

Calendar No. 543

117TH CONGRESS
2^D SESSION**S. 1009****[Report No. 117–192]**

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.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2021

Mrs. SHAHEEN (for herself, Mr. MORAN, Ms. HASSAN, Mr. ROUNDS, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

NOVEMBER 14, 2022

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Homeland Procure-
3 ment Reform Act” or the “HOPR Act”.

4 **SEC. 2. REQUIREMENTS TO BUY CERTAIN ITEMS RELATED**
5 **TO NATIONAL SECURITY INTERESTS AC-**
6 **CORDING TO CERTAIN CRITERIA.**

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

10 **“SEC. 836. REQUIREMENTS TO BUY CERTAIN ITEMS RE-**
11 **LATED TO NATIONAL SECURITY INTERESTS.**

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

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

15 **“(A) Body armor components intended to**
16 **provide ballistic protection for an individual,**
17 **consisting of 1 or more of the following:**

18 **“(i) Soft ballistic panels.**

19 **“(ii) Hard ballistic plates.**

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

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

24 **“(B) Helmets that provide ballistic protec-**
25 **tion and other head protection and components.**

26 **“(C) Protective eyewear.**

- 1 “(D) Rain gear, cold weather gear, other
- 2 environmental and flame-resistant clothing.
- 3 “(E) Footwear.
- 4 “(F) Uniforms.
- 5 “(G) Bags and packs.
- 6 “(H) Holsters and tactical pouches.
- 7 “(I) Patches, insignia, and embellishments.
- 8 “(J) Respiratory protective masks.
- 9 “(K) Chemical, biological, radiological, and
- 10 nuclear protective gear.
- 11 “(L) Hearing protection equipment.
- 12 “(M) Powered air purifying respirators
- 13 and required filters.
- 14 “(N) Disposable and reusable surgical and
- 15 isolation gowns.
- 16 “(O) Protective eyewear.
- 17 “(P) Gloves.
- 18 “(Q) Face shields.
- 19 “(R) Head and foot coverings.
- 20 “(S) Sanitizing and disinfecting wipes.
- 21 “(T) Privacy curtains.
- 22 “(U) Beds and bedding.
- 23 “(V) Testing swabs.
- 24 “(W) Gauze and bandages.
- 25 “(X) Tents and tarpaulins.

1 “(Y) Any other critical safety item as de-
2 termined appropriate by the Secretary.

3 ~~“(2) FRONTLINE OPERATIONAL COMPONENT.—~~

4 The term ‘frontline operational component’ means
5 any of the following components of the Department:

6 ~~“(A) U.S. Customs and Border Protection.~~

7 ~~“(B) U.S. Immigration and Customs En-
8 forcement.~~

9 ~~“(C) The United States Secret Service.~~

10 ~~“(D) The Transportation Security Admin-
11 istration.~~

12 ~~“(E) The Cybersecurity and Infrastructure
13 Security Agency.~~

14 ~~“(F) The Federal Protective Service.~~

15 ~~“(G) The Federal Emergency Management
16 Agency.~~

17 ~~“(H) The Federal Law Enforcement
18 Training Centers.~~

19 ~~“(b) REQUIREMENTS.—~~

20 ~~“(1) IN GENERAL.—The Secretary shall ensure
21 that any procurement of a covered item for a front-
22 line operational component meets the following cri-
23 teria:~~

24 ~~“(A) To the maximum extent possible, not
25 less than one-third of funds obligated in a spe-~~

1 eific fiscal year for the procurement of such
2 covered items shall be covered items that are
3 manufactured in the United States by entities
4 that qualify as small business concerns; as such
5 term is described under section 3 of the Small
6 Business Act (15 U.S.C. 632).

7 “(B) Each contractor and first-tier subcon-
8 tractor with respect to the procurement of such
9 a covered item; including the end-item manufac-
10 turer of such a covered item—

11 “(i) is an entity registered with the
12 System for Award Management (or suc-
13 cessor system) administered by the General
14 Services Administration; and

15 “(ii) is in compliance with ISO
16 9001:2015 of the International Organiza-
17 tion for Standardization (or successor
18 standard).

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

1 “(i) store such covered item with such
2 insignia or such insignia in a locked area;

3 “(ii) report any pilferage or theft of
4 such covered item with such insignia or
5 such insignia occurring at any stage before
6 delivery of such covered item with such in-
7 signia or such insignia; and

8 “(iii) destroy any such defective or
9 unusable covered item with insignia or in-
10 signia in a manner established by the Sec-
11 retary, and maintain records, for three
12 years after the creation of such records, of
13 such destruction that include the date of
14 such destruction, a description of the cov-
15 ered item with insignia or insignia de-
16 stroyed, the quantity of the covered item
17 with insignia or insignia destroyed, and the
18 method of destruction.

