

VA PROCUREMENT EFFICIENCY AND TRANSPARENCY ACT

JULY 24, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ROE of Tennessee, from the Committee on Veterans’ Affairs,
submitted the following

R E P O R T

[To accompany H.R. 2006]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans’ Affairs, to whom was referred the bill (H.R. 2006) to amend title 38, United States Code, to improve the procurement practices of the Department of Veterans Affairs, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

Purpose and Summary	Page 2
Background and Need for Legislation	2
Hearings	2
Subcommittee Consideration	3
Committee Consideration	3
Committee Votes	3
Committee Oversight Findings	3
Statement of General Performance Goals and Objectives	3
New Budget Authority, Entitlement Authority, and Tax Expenditures	4
Earmarks and Tax and Tariff Benefits	4
Committee Cost Estimate	4
Congressional Budget Office Estimate	4
Federal Mandates Statement	5
Advisory Committee Statement	5
Constitutional Authority Statement	5
Applicability to Legislative Branch	5
Statement on Duplication of Federal Programs	5
Disclosure of Directed Rulemaking	5
Section-by-Section Analysis of the Legislation	6
Changes in Existing Law Made by the Bill as Reported	6

PURPOSE AND SUMMARY

H.R. 2006, the “VA Procurement Efficiency and Transparency Act,” was introduced by Representative Mike Coffman of Colorado on April 6, 2017. This bill would improve procurement within the Department of Veterans Affairs (VA) by putting in place consistent parameters for VA to measure its cost savings from competition and encouraging VA to organize its templates for key procurement documents and share them across the organization.

BACKGROUND AND NEED FOR LEGISLATION

VA currently calculates cost savings achieved by competitive contracting in an inconsistent manner. Cost savings information is recorded for some contracts but not others. Cost savings information is recorded by some procurement offices but not others. There is no consistent standard for how the savings must be calculated, leading to divergent methods and misleading information. There is no central repository for the information, causing the picture of the magnitude of competition to be incomplete. Hence, when VA reports savings generated by competition, the information is unreliable and often selective. While there is no legal or regulatory requirement for federal agencies to measure and record such savings, other agencies have found it to be beneficial and opted to do it. Reporting aggregated competitive cost savings would indicate the effects of changing business conditions and contracting strategies used by the Department.

Additionally, all government contracting relies heavily on templates for documents, such as statements of work, terms and conditions, clauses, and evaluation criteria. These documents, collectively, make up the contract. Government contract specialists tailor the templates to specific situations. Many agencies have instituted central, organized repositories of such templates, usually on the procurement organizations’ intranet websites. VA has no template repository. VA has designated its contract writing software’s database as the official place of record in which awarded contracts’ files are stored (rather than the old method of maintaining physical contract files). Thus, contract documents are stored in electronic formats. Contract specialists are able to browse through the database, retrieve documents, and edit and reuse them to produce new contracts. This is significantly less efficient than utilizing a central organized repository of templates, because it requires the contract specialist to hunt for a previous contract that is similar to what is desired and rewrite the document more than would be necessary when using a template. Instituting a template repository would also help VA standardize practices among the many offices that make up its heterogeneous procurement organization.

HEARINGS

There were no full Committee hearings held on H.R. 2006.

On June 29, 2017, the Subcommittee on Oversight and Investigations conducted a legislative hearing on: H.R. 2006, H.R. 2749, H.R. 2781, and a draft bill to improve the hiring, training, and efficiency of acquisition personnel and organizations of the Department of Veterans Affairs, and for other purposes (now H.R. 3169).

The following witnesses testified:

The Honorable Jack Bergman of Michigan; the Honorable Ann McLane Kuster of New Hampshire; the Honorable Mike Coffman of Colorado; the Honorable Neal Dunn of Florida; the Honorable Jimmy Panetta of California; the Honorable Bruce Poliquin of Maine; Mr. Thomas Burgess, Associate Deputy Assistant Secretary, Office of Logistics and Supply Chain Management, Department of Veterans Affairs; Mr. Thomas Leney Executive Director, Small and Veteran Business Programs, Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs; Ms. Kaitlin Gray, Assistant Director, National Veterans Employment and Education Division, The American Legion; Mr. Patrick Murray, Associate Director, National Legislative Service, Veterans of Foreign Wars of the United States; and Mr. Wayne Simpson, Member, National Veterans Small Business Coalition.

A statement for the record was submitted by:

The Associated General Contractors of America.

SUBCOMMITTEE CONSIDERATION

On July 12, 2017, the Subcommittee on Oversight and Investigations met in open markup session, a quorum being present, and ordered H.R. 2006 reported favorably to the full Committee. A motion by Representative Ann McLane Kuster of New Hampshire to report H.R. 2006 favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE CONSIDERATION

On July 19, 2017, the full Committee met in open markup session, a quorum being present, and ordered H.R. 2006 reported favorably to the House of Representatives by voice vote. A motion by Representative Tim Walz of Minnesota to report H.R. 2006 favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, no recorded votes were taken on amendments or in connection with ordering H.R. 2006, reported to the House.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are to improve transparency and efficiency in VA procurement by standardizing its measurement of cost savings from competition and ensuring its templates for key procurement documents are organized and shared across VA.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 2006 does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 2006 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 2006 provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 21, 2017.

