



Military Uniform Procurement: Questions and Answers

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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 military services, civilian agencies, and foreign countries. With headquarters in Fort Belvoir, VA, DLA operates three supply centers: DLA Aviation, DLA Land and Maritime, and DLA Troop Support. Military uniforms are procured through DLA Troop Support in Philadelphia, PA.

DLA Troop Support is responsible for procuring nearly all of the food, clothing, and medical supplies used by the military, including about 90% of the construction materiel used by troops in the field, and 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 surpassed \$14.5 billion in Fiscal Year (FY) 2011.

Legislative initiatives which may impact the procurement of military uniforms were enacted in several bills, among them: Section 822 of P.L. 112-81, the National Defense Authorization Act (NDAA) for FY2012, Section 821 of P.L. 111-383, the Ike Skelton NDAA for FY2011, and Section 352 of P.L. 111-84, and the NDAA for FY2010.

Section 821 of P.L. 111-383 required the Comptroller General to submit reports to the House and Senate Armed Services Committees, not later than March 15, 2011, that assessed the supply chain for the procurement of fire-resistant and fire-retardant fibers and materials for the production of military uniforms. This legislation reflected congressional concern that with the continued threat of improvised explosive device (IED) attacks, military personnel were subject to increased risks of fire-related injuries. Vehicle and aircraft fires remained a significant force protection and safety threat, whether they occur during ongoing combat operations or training for future deployment. The Government Accountability Office (GAO) submitted its report to Congress in June 2011. GAO found that an Austrian company was the sole source for fire-resistant rayon fiber for the manufacture of fire-resistant uniforms for military personnel; that DOD had taken steps to identify and test alternative fire-resistant, fabric blends to meet current demands; and that there was debate as to whether fire-resistant rayon's flame-resistant characteristics posed a superior advantage over other alternatives. GAO did not provide a recommendation.

Section 822 of P.L. 112-81 repealed the sunset provision of DOD's authority to procure fire-resistant rayon fiber from foreign sources used for the production of military uniforms. Section 352(b) of P.L. 111-84 required GAO to assess the ground combat uniforms and camouflage utility uniforms currently used by DOD and report to Congress.

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DLA 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 uniforms, are unique to the military. The Directorate collaborates with military service customers and private vendors to design and test uniforms. C&T also identifies, tests, and approves commercial items for military use, including sweatshirts, gloves, and blankets, and supplies special purpose clothing, wet weather clothing, chemical suits, and field packs.¹

Under What Controlling Legal Authority Are Military Uniforms Procured?

DOD offers the following guidance on the management of military uniform procurement:

- Section 850 of the National Defense Authorization Act for Fiscal Year 1998 (P.L. 105-85) requires that any notice of agency requirements or notice of an agency solicitation for contracts be provided through a single, government-wide point of entry. The Federal Business Opportunities (FedBizOpps)² site is the electronic, government-wide entry point for information on all federal government contracts over \$25,000;³
- DOD Instruction 4160.1-R, DOD Supply Chain: Materiel Management Regulation, which describes the process of materiel management within the DOD supply chain system;⁴ and
- DOD Instruction 4140.63, Management of DOD Clothing and Textiles (Class II),⁵ which outlines the authority, policy, and responsibilities for the management of the DOD clothing and textiles, and directs the establishment of the Joint Clothing and Textiles Governance Board.⁶

In addition, 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).⁷ 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 U.S. troops wore military uniforms wholly produced in the United States and 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

¹<http://www.troopsupport.dla.mil/>.

² <https://www.fbo.gov>.

³ <http://www.troopsupport.dla.mil/vendor/index.asp>.

⁴ U.S. Department of Defense. Office of the Undersecretary of Defense for Logistics and Materiel Readiness. DOD 4140.1-R, May 23, 2003. Accessed online at <http://www.dtic.mil/whs/directives/corres/pdf/414001r.pdf>.

⁵ Class II is the clothing and textile supply chain.

⁶ U.S. Department of Defense. Office of the Undersecretary for Acquisition, Technology, and Logistics. DOD 4140.63, August 5, 2008, p. 1. Accessed online at <http://www.dtic.mil/whs/directives/corres/pdf/414063p.pdf>.

⁷ 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.

clothing from countries where the United States has entered into reciprocal procurement memoranda of understanding (MOUs).⁸

A Deputy of Secretary of Defense's memorandum of May 1, 2001, stated 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.⁹ Such decisions are called "domestic nonavailability determinations" or DNADs. This authority may not be re-delegated. Use of DNADs requires an analysis of the alternatives and certification of the process.¹⁰

How Are Military Uniforms Procured?