19 “(2) WAIVER.—

20 “(A) IN GENERAL.—In the case of a na-
21 tional emergency declared by the President
22 under the National Emergencies Act (50 U.S.C.
23 1601 et seq.), the Secretary may waive a re-
24 quirement in subparagraph (B) or (C) of para-
25 graph (1) if the Secretary determines there is

an insufficient supply of a covered item that meets the requirement.

“(B) NOTICE.—If 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 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).

“(e) PRICING.—The Secretary shall ensure that covered items are purchased at a fair and reasonable price;

1 consistent with the procedures and guidelines specified in
 2 the Federal Acquisition Regulation.

3 “(d) ~~REPORT.~~—Not later than 180 days after the
 4 date of enactment of this section and annually thereafter,
 5 the Secretary shall provide to the Committee on Homeland
 6 Security, the Committee on Oversight and Reform, and
 7 the Committee on Appropriations of the House of Rep-
 8 resentatives, and the Committee on Homeland Security
 9 and Governmental Affairs and the Committee on Appro-
 10 priations of the Senate a report on instances in which ven-
 11 dors have failed to meet deadlines for delivery of covered
 12 items and corrective actions taken by the Department in
 13 response to such instances.

14 “(e) ~~EFFECTIVE DATE.~~—This section applies with
 15 respect to a contract entered into by the Department or
 16 any frontline operational component on or after October
 17 1, 2021.”.

18 (b) ~~STUDY.~~—

19 (1) ~~IN GENERAL.~~—Not later than 1 year after
 20 the date of enactment of this Act, the Secretary of
 21 Homeland Security shall submit to the Committee
 22 on Homeland Security and Governmental Affairs of
 23 the Senate and the Committee on Homeland Secu-
 24 rity of the House of Representatives a study of the
 25 adequacy of 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 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; and

(B) consider increasing by 25 percent, at minimum, the uniform allowance for first year employees and by 50 percent, at minimum, the annual allowance for all other employees.

(c) 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.”.

SECTION 1. SHORT TITLE.

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

1 **SEC. 2. REQUIREMENTS TO BUY CERTAIN ITEMS RELATED**
 2 **TO NATIONAL SECURITY INTERESTS ACCORD-**
 3 **ING TO CERTAIN CRITERIA.**

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

7 **“SEC. 836. REQUIREMENTS TO BUY CERTAIN ITEMS RE-**
 8 **LATED TO NATIONAL SECURITY INTERESTS.**

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

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

12 “(A) Footwear provided as part of a uni-
 13 form.

14 “(B) Uniforms.

15 “(C) Holsters and tactical pouches.

16 “(D) Patches, insignia, and embellishments.

17 “(E) Chemical, biological, radiological, and
 18 nuclear protective gear.

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

22 “(i) Soft ballistic panels.

23 “(ii) Hard ballistic plates.

24 “(iii) Concealed armor carriers worn
 25 under a uniform.

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

3 “(G) *Any other item as determined appro-*
4 *priate by the Secretary.*

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

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

9 “(B) *U.S. Immigration and Customs En-*
10 *forcement.*

11 “(C) *The United States Secret Service.*

12 “(D) *The Transportation Security Adminis-*
13 *tration.*

14 “(E) *The Coast Guard.*

15 “(F) *The Federal Protective Service.*

16 “(G) *The Federal Emergency Management*
17 *Agency.*

18 “(H) *The Federal Law Enforcement Train-*
19 *ing Centers.*

20 “(I) *The Cybersecurity and Infrastructure*
21 *Security Agency.*

22 “(b) *REQUIREMENTS.—*

23 “(1) *IN GENERAL.—The Secretary shall ensure*
24 *that any procurement of a covered item for a front-*

1 *line operational component meets the following cri-*
2 *teria:*

3 “(A) *To the maximum extent possible, not*
4 *less than one-third of funds obligated in a spe-*
5 *cific fiscal year for the procurement of such cov-*
6 *ered items shall be covered items that are manu-*
7 *factured in the United States by entities that*
8 *qualify as small business concerns, as defined in*
9 *section 3 of the Small Business Act (15 U.S.C.*
10 *632).*

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

15 “(i) *is an entity registered with the*
16 *System for Award Management (or suc-*
17 *cessor system) administered by the General*
18 *Services Administration; and*

19 “(ii) *is in compliance with ISO*
20 *9001:2015 of the International Organiza-*
21 *tion for Standardization (or successor*
22 *standard) or a standard determined appro-*
23 *priate by the Secretary to ensure the quality*
24 *of products and adherence to applicable*
25 *statutory and regulatory requirements.*

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

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

10 “(ii) *report any pilferage or theft of*
11 *such covered item with such insignia or*
12 *such insignia occurring at any stage before*
13 *delivery of such covered item with such in-*
14 *signia or such insignia; and*

15 “(iii) *destroy any such defective or un-*
16 *usable covered item with insignia or insignia*
17 *in a manner established by the Sec-*
18 *retary, and maintain records, for three*
19 *years after the creation of such records, of*
20 *such destruction that include the date of*
21 *such destruction, a description of the cov-*
22 *ered item with insignia or insignia de-*
23 *stroyed, the quantity of the covered item*
24 *with insignia or insignia destroyed, and the*
25 *method of destruction.*

