



# Military Uniform Procurement: Questions and Answers

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November 23, 2010

**Congressional Research Service**

7-5700

[www.crs.gov](http://www.crs.gov)

RS20550

## Summary

Military uniforms are procured through the Defense Logistics Agency (DLA), an agency of the Department of Defense (DOD). DLA is DOD's largest combat support agency, providing worldwide logistics support for the United States (U.S.) military services, civilian agencies, and foreign countries. With headquarters in Fort Belvoir, Virginia, DLA operates three supply centers including DLA Troop Support [formerly Defense Supply Center Philadelphia (DSCP)] in Philadelphia, PA.

DLA Troop Support is responsible for procuring nearly all of the food, clothing, and medical supplies used by the military, about 90% of the construction materiel used by troops in the field as well as repair parts for aircraft, combat vehicles, and other weapons system platforms. Within DLA Troop Support, the Clothing and Textile (C&T) Directorate supplies more than 8,000 different items ranging from uniforms to footwear and equipment. According to DLA Troop Support's website, sales of goods exceeded \$14.5 billion during 2009.

Legislative initiatives which may affect the procurement of military uniforms include S. Amdt 4640 to S. 3454, the proposed FY2011 National Defense Authorization Act, which would require the Secretary of Defense to submit a report to the House and Senate Armed Services Committees, not later than February 28, 2011, that presents an analysis of alternatives for the procurement of fire-resistant and fire-retardant fibers and materials for the production of military products (like uniforms). Congress has determined that vehicle and aircraft fires remain a significant force protection and safety threat, whether they occur during ongoing combat operations or while training for future deployment. Given the high probability that these types of injuries will continue to occur, this amendment seeks to determine if there are advanced fiber products that may provide greater protection against burn injuries to members of the Armed Forces. It should be noted that the Secretary of Defense' Report to Congress is due prior to the issuance of a similar report from the Comptroller General's (CG) report.

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**D**LA Troop Support's Clothing and Textile Directorate (C&T) supplies more than 8,000 different items ranging from uniforms and body armor to tents and canteens. Many C&T products, such as battle-dress uniforms (BDUs), are unique to the military and the Directorate teams with military service customers and private vendors to design and test them. C&T also identifies, tests, and approves commercial items for military use, such as sweatshirts, gloves, and blankets, and supplies special purpose clothing, wet weather clothing, chemical suits, and field packs.<sup>1</sup>

## **How are Military Uniforms Procured?**

Military uniforms are procured through competitive contracts. C&T maintains access to a variety of supplies and uniform-related products. Other more specialized products such as body armor, BDUs, and footwear are usually procured directly from contractors. C&T specialists may also procure textiles and materials directly from the textile industry, and then provide them to contractors. The materials may be used to manufacture additional uniforms and related products, often achieving higher quality and substantial savings over purchased, finished generic products.

## **Under What Controlling Legal Authority Are Military Uniforms Procured?**

Military uniforms are procured in accordance with the provisions of the Federal Acquisition Regulation (FAR), DLA's own internal regulations, the Berry Amendment and the Buy American Act (BAA).<sup>2</sup> The Berry Amendment (Title 10 U.S.C. 2533a), which dates from the eve of World War II, was established for a narrowly defined purpose: to ensure that United States (U.S.) troops wore military uniforms wholly produced in the United States and to ensure that U.S. troops were fed food products wholly produced in the United States. There are exceptions to the Berry Amendment that waive the domestic source restrictions; one such exception allows DOD to purchase specialty metals and chemical warfare protective clothing from countries where the United States has entered into reciprocal procurement memoranda of understanding (MOUs).<sup>3</sup>

The Deputy Secretary of Defense memorandum of May 1, 2001, provides that the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretaries of the military services have the authority to determine that certain items under the Berry Amendment are not available domestically in quantities or qualities that meet military requirements. Such decisions are called "domestic nonavailability determinations" or DNADS. This authority may

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<sup>1</sup> <http://www.dscp.dla.mil/clothingandtextiles/>

<sup>2</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 Procurements to Come from Domestic Sources*, by John R. Luckey.

<sup>3</sup> 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.

not be re-delegated. Use of DNADs require an analysis of the alternatives and certification of the process.<sup>4</sup>

## **How Do Vendors Sell Military Uniforms to the Government?**

C&T has established a 24-hour, 7 day a week Customer Contact Center as the point for all customer inquiries at 1-877-DLA-CALL (1-877-352-2255), or at the customer website, <http://www.dlis.dla.mil/cust.asp>. Prospective bidders should obtain specifications prior to submitting an offer. According to DFARS Parts 204, 212, and 252, contractors must first register in the Central Contractor Registration (CCR) prior to contract awards, basic ordering agreements, or blanket purchase agreements, unless the award results from a solicitation issued on or before June 1, 1998.<sup>5</sup>

Vendors and customers may review current solicitations in FedBizOpps, the source for all federal government procurement opportunities. The simplified acquisition threshold for pre-award and post-award notices (FAR Part 5) remains at \$25,000. Customers may reach the FedBizOpps Help Desk at 1-877-472-3779, or access the website at <https://www.fbo.gov/>. Also, DLA has established a new automated system to provide contractors with the ability to conduct detailed searches for solicitations and contract awards, at <https://www.dibbs.bsm.dla.mil/Register/>.

