Patches, insignia, and embellishments.

10 (J) Respiratory protective masks.

11 (K) Chemical/biological/radiological/nuclear
12 (CBRNE) protective gear.

13 (L) Hearing protection equipment.

14 (M) Other critical safety items as deter-
15 mined appropriate by the Secretary of Home-
16 land Security.

17 (3) CRITERIA.—The criteria referred to in
18 paragraph (1) are as follows:

19 (A) In the case of a uniform, the item in-
20 cludes technology for tracking and control pur-
21 poses.

22 (B) The contractor providing the item and
23 each first-tier subcontractor of the contractor,
24 including the end-item manufacturer, is cur-
25 rently registered as an entity with the System

1 for Award Management, administered by the
2 Government Services Administration.

3 (C) In the case of any unit or agency insignia
4 included with the item, the contractor providing
5 the item and each first-tier subcontractor
6 of the contractor, including the end-item manufacturer,
7 shall agree to—

8 (i) store any unit or agency insignia,
9 including patches, badges, emblems, and
10 other insignia in a locked area;

11 (ii) report any pilferage or theft of
12 any unit or agency insignia at any stage
13 prior to delivery; and

14 (iii) destroy any defective or unusable
15 item with any unit or agency insignia in a
16 manner set forth by the Secretary and
17 maintain records of such destruction that
18 includes the destruction date, description
19 of item destroyed, quantity destroyed, and
20 method of destruction.

21 (4) APPLICABILITY TO CONTRACTS AND SUB-
22 CONTRACTS.—

23 (A) IN GENERAL.—Except as provided
24 under subsection (b), the Secretary of Home-
25 land Security may not enter into a contract for

1 procurement unless the contract, and each sub-
2 contract under the contract, requires that the
3 criteria under subparagraphs (A) through (C)
4 of paragraph (3) are met.

5 (B) CONSISTENCY WITH INTERNATIONAL
6 AGREEMENTS.—This section shall be applied,
7 after consultation with the Office of the United
8 States Trade Representative, in a manner con-
9 sistent with United States obligations under
10 international agreements.

11 (b) EXCEPTIONS.—

12 (1) AVAILABILITY EXCEPTION.—The require-
13 ment under subsection (a) does not apply to the ex-
14 tent that the Secretary of Homeland Security deter-
15 mines that satisfactory quality and sufficient quan-
16 tity of any item described in subsection (a)(2) can-
17 not be procured as and when needed at United
18 States market prices.

19 (2) EXCEPTION FOR CERTAIN PROCURE-
20 MENTS.—The requirement under subsection (a) does
21 not apply to the following procurements:

22 (A) Procurements by vessels in foreign
23 waters.

24 (B) Procurements in response to a major
25 disaster declared by the President under section

1 401 of the Robert T. Stafford Disaster Relief
2 and Emergency Assistance Act (42 U.S.C.
3 5170).

4 (3) NOTIFICATION REQUIREMENT.—Not later
5 than 7 days after awarding a contract using an ex-
6 ception under subsection (b), the Secretary shall
7 post a notification that the exception has been ap-
8 plied on the Internet site maintained by the General
9 Services Administration known as 23FedBizOps.gov
10 (or any successor site).

11 (c) MAXIMUM UNIFORM ALLOWANCE FOR CERTAIN
12 PERSONNEL.—

13 (1) IN GENERAL.—Notwithstanding the max-
14 imum uniform allowance set forth in section 591.103
15 of title 5, Code of Federal Regulations, the max-
16 imum uniform allowance for agents of the frontline
17 operational components shall be \$1,200.

18 (2) RULE OF CONSTRUCTION.—Nothing in this
19 subsection shall be construed as limiting or other-
20 wise modifying the authority under section 505 of
21 the Department of Homeland Security Appropria-
22 tions Act, 2004 (6 U.S.C. 453a).

23 (d) TRAINING.—The Secretary of Homeland Security
24 shall ensure that each member of the acquisition work-
25 force of the Department of Homeland Security who par-

1 ticipates personally and substantially in the acquisition of
 2 textiles on a regular basis receives training during fiscal
 3 year 2019, and at least biennially thereafter, on the re-
 4 quirements of this section and the regulations imple-
 5 menting this section.

6 (e) EFFECTIVE DATE.—This section applies with re-
 7 spect to contracts entered into by the Department of
 8 Homeland Security or its component agencies on or after
 9 October 1, 2018.

10 (f) DEFINITIONS.—In this Act:

11 (1) The term “appropriate congressional com-
 12 mittees” means—

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

16 (B) the Committee on Homeland Security
 17 and the Committee on Appropriations of the
 18 House of Representatives.

19 (2) The term “front line operational compo-
 20 nent” means—

21 (A) U.S. Customs and Border Protection;

22 (B) U.S. Immigration and Customs En-
 23 forcement;

24 (C) the Transportation Safety Administra-
 25 tion;

1 (D) the Coast Guard;

2 (E) the United States Secret Service;

3 (F) the National Protection and Programs

4 Directorate;

5 (G) the Federal Emergency Management

6 Agency; and

7 (H) the Federal Law Enforcement Train-

8 ing Centers.

9 (3) The term “United States” includes the ter-

10 ritories and possessions of the United States.

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