



THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION
AND SUSTAINMENT

AUG 14 2018

The Honorable William M. "Mac" Thornberry
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Joint Explanatory Statement accompanying the National Defense Authorization Act for FY 2018 (Public Law 115-91), requires the Secretary of Defense to develop a report to Congress on Buy American Act training policies for the Defense Acquisition Workforce.

The enclosed report includes a summary and assessment of training courses for Department of Defense acquisition personnel responsible for procuring items that are subject to the Berry Amendment and Buy America Act. An identical letter has been sent to the Senate Committee on Armed Services.

Sincerely,

A handwritten signature in blue ink that reads "Ellen M. Lord".

Ellen M. Lord

Enclosure:
As stated

cc:
The Honorable Adam Smith
Ranking Member



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The Honorable John McCain
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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A handwritten signature in blue ink, reading "Ellen M. Lord", is positioned above the printed name.

Ellen M. Lord

Enclosure:
As stated

cc:
The Honorable Jack Reed
Ranking Member

Report to Congress
on Buy American Act Training



Office of the Under Secretary of Defense
for Acquisition and Sustainment
August 2018

The estimated cost of this report or study for the Department of Defense is approximately \$480 in DoD labor for the 2018 Fiscal Year.

Background

Pages 897-898 of the Joint Explanatory Statement in Conference Report 115-404, accompanying the National Defense Authorization Act for FY 2018, requested the Department to develop a report to Congress on Buy American training policies for the Defense Acquisition Workforce. Specifically:

“The conferees note that the Inspector General of the Department of Defense has found deficiencies in the adherence to the provisions of the Buy American Act and has recommended improvements in training for the Defense Acquisition Workforce. Therefore, the conferees direct the Secretary of Defense to develop a report to Congress on buy American training policies for the Defense Acquisition Workforce. The report shall include a summary and assessment of mandated training courses for Department of Defense acquisition personnel responsible for procuring items that are subject to the Berry Amendment and Buy American Act. The report shall be delivered to the committees on Armed Services of the Senate and the House of Representatives not later than one year after the date of enactment of this Act.”

Summary of Buy American Act Training

The Department of Defense fully supports the Buy American (BA) Act and Berry Amendment. To address the deficiencies of contracting officers not including the appropriate BA and Berry Amendment clauses and issuing award notices when required, Director, Defense Procurement and Acquisition Policy (DPAP), and Defense Acquisition University (DAU) updated training to re-emphasize compliance. DPAP then directed the contracting workforce take the updated online training.

BA training is included in four DAU learning assets: online contracting training CLC 027 - Buy American Statute, and CLC 031 - Reverse Auctioning; and classroom contracting courses CON 090 - Federal Acquisition Regulations (FAR) Fundamentals and CON 244 - Construction Contracting. There is also an Acquipedia article (an online encyclopedia of common defense acquisition topics) and three workflow learning products recently developed that covers BA. However, the primary learning asset for fully understanding, implementing, and complying with BA is CLC 027.

From September 2016 through November 2017, DAU completely revised CLC 027. Content was added and the course design flow was completely changed to identify how to structure a solicitation and then how to evaluate offers in response to that solicitation and be fully compliant with Federal Acquisition Regulation (FAR)/Defense Federal Acquisition Regulation Supplement (DFARS) requirements. New content includes explanatory materials and practical examples to clarify and put into context the FAR Part 25 and DFARS 225 subparts, and DFARS Procedure, Guidance, and Information, where the BA statute is addressed. Finally, a modern interface including improved graphics was used to make the material more understandable and improve the student experience. The revised course meets the goal of emphasizing the important aspects of the law and provides the user the best courses of action on implementing and complying with

its requirements. The new course went live in July 2017. Additionally, DAU incorporated a simulation exercise into CLC 027 and it became operational in December 2017. The tool can be found at <http://icatalog.dau.mil/onlinecatalog/tabnavcl.aspx>.

Berry Amendment training is found in one online DAU learning asset, CLC 125 – Berry Amendment, though there is also an Acquikipedia article. In August 2016, DAU went live with a revised version of CLC 125. The revision replaced outdated material and eliminated gaps in the steps on how to properly implement the Berry Amendment for a given procurement. Content was re-arranged to make the flow more aligned with DFARS implementing guidance. The revised course meets the goal of emphasizing the important aspects of the law and provides the user the best courses of action on implementing its requirements.

Both the Berry Amendment and Buy America Act are discussed in PQM (Production, Quality, Manufacturing) 301's Industrial Base lesson. The module is structured around an integrated product development, systems engineering-driven acquisition philosophy, the Advanced Production, Quality and Manufacturing Course (APQMC). APQMC investigates decision-making issues relevant to successfully managing three core technical tasks in defense acquisition. These tasks include systems and process development, manufacturing, and product quality management. Special attention is given to advanced quality systems, six sigma and lean manufacturing techniques, including specific tools and techniques that are used successfully in the commercial environment to improve customer satisfaction. Other topics include current acquisition policies, risk management, design of experiments, quality functional deployment, theory of constraints, predictive analysis and environmental safety and health. Analytical discussions of "real-life" case studies are integrated into the course. The student will learn how to effectively provide manufacturing and quality management-related counsel in an integrated product/process team environment.

The Director, DPAP signed a memorandum to the Defense Acquisition Workforce entitled "Improving Compliance with the Berry Amendment and Buy American Act" on June 20, 2017 (attached). The memorandum advises senior procurement executives and Directors of Contracting that members of their contracting workforce should complete the revised CLC 125 - Berry Amendment and CLC 027 - Buy American Act, as part of their on-going professional development and part of their continuous learning requirement. As a result of this memorandum, the enrollment and graduation rates for CLC 027 - Buy American Act, have increased significantly. The course went from having an average of 216 graduates per month (2,600 per fiscal year) to an average of 1,570 per month and is currently on pace for almost 18,000 graduates in FY 2018. For CLC 125 - Berry Amendment, the course went from an average of 69 graduates per month (830 per fiscal year) to an average of 583 per month and is currently on pace for almost 7,000 graduates in FY 2018.

In September 2017, the Department submitted a report to the Secretary of Commerce and Director of Office of Management and Budget summarizing the Department's efforts to monitor, enforce, and comply with Buy American Laws and the steps taken to strengthen implementation of Buy American laws. In summary, the Department is making every effort, through both policy and education and training, to ensure compliance with the Buy American Act and the Berry Amendment.