



## **CRS Report for Congress**

# **Department of Defense Food Procurement: Background and Status**

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### **Summary**

Military food items, also known as subsistence items, are generally procured under the auspices of the Defense Logistics Agency (DLA), an agency of the Department of Defense (DOD) which provides worldwide logistics support for the U.S. military services. Under DLA, the Defense Supply Center Philadelphia (DSCP) is the inventory control point for food, clothing, textiles, medicines, medical equipment, general and industrial supplies and services for the military, their eligible dependents, and other non-DOD customers worldwide. Under DSCP, the Subsistence Directorate serves as the operational manager for all food operations. These items are procured in accordance with the provisions of the Berry Amendment and the Buy American Act (BAA). The Berry Amendment requires DOD to give preference to the procurement of domestically produced, manufactured, or home grown products, notably food, clothing, fabrics, and specialty metals. In a major new development, DOD has submitted a legislative proposal in the Fiscal Year (FY) 2009 National Defense Authorization bill that would amend the Berry Amendment to permit the purchase of fresh fruits and vegetables from all sources. This report will describe the origin, authority, and policy in military food procurement. This report will be updated as necessary.

### **Background**

Prior to World War II, each United States (U.S.) military service organization procured and distributed its own food. Right after World War II, Congress mandated that a commission (ultimately called the Hoover Commission) study the logistical management of military food and supplies, and recommended a more centralized management of perishable foods, preferably in one organization. This effort resulted in the establishment of a joint Army-Navy-Air Force Support Center; for the first time, all military services bought, stored, and issued military items using a common system. In addition to food items, DOD and the military services defined other materiel that would be managed by this system as “consumables,” or “commodities,” meaning supplies that are not repairable or are consumed in normal use.

In the mid-1950s, the structure for the procurement of food and consumable items changed. Each military service acted as a single manager for various categories of consumables issued by all four services; each single manager would buy items, store and issue supplies, manage inventories, and forecast future requirements. For example, the U.S. Army bought and managed all military food and clothing; the Navy managed all medical supplies, petroleum, and industrial parts; and the Air Force managed all electronic items. The single manager system reduced costs by centralizing wholesale stocks, simplifying the supply chain, and persuading each military service to adopt the same standard items. However, the single manager concept was only partially successful because it did not provide uniform procedures among the services.

In 1961, then Secretary of Defense Robert McNamara ordered that the single-manager agencies be consolidated into one agency, resulting in the establishment of the Defense Supply Agency,<sup>1</sup> the forerunner to DLA. In 1986, the Goldwater-Nichols Act identified DLA as a combat support agency.<sup>2</sup> Today DLA provides worldwide logistics support to the military services, civilian agencies, and foreign countries.<sup>3</sup>

Under DLA, DSCP is responsible for nearly all of the food, clothing, and medical supplies used by the military. DSCP is comprised of the following business areas: (1) Clothing & Textiles; (2) Construction & Equipment; (3) Weapon Systems Detachments; (4) Medical; (5) Subsistence; and (6) Customer Operations. Under Subsistence, DSCP

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<sup>1</sup> The Defense Supply Agency (DSA) was established on October 1, 1961, and began operations on January 1, 1962. Eight single manager agencies became DSA supply centers. In 1965, DOD consolidated most of the contract administration activities of the military services to avoid duplication of effort and provide uniform procedures in administering contracts. Officials established the Defense Contract Administration Service (DCAS) within DSA to manage the consolidated functions. The agency's new contract administration mission gave it responsibility for the performance of most defense contractors. The agency's responsibilities extended overseas when it assumed responsibility for defense overseas property disposal operations and worldwide procurement, management, and distribution of coal and bulk petroleum products (1972), and worldwide management of food items for troop feeding and in support of commissaries (1973). In recognition of 16 years of growth and expanded responsibilities, on January 1, 1977, officials changed the name of the Defense Supply Agency to the Defense Logistics Agency (DLA). See the History of the Defense Logistics Agency, at [<http://www.dla.mil/history/storyboard.htm>].

<sup>2</sup> [<http://www.dla.mil>]. DLA operates three supply centers to meet the needs of military and civilian customers: the Defense Supply Center Richmond (DSCR) in Virginia, which is the lead center for aviation weapon systems and the primary source for approximately 930,000 repair parts and operating systems; and the Defense Supply Center Columbus (DSCC) in Ohio, which supplies weapon system and electronic spare parts; and DSCP in Pennsylvania, which supplies subsistence items including food and clothing. As of FY2005, according to their website, DLA employs 21,429 civilians, 528 active duty military, and 615 reservists; awards approximately 8,200 contracts daily with an inventory valued at \$83.2 billion. In FY2003, DLA managed, through three supply centers, an inventory of more than 4.6 million items and provided about \$24 billion in military and other supplies.