Military uniforms are generally procured through competitive contracts. C&T maintains access to a variety of supplies and uniform-related products. C&T specialists may also procure textiles and materials directly from the textile industry, and then provide textiles and materials to the 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.

According to a GAO report on DOD's ground combat uniforms, DLA managed eight uniforms for the military services as of 2010.¹¹

How Do Vendors Sell Military Uniforms to the Federal Government?

Vendors and customers may review current solicitations in FedBizOpps, the online source for all federal government procurement opportunities. DLA has established an automated system to provide contractors with the ability to conduct detailed searches for solicitations and contract awards.¹² DLA Troop Support's Clothing & Textiles supply chain has established a 24-hour, 7-day-a-week Customer Contact Center as the point for all customer inquiries.¹³ 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 the administration of contract awards, basic ordering agreements, or blanket purchase agreements, unless the award results from a solicitation issued on or before June 1, 1998.¹⁴

⁸ 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.

⁹ See *Federal Register*, Volume 70, Number 142, Tuesday, July 26, 2005. Accessed online at <http://www.gpo.gov/fdsys/pkg/FR-2005-07-26/html/05-14623.htm>.

¹⁰ 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

¹¹ U.S. Government Accountability Office. Warfighter Support: Observations on DOD Ground Combat Uniforms, GAO-10-669R, May 28, 2010, p. 3. Accessed online at <http://www.gao.gov/new.items/d10669r.pdf>.

¹² Customers may reach the FedBizOpps Help Desk at 1-877-472-3779, or access the website at <https://www.fbo.gov>.

¹³ C&T can be reached at 1-877-DLA-CALL (1-877-352-2255).

¹⁴ See <http://farsite.hill.af.mil>.

DLA has stated on its website that price is not always the sole determination in contract awards, as described here.

Many of our acquisitions (most notably our negotiated acquisitions) involve a review of a contractor's technical capability; corporate experience; quality; past performance and surge capability (as well as price). This methodology is used because it makes good business sense and ensures reliable contractors with proven performance records will deliver quality products at the lowest possible costs. This concept, known as Best Value, is defined as any competitive negotiated acquisition where the contracting officer uses discriminating factors, in addition to price, in the evaluation of proposals and award of a contract. Within DLA Troop Support, this would encompass virtually all our awards with the exception of low price, technically acceptable source selection and sealed bidding.¹⁵

Legislative Initiatives Affecting Military Uniform Procurement

There are at least three legislative initiatives enacted into law that could affect the future procurement of military uniforms.

- Section 822 of P.L. 112-81, the NDAA for FY2012, repealed the sunset provision of DOD's authority to procure fire-resistant rayon fiber from foreign sources used for the production of military uniforms.¹⁶ The authority to procure fire-resistant rayon fiber from foreign sources was enacted in P.L. 110-181.¹⁷
- Section 821 of the Ike Skelton National Defense Act for FY2011 (P.L. 111-383¹) contained provisions that could affect the future procurement of military uniforms. Section 821 extended to FY 2015 DOD's authority to procure fire-resistant rayon fiber from select foreign countries.¹⁸ Section 821 required that a provision for fire-resistant rayon fiber be included in solicitations for military uniforms, and that the Comptroller General submit a report to the House and Senate Armed Services Committees, not later than March 15, 2011, that analyzed alternatives for the procurement of fire-resistant and fire-retardant fibers and materials for the production of military products. Congress had determined that vehicle and aircraft fires would continue to remain a significant force protection and safety threat, whether they occurred during ongoing combat operations or during training exercises for future deployments. Given the high probability that these types of injuries would continue to occur, this provision sought to determine if advanced fiber products existed that might provide greater protection against burn injuries.

¹⁵ DLA Troop Support, Vendor Information. Accessed online at <http://www.troopsupport.dla.mil/vendor/index.asp>.

¹⁶ P.L. 112-81 (H.R. 1540), was signed into law on December 31, 2011.

¹⁷ P.L. 110-181, the National Defense Authorization Act for FY2008, was signed into law on January 28, 2008. Section 829 of P.L. 110-181 granted the Secretary of Defense the authority to procure fire resistant rayon fiber from foreign sources for the production of military uniforms, under certain conditions. The provision was to "sunset," or end, five years from the date of the enactment of the bill.

¹⁸ This provision was first enacted in Section 829 of P.L. 110-181, the National Defense Authorization Act for 2008. P.L. 110-181 was signed into law on January 28, 2008. This provision was originally set to expire five years after the date of the act's enactment.