1 “(2) *WAIVER.*—

2 “(A) *IN GENERAL.*—*In the case of a na-*
3 *tional emergency declared by the President under*
4 *the National Emergencies Act (50 U.S.C. 1601 et*
5 *seq.) or a major disaster declared by the Presi-*
6 *dent under section 401 of the Robert T. Stafford*
7 *Disaster Relief and Emergency Assistance Act*
8 *(42 U.S.C. 5170), the Secretary may waive a re-*
9 *quirement in subparagraph (A), (B) or (C) of*
10 *paragraph (1) if the Secretary determines there*
11 *is an insufficient supply of a covered item that*
12 *meets the requirement.*

13 “(B) *NOTICE.*—*Not later than 60 days after*
14 *the date on which the Secretary determines a*
15 *waiver under subparagraph (A) is necessary, the*
16 *Secretary shall provide to the Committee on*
17 *Homeland Security and Governmental Affairs*
18 *and the Committee on Appropriations of the*
19 *Senate and the Committee on Homeland Secu-*
20 *rity, the Committee on Oversight and Reform,*
21 *and the Committee on Appropriations of the*
22 *House of Representatives notice of such deter-*
23 *mination, which shall include—*

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

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

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

12 “(c) *PRICING.*—The Secretary shall ensure that covered
13 items are purchased at a fair and reasonable price, con-
14 sistent with the procedures and guidelines specified in the
15 Federal Acquisition Regulation.

16 “(d) *REPORT.*—Not later than 1 year after the date
17 of enactment of this section and annually thereafter, the
18 Secretary shall provide to the Committee on Homeland Se-
19 curity, the Committee on Oversight and Reform, and the
20 Committee on Appropriations of the House of Representa-
21 tives, and the Committee on Homeland Security and Gov-
22 ernmental Affairs and the Committee on Appropriations of
23 the Senate a briefing on instances in which vendors have
24 failed to meet deadlines for delivery of covered items and

1 *corrective actions taken by the Department in response to*
 2 *such instances.*

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

7 (b) *STUDY.*—

8 (1) *IN GENERAL.*—*Not later than 18 months*
 9 *after the date of enactment of this Act, the Secretary*
 10 *of Homeland Security shall submit to the Committee*
 11 *on Homeland Security and Governmental Affairs of*
 12 *the Senate and the Committee on Homeland Security*
 13 *of the House of Representatives a study of the ade-*
 14 *quacy of uniform allowances provided to employees of*
 15 *frontline operational components (as defined in sec-*
 16 *tion 836 of the Homeland Security Act of 2002, as*
 17 *added by subsection (a)).*

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

20 (A) *be informed by a Department-wide sur-*
 21 *vey of employees from across the Department of*
 22 *Homeland Security who receive uniform allow-*
 23 *ances that seeks to ascertain what, if any, im-*
 24 *provements could be made to the current uniform*
 25 *allowances and what, if any, impacts current al-*

1 *lowances have had on employee morale and re-*
 2 *tention;*

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

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

9 *(c) ADDITIONAL REPORT.—*

10 *(1) IN GENERAL.—Not later than 180 days after*
 11 *the date of enactment of this Act, the Secretary of*
 12 *Homeland Security shall provide a report with rec-*
 13 *ommendations on how the Department of Homeland*
 14 *Security could procure additional items from domes-*
 15 *tic sources and bolster the domestic supply chain for*
 16 *items related to national security to—*

17 *(A) the Committee on Homeland Security*
 18 *and Governmental Affairs and the Committee on*
 19 *Appropriations of the Senate; and*

20 *(B) the Committee on Homeland Security,*
 21 *the Committee on Oversight and Reform, and the*
 22 *Committee on Appropriations of the House of*
 23 *Representatives.*

24 *(2) CONTENTS.—The report required under*
 25 *paragraph (1) shall include—*

1 (A) a review of the compliance of the De-
 2 partment of Homeland Security with the re-
 3 quirements under section 604 of title VI of divi-
 4 sion A of the American Recovery and Reinvest-
 5 ment Act of 2009 (6 U.S.C. 453b) to buy certain
 6 items related to national security interests from
 7 sources in the United States; and

8 (B) an assessment of the capacity of the De-
 9 partment of Homeland Security to procure the
 10 following items from domestic sources:

11 (i) Personal protective equipment and
 12 other items necessary to respond to a pan-
 13 demic such as that caused by COVID–19.

14 (ii) Helmets that provide ballistic pro-
 15 tection and other head protection and com-
 16 ponents.

17 (iii) Rain gear, cold weather gear, and
 18 other environmental and flame resistant
 19 clothing.

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

“Sec. 836. Requirements to buy certain items related to national security inter-
 ests.”.

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