## **Are There New Initiatives Affecting the Procurement of Military Uniforms?**

Legislative initiatives which may affect the procurement of military uniforms include S. Amdt 4640 of S. 3454, the proposed FY2011 National Defense Authorization Act, which would require the Secretary of Defense to submit a report to the House and Senate Armed Services Committees, not later than February 28, 2011, that presents an analysis of alternatives for the procurement of fire-resistant and fire-retardant fibers and materials for the production of military products. Congress has determined that vehicle and aircraft fires remain a significant force protection and safety threat, whether they occur during ongoing combat operations or while training for future deployment. Given the high probability that these types of injuries will continue to occur, this amendment seeks to determine if there are advanced fiber products that may provide greater protection against burn injuries to members of the Armed Forces.

The report shall include the following: (1) An identification of the fire-resistance or fire-retardant properties or capabilities of fibers and materials (whether domestic or foreign) currently used for the production of military products that require such properties or capabilities (including include uniforms, protective equipment, firefighting equipment, lifesaving equipment, and life support equipment), and an assessment of the sufficiency, adequacy, availability, and cost of such fibers and materials for that purpose, and (2) An identification of the fire-resistance or fire-retardant

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<sup>4</sup> For a discussion of frequently-asked questions about the application of the Berry Amendment, see Defense Procurement and Acquisition Policy's website, at [http://www.acq.osd.mil/dpap/cpic/ic/berry\\_amendment\\_faq.html](http://www.acq.osd.mil/dpap/cpic/ic/berry_amendment_faq.html)

<sup>5</sup> See <http://farsite.hill.af.mil>.

properties or capabilities of fibers and materials (whether domestic or foreign) otherwise available in the United States that are suitable for use in the production of military products that require such properties or capabilities, and an assessment of the sufficiency, adequacy, availability, and cost of such fibers and materials for that purpose.

It should be noted that the Secretary of Defense' Report to Congress is due prior to the issuance of a similar report from the Comptroller General's (CG) report.<sup>6</sup>

Additionally, the Fiscal Year 2010 National Defense Authorization Act (P.L. 111-84) contains a provision (Section 853) which establishes as policy a standard ground combat and camouflage utility uniform for the military services, while allowing for some individuality among the services. Section 853 requires the Comptroller General to perform an assessment of the current military uniforms in use, and provide a report to Congress within 180 days of enactment of the Act. Within 270 days from the submission of the Comptroller General's report, the military secretaries are required to establish a policy for the development of a joint uniform requirement.<sup>7</sup>

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<sup>6</sup> S. 3454, Section 956. Report on Supply of Fire Resistant Fiber for Production of Military Uniforms. a) Report Required- Not later than March 15, 2011, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the supply chain for fire resistant fiber for the production of military uniforms. The report would include the following: (1) The current and anticipated sources of fire resistant rayon fiber for the production of military uniforms. (2) The extent to which fire resistant rayon fiber has unique properties that provide advantages for the production of military uniforms. (3) The extent to which the efficient procurement of fire resistant rayon fiber for the production of military uniforms is impeded by existing statutory or regulatory requirements. (4) The actions the Department of Defense has taken to identify alternatives to fire resistant rayon fiber for the production of military uniforms. (5) The extent to which such alternatives provide an adequate substitute for fire resistant rayon fiber for the production of military uniforms. (6) The impediments to the use of such alternatives, and the actions the Department has taken to overcome such impediments. (7) The extent to which it would be practical and appropriate for the Department to use performance-based requirements for fire resistant fiber, rather than requiring the use of fire resistant rayon fiber, for the production of military uniforms. (8) The extent to which any modifications to section 2533a of title 10, United States Code (commonly referred to as the 'Berry amendment'), or section 829 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 229; 10 U.S.C. 2533a note) may be necessary or advisable to ensure the efficient acquisition of fire resistant fiber for the production of military uniforms. (9) The extent to which uncertainty regarding the future availability of fire resistant rayon results in instability or inefficiency for elements of the United States textile industry that utilize fire resistant rayon, and the extent to which that instability or inefficiency results in less efficient business practices, impedes investment and innovation, and thereby results or may result in higher costs, delayed delivery, or a lower quality of product delivered to the Government. (c) Recommendations- The report required by subsection (a) shall include such recommendations for further actions to address the matters covered by the report as the Comptroller General considers appropriate.

<sup>7</sup> H.R. 2647, the FY2010 National Defense Authorization act (P.L. 111-84) signed into law on October 28, 2009.