

**STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON HEALTH
HOUSE COMMITTEE ON VETERANS' AFFAIRS**

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Good Morning Mr. Chairman and members of the committee. I am pleased to testify today on behalf of the Department of Veterans Affairs (VA) regarding H.R. 3645 entitled the "Veterans Health-Care Items Procurement Reform Act of 2002."

We fully endorse the objective reflected in H.R. 3645 of leveraging the purchasing power of VA and other Government agencies. Nevertheless, we cannot support the enactment of H.R. 3645.

Section 2(a) of the bill would amend current section 8125 of Title 38, United States Code. New Subsection (a) would impose strict mandates that, subject to certain narrow exceptions, VA would be required to procure all health-care items through a Federal Supply Schedule (FSS) contract or national contracts that meet certain requirements. Subsection (b)(1) lists the exceptions whereby contracts for health-care items other than FSS or national contracts may be used. Exceptions would be allowed:

- when necessary to meet a current or near-term medical emergency with a valid clinical need for a health-care item not available through the FSS or a national contract;

- a sharing agreement between VA and the Department of Defense with demonstrable per item cost savings compared to the FSS or national contract; and
- prime or subcontracts with certain qualifying small business concerns with, among other things, prices at least on a parity with the FSS or national contract.

Except in cases of emergency, awards of contracts for health-care items for which there is a valid clinical need and that are not listed in the FSS or as part of a national contract, subsection (b)(2) would require approval of deviations from the general policy in advance, in writing, by the Secretary. This authority could only be delegated to the Under Secretary for Health and the senior procurement executive, acting jointly. This authority could not be re-delegated.

Subsection (d)(1) requires an FSS or national contract to include pre-award audit, post-award audit and price reduction clauses. Subsection (d)(2) limits a distributor contract to distribution services only unless the manufacturer shows that at least 90 percent of the manufacturer's sales through the distributor are made to commercial customers at negotiated prices and that the distributor actually stocks and distributes the item.

Subsection (f) would require annual goals for Department medical centers for the purchase of health-care items from FSS and national contracts and subsection (g) would mandate certain information be included in an annual report on the procurement of health-care items. Subsection (h) defines "health-care item" as any item listed in Federal Supply Classification Group 65 or 66 or any item determined by the Secretary to be of the same nature as a listed item.

We recognize that H.R. 3645 supports the objective of leveraging the purchasing power of VA and other Government agencies. We believe that volume-leveraged purchasing in VA is essential. Our vast purchasing power must not be fragmented and the Department must employ contracting practices that achieve the best possible terms and prices in our acquisitions of health-care items. However, after careful consideration of the bill, VA does not believe that legislation mandating any particular procurement method in the acquisition of

health-care items is desirable. As acquisition methods and trends continue to evolve, this legislation may not allow the Department the necessary flexibility to take advantage of those improvements. The Department should not be compelled to seek legislative changes in order to take advantage of improved procurement practices.

On June 18, 2001, the Department convened the VA Procurement Reform Task Force (PRTF) to examine VA's acquisition process and to develop recommendations for improvement. The PRTF consisted of representatives from the Veterans Health Administration, both from Headquarters and field offices, the Office of Acquisition and Materiel Management, the Inspector General, the General Counsel, and various other members. PRTF members were chosen based upon their wide expertise and knowledge of the acquisition process and how it impacts the delivery of care to veterans. The PRTF reviewed documents prepared by the Inspector General, former and current VA groups addressing acquisition issues, and other sources. They paid particular attention to the May 15, 2001, Office of Inspector General Report, "Evaluation of the Department of Veterans Affairs Purchasing Practices."

Similar to the mandates that are the basis of the proposed legislation, the PRTF recommended and the Secretary has approved a revised contracting hierarchy that requires the use of FSS and national contracts. The VA's Office of the General Counsel has advised that such a requirement can be implemented administratively. We believe that mandates such as this should be made as a Department policy decision rather than a statutory requirement as provided by H.R. 3645.

We commend Congressman Evans' efforts in proposing this legislation. However, we believe that, through the work of the PRTF, VA is already on the right track in seeking to maximize savings in its acquisition of health-care items. The PRTF report, which the Secretary has endorsed, acknowledged the opportunities to be gained through system discipline while providing maximum flexibility to care for veterans. It is crucial that the Department retain flexibility to

react quickly to the demands of a dynamic health-care market place in order to most efficiently serve veterans. The PRTF has proposed a comprehensive set of recommendations that address the critical success factors necessary to optimize VA's acquisition system. These recommendations include more than 60 specific reforms for implementation. An ambitious timetable has been established which the Department is aggressively tracking. VA managers are being held accountable for their attainment. We now need to provide the necessary time and administrative oversight to insure that these reforms accomplish the Department's goals.

In summary, although we applaud the objective reflected in H.R. 3645 of leveraging the procurement purchasing power of VA and other Government agencies, we believe that this objective is best achieved through the

establishment and implementation of Department policy. I am personally optimistic that the task force recommendations will make a real difference for the Department and its mission, and am compelled to request that rigid statutory requirements not be imposed on us before the efficacy of the task force's work can be proven.

This concludes my formal testimony.