<sup>3</sup> DSCP operates a 24 hour a day, 7 day a week, Command and Control Center. DSCP employs approximately 2,500 employees worldwide. In addition to the Philadelphia location, DSCP-Europe maintains 13 offices in 6 countries, including Europe, Africa, and the Middle East, and DSCP-Pacific Region has 12 offices, including Alaska, Japan, Okinawa, Korea, Guam and Hawaii. DSCP also supports U.S. humanitarian and disaster relief efforts.

has developed a new approach to industrial base preparedness, through the development of an “Industrial Base Preparedness Toolbox.”<sup>4</sup> DSCP operates as a Defense Working Capital Fund activity; all operating costs must be charged back to the individual customer on a break-even basis.<sup>5</sup>

## Procurement Authority and Policy

Military food items are procured in accordance with the provisions of the Berry Amendment and the Buy American Act (BAA).<sup>6</sup> The Berry Amendment [Title 10, United States Code (U.S.C.), Section 2533a] requires DOD to give preference to the procurement of domestically produced, manufactured, or home grown products, notably food, clothing, fabrics, and specialty metals.<sup>7</sup> The Berry Amendment is referenced in the Defense Federal Acquisition Regulation Supplement (DFARS), Part 225.7002, as described below.

Unless a specific exception in law applies, the products, components, or materials listed below must be grown, reprocessed, reused, or produced in the United States if they are purchased with funds made available (not necessarily appropriated) to DoD. Except for manufactured or processed food, and chemical warfare protection clothing as explained in DFARS 225.7002-2 “Exceptions”, this applies to prime contractors and subcontractors at any tier.<sup>8</sup>

## Current Status of the Military Food Acquisition Process

The various stages of the military food acquisition process are described below:

- From the DSCP customer’s perspective, the acquisition process begins with the generation of a product need or requirement. The DSCP customer receives an introductory presentation about the Prime Vendor

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<sup>4</sup> [[http://www.dscp.dla.mil/subs/rations/ibp/ibpbrief\\_files/frame.htm](http://www.dscp.dla.mil/subs/rations/ibp/ibpbrief_files/frame.htm)]

<sup>5</sup> 10 U.S.C. § 2208.

<sup>6</sup> The Buy American Act (41 U.S.C. 10a through 10d, as amended) is the principal domestic preference statute governing most procurement by the federal government. It restricts foreign access to U.S. government procurement by giving preference to domestically produced, manufactured, or home grown products. For further discussion of the Buy American Act, refer to CRS Report 97-765, *The Buy American Act: Requiring Government Procurement to Come from Domestic Sources*, by John Luckey.

<sup>7</sup> The Berry Amendment can be found in the United States Code, Title 10, Section 2533a. For further discussion of the Berry Amendment, refer to CRS Report RL31236, *The Berry Amendment: Requiring Defense Procurement to Come from Domestic Sources*, by Valerie Bailey Grasso. DOD has adopted a final rule which adds new exceptions to the Berry Amendment when needed to support contingency operations or when the use of other than competitive procedures is based on unusual and compelling urgency. U.S. Department of Defense, DFARS, *Berry Amendment Changes*, DFARS Case 2003-D099, 69 *Federal Register* 180, September 17, 2004.

<sup>8</sup> Restrictions on DoD Purchases from Non-U.S. Sources Imposed by 10 U.S.C. 2533a. [[http://www.acq.osd.mil/dpap/cpic/ic/restrictions\\_on\\_dod\\_purchases\\_from\\_non-us\\_sources\\_imposed\\_by\\_10\\_usc\\_2533a.html](http://www.acq.osd.mil/dpap/cpic/ic/restrictions_on_dod_purchases_from_non-us_sources_imposed_by_10_usc_2533a.html)].

Program<sup>9</sup> and identifies their organization's ongoing, new, or anticipated requirements.<sup>10</sup> DSCP gathers the data and develops a formal solicitation package to meet the requirement.

- At the same time, a DSCP specialist prepares a formal solicitation which incorporates federal laws, regulations, and guidelines for the acquisition of subsistence items. The solicitation is prepared based on what represents the best value to the federal government, and is amended and modified as more information is received. A broad range of potential vendors are invited to participate in an industry forum to learn more about requirements and resolve or clarify questions about the solicitation.
- The solicitation is announced and remains open for bids for approximately 50 days; meanwhile a pre-proposal conference is also held. Prospective vendors may contact the DSCP specialist to raise questions, offer suggestions, and to discuss and review all elements of the solicitation; further changes to the solicitation may occur, based on the feedback received from potential vendors. Based on the pre-proposal conference findings, any additional amendments to the solicitation must be issued to all prospective vendors on the mailing list.
- The evaluation phase begins; each technical proposal is received from prospective vendors and individually evaluated to identify its strengths and weaknesses. The evaluation is conducted by a team of subject matter experts. Each technical proposal must demonstrate that the prospective vendor can meet the requirements as set forth in the solicitation, in accordance with "Best Value" selection criteria.<sup>11</sup>
- At the conclusion of the evaluation phase, the contract award decision is made and a contract awardee is announced. The contract becomes effective usually between 30 to 60 days after the award announcement. The DOD regional manager arranges a post-award conference at the selected vendor's facility, typically within two weeks after the announcement. During the post-award conference, which is jointly

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<sup>9</sup> The Subsistence Prime Vendor Program is a new electronic order and receipt system used for managing the food distribution system.