Hon. PHIL ROE, MD,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2006, the VA Procurement Efficiency and Transparency Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright.

Sincerely,

MARK P. HADLEY
(For Keith Hall).

Enclosure.

H.R. 2006—VA Procurement Efficiency and Transparency Act

H.R. 2006 would require the Department of Veterans Affairs (VA) to calculate and record any cost savings realized from using competitive procedures for contracts awarded by the department. H.R. 2006 also would require VA to develop and use standard procurement templates across the department, where applicable.

On the basis of information from VA, CBO expects that the requirement to both calculate and record cost savings could be implemented without increasing VA's staffing levels. Additionally, according to VA, the agency currently attempts to standardize the procurement process to the extent possible, so developing standard procurement templates for contracts would not require a significant

departure from current practice. Therefore, CBO estimates that implementing H.R. 2006 would cost less than \$500,000 over the 2017–2022 period, subject to the availability of appropriations.

Enacting H.R. 2006 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2006 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2006 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Dwayne M. Wright. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 2006, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 2006.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Article I, section 8 of the United States Constitution, H.R. 2006 is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 2006 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 2006 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), H.R. 2006 contains no directed rule making that would require the Secretary to prescribe regulations.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 cites the short title of H.R. 2006, to be the “VA Procurement Efficiency and Transparency Act.”

Section 2. Information on cost or price savings from competition

Section 2(a) would amend chapter 81 of title 38, U.S.C., by inserting a new section 8129 entitled, “Information on cost or price savings from competition.”

Section 8129(a) would require VA to record information on cost or price savings realized by competitive procedures involving any VA contract awarded that is reported in the Federal Procurement Data System or any successor system.

Section 8129(b) would require VA to place the information recorded under subsection (a) in the Electronic Contract Management System, or any successor system, if the contract was recorded in that system. If the contract was not recorded in that system, the Secretary must determine an appropriate location to record the information.

Section 8129(c) would require VA to calculate the cost or price savings from subsection (a) by: (A) subtracting the total value of the selected offer or quote from the average of the total values of all offers or quotes evaluated; or (B) subtracting the total value of the selected offer or quote from the total value of the median offer or quote evaluated. If the difference calculated is negative, VA would be required to record that amount as zero. Section 8129(c) would also require the Secretary to make the calculation required under this subsection at the time when funds are obligated under the contract or at the time when an option is exercised, if appropriate.

Section 2(b) would provide a clerical amendment.

Section 3. Use of standardized procurement templates

Section 3 would require the Secretary to make available and use standardized procurement templates across the department to the extent practicable. The Secretary would be able to customize templates to address specific procurement situations.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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PART VI—ACQUISITION AND DISPOSITION OF
PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOS-
PITAL AND DOMICILIARY FACILITIES; PROCUREMENT
AND SUPPLY; ENHANCED-USE LEASES OF REAL PROP-
ERTY

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SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

Sec.

8101. Definitions.

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SUBCHAPTER II—PROCUREMENT AND SUPPLY

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8129. *Information on cost or price savings from competition.*

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SUBCHAPTER II—PROCUREMENT AND SUPPLY

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§ 8129. Information on cost or price savings from competition

(a) *RECORDING OF INFORMATION.*—With respect to any contract awarded by the Secretary that is reported in the Federal Procurement Data System described in section 1122(a)(4)(A) of title 41, United States Code, or any successor system, the Secretary shall record information on the amount of any cost or price savings realized by using competitive procedures in awarding such contract.

(b) *PLACEMENT OF RECORDS.*—The Secretary shall place recorded information under subsection (a) as follows:

(1) With respect to contracts recorded in the Electronic Contract Management System, or any successor system, in such system.

(2) With respect to contracts not covered by paragraph (1), in a location determined appropriate by the Secretary.

(c) *CALCULATION OF COST SAVINGS.*—(1) In carrying out subsection (a), the Secretary shall calculate the amount of cost or price savings realized by using competitive procedures in awarding a contract by—

(A) subtracting the total value of the selected offer or quote from the average of the total values of all offers or quotes evaluated; or

(B) subtracting the total value of the selected offer or quote from the total value of the median offer or quote evaluated.

(2) If the difference calculated pursuant to paragraph (1) is negative, the Secretary shall record such difference as zero.

(3) The Secretary shall make calculations under paragraph (1) with respect to a contract—

(A) at the time at which the Secretary obligates amounts under such contract; or

(B) if such contract contains options, at the time at which the option is exercised.

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