As required by Section 321, GAO studied the issue and submitted a report to Congress in June 2011. GAO found that an Austrian company was the sole source for fire-resistant rayon fiber for the manufacture of fire-resistant uniforms for military personnel; that DOD had taken steps to identify and test alternative fire-resistant fabric blends to meet current demands; and that there was debate as to whether fire-resistant rayon's flame-resistant characteristics posed a superior advantage over other alternatives. GAO did not provide a recommendation.¹⁹

- Section 352 of P.L. 111-84, the NDAA for FY2010, contained several provisions of importance to the procurement of military uniforms.²⁰ Section 352 (a) established the U.S. policy on ground combat and camouflage uniforms, Section 352(b) required the Comptroller General to perform an assessment of the current military uniforms in use and report to Congress, Section 352(c) required the Comptroller General to perform an assessment of military ground combat uniforms and camouflage utility uniforms and submit a report to within 180 days of the bills enactment, and Section 352(d) required the military service heads to develop joint requirements for camouflage uniforms.²¹

In the report to Congress, GAO made the following observations, as described here.²²

- Although the Army, Air Force, and Marine Corps stated that they have established certain requirements for combat clothing, performance standards were mixed and not specific to the combat environment. The effectiveness of the camouflage was not one of the operational criteria used to measure performance.
- Military service officials stated that the ground combat uniforms, protective gear, and body armor were interoperable; however, there were no criteria to regularly test the interoperability and thus officials were reliant on feedback from the users to gauge interoperability.
- Production and procurement costs for ground combat uniforms account for about 95% of the costs of ground combat uniforms.
- GAO reports that DOD officials stated that "...supporting a variety of uniforms in any combat theater of operations does not place additional logistics requirements on the distribution system; rather, the additional logistical requirements are primarily found in storage costs in the United States."²³
- Military service officials reported that it is unlikely that the services would choose to wear the same ground camouflage uniform because the uniform is a service-specific measure of pride, individuality and uniqueness. Reportedly, the Marine Corps System Command officials stated that Title 10 United States Code

¹⁹ U.S. Government Accountability Office. Military Uniforms: Issues Related to the Supply of Flame Resistant Fibers for the Production of Military uniforms. GAO-11-682R, June 2011. The report can be accessed online at <http://www.gao.gov/new.items/d11682r.pdf>.

²⁰ P.L. 111-84, the NDAA for FY2010, was signed into law on October 28, 2009.

²¹ The joint criteria was to consider the findings and recommendations of the GAO report, and was to ensure that any new technologies, advanced materials, and other advances in ground combat uniform design would be shared between the military services, and would not be precluded from being adapted for use by any military service due to any military-service unique proprietary arrangements.

²² U.S. Government Accountability Office. Warfighter Support: Observations on DOD Ground Combat Uniforms, GAO-10-669R, May 28, 2010. Accessed online at <http://www.gao.gov/new.items/d10669r.pdf>.

²³ Summary of Findings, GAO-10-669R, page 10.

(U.S.C.) 771 prohibits a member of one military service from wearing the uniform or a distinctive part of the uniform belonging to a different military service.²⁴

- Officials from the military services and the U.S. Central Command reportedly do not collect data that would permit an assessment of the risks associated with wearing different uniforms during combat operations. Maintaining flexibility in determining uniform selection is important and based on operational needs.²⁵

In an effort to follow up on the 2010 report, GAO revisited the military uniform issue in 2012 to determine the extent to which DOD had issued guidance to provide a consistent decision process to ensure that new camouflage uniforms met operational requirements; also, to determine the extent to which the military services have used a joint approach to develop appropriate criteria, ensure equivalent protection and management uniform costs. GAO concluded that DOD had not met the statutory requirement to develop joint criteria, nor had the services sought opportunities to reduce clothing costs and collaborate on uniform inventory costs.²⁶

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²⁴ 10 U.S.C. 771 can be accessed online at <http://uscode.house.gov/download/pls/10C45.txt>.

²⁵ U.S. Government Accountability Office. Warfighter Support: Observations on DOD Ground Combat Uniforms, GAO-10-669R, May 28, 2010. Accessed online at <http://www.gao.gov/new.items/d10669r.pdf>.

²⁶ U.S. Government Accountability Office. DOD Should Improve Development of Camouflage Uniforms and Enhance Collaboration among the Services. GAO-12-707, September 28, 2012. Accessed online at <http://www.gao.gov/assets/650/648951.pdf>.