<sup>10</sup> DSCP's customers include, but are not limited to, the following groups: the military services, Defense Commissary Agency, Military Exchanges and Morale, Welfare and Recreation Facilities, Job Corps Centers, Veterans Administration Hospitals, Federal prisons, as well as schools and Indian reservations.

<sup>11</sup> Each subject matter expert independently reviews the technical proposal and, in accordance with solicitation guidelines "best value" selection criteria. Such criteria may include the following factors: the distribution and delivery system, location, record of past performance, corporate experience, electronic data interchange capability, socioeconomic considerations, and others; the subject matter experts may make site visits to the prospective vendors warehouse or operations site. The evaluation phase may take longer than 50 days. See Federal Acquisition Regulation - Part 15, *Contracting by Negotiation*, for a discussion of the term "best value" as a type of contract acquisition strategy.

conducted by the DSCP specialist and the vendor, all issues involving the structure and execution of the contract are discussed.

- At the conclusion of the post-award conference, the installation, vendor, and DSCP specialist will develop a catalogue of the vendor's product line. This step ensures that all of the items required by the customer are properly coded and contained in the catalogue.

## **The DSCP Subsistence Directorate**

The Subsistence Directorate is divided into the following business units: Food Services, Operational Rations, Produce, Food Safety Office, Supplier Support, and the Common Food Management System (CFMS).<sup>12</sup> A description of the work of each business unit follows.

Under Food Services (Subsistence), the Prime Vendor Program has replaced the former depot stock distribution system with an electronic order and receipt system. Through the use of electronic data interchange (EDI) orders are transmitted and received at the vendor's plants within minutes, allowing for reduced local inventory levels. EDI enhances the accuracy and timeliness of orders as well as the quality of the products; as a result, both the inventory and associated overhead costs are reduced, and the goal for the maximum turnaround time (from order to delivery) is 48 hours.

The Operational Rations Unit provides the managerial and logistical support for supplying meals for the military, including individual rations, group rations, survival rations, ultra high temperature milk, emergency and sterile drinking water, humanitarian daily rations, and field feeding equipment. While the "Meal, Ready-to-Eat (MRE)"<sup>13</sup> is the core individual combat ration for the military, the military services also consider the special dietary needs of the soldiers (including vegetarian and kosher needs).

The Produce Unit provides fresh fruits and vegetables to the military services, the Defense Commissary Agency, Military Exchanges, Morale, Welfare and Recreation facilities, Job Corps Centers, Veterans Administration hospitals, federal prisons, as well as DOD schools and Indian reservations. Under the Produce Unit, the DOD Fresh Program is a partnership between the U.S. Department of Agriculture's Food and Nutrition Service, and the DSCP Produce Division, whereby DSCP buys and distributes fresh fruits and vegetables to schools using the USDA's federal commodity entitlement dollars. The Farm Security and Rural Investment Act of 2002 contained statutory

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<sup>12</sup> [<http://www.dscp.dla.mil/subs>].

<sup>13</sup> [<http://www.natick.army.mil/soldier/media/fact/food/mre.htm>]. One MRE provides an average of 1,250 calories composed of 13% protein, 36% fat, and 51% carbohydrates. DSCP does not sell rations to individuals; DOD regulations and DSCP policy permit the sale of rations to certain U.S. military and federal government organizations. The prices for the various Operational Rations can be found at [<http://www.dscp.dla.mil/subs/rations/prices.pdf>].

language that sets aside \$50 million annually for DSCP to continue to support school lunches. DSCP's Produce Unit distributes over 300 different produce items to schools.<sup>14</sup>

The Product Services Office is responsible for food safety and quality assurance policies for the services, DOD agencies, and components, in partnership with the U.S. Army's Research Development and Engineering Command, a division of the U.S. Army Soldier Systems Center; the U.S. Army Veterinary Command, the Food and Drug Administration, and the USDA.<sup>15</sup>

The Supplier Support Office provides a wide variety of administrative and logistical support. The Office is divided into two areas: (1) Resource, Marketing, and Administration, and (2) Logistical Operations and Analysis.<sup>16</sup>

The DOD Food Policy Council directed DLA to establish a common food management system (CFMS), modernize outdated technology, and develop more state-of-the-art business practices. As described on the website, CFMS is a new food management system developed from a commercial off the shelf (COTS) software product that will replace current food management systems. CFMS provides a capability for wholesale to retail distribution for subsistence (food) supplies, linking warfighter demand to sources of supply.<sup>17</sup>

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<sup>14</sup> For background and funding on the National School Lunch Program, see [<http://www.dscp.dla.mil/subs/produce/index.htm>] and CRS Report RL31577, *Child Nutrition and WIC Programs: Background and Funding*, by Joe Richardson.

<sup>15</sup> [<http://www.globalsecurity.org/military/agency/army/sbcom.htm>].

<sup>16</sup> [<http://www.dscp.dla.mil/subs/support/>].

<sup>17</sup> [<http://www.dscp.dla.mil/subs/cfms/index.asp>].