

United States Senate

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March 4, 2016

The Honorable Frank Kendall
Under Secretary of Defense
Acquisition, Technology and Logistics
Department of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Kendall:

Thank you for your response to my October 2015 letter regarding my concerns over violations of domestic procurement law, specifically the Buy American Act, within the Department of Defense (DoD). I remain concerned, however, given new reports of continued violations within DoD, and urge you to further reevaluate the methods by which DoD ensures contracts comply with federal domestic-content requirements.

My previous letter addressed an August 2015 report from the DoD Inspector General (IG) regarding improving compliance with the Berry Amendment and Buy American Act within the U.S. Navy. These laws prohibit DoD from purchasing items such as fabrics, food, and hand tools that are grown, reprocessed, reused, or produced outside the United States, and require all Federal government contracts to procure articles, materials, and supplies from companies that mine, produce, or manufacture within the United States. Unfortunately, a February 2016 report from DoD IG regarding compliance issues within the U.S. Air Force outlined similar concerns as was within the U.S. Navy earlier in the year. In particular, the IG found that one-third of U.S. Air Force contracts reviewed violated either the Buy American Act or the Berry Amendment. Air Force personnel did not comply with the Buy American Act for 12 out of 33 contracts reviewed, and did not comply with the Berry Amendment for six out of 21 contracts reviewed. Procurement for the six contracts that did not comply with the Berry Amendment alone had an obligated value of \$7.1 million.

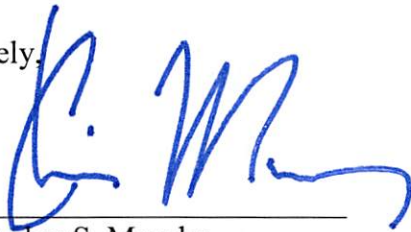
I am deeply troubled that DoD IG's very small audit revealed such a large proportion of violations of domestic procurement laws. Since DoD is already exempted from the Buy American act on many purchases through statutorily acceptable means, the number of violations within the U.S. Air Force further proves that lack of compliance within DoD is seriously damaging American businesses.

In the last five years, according to data from the Federal Procurement Data System, DoD spent a staggering \$690 billion on manufactured goods. \$48 billion worth of manufactured goods were purchased overseas, legally, during that time. If what the IG found in the Navy and

the Air Force were true of the DoD in general, this would mean that over \$200 billion in additional goods were manufactured overseas instead of in the United States, which is not only a violation of the law, but a serious threat to our national and economic security.

A fair opportunity to compete for defense contracts is critical to American economic success. In Connecticut, our manufacturing base is helping create new jobs and accelerating the state's economic recovery, accounting for 10.2% of the state's jobs. Without thorough consideration for procurement from DoD, the over 4,000 manufacturers currently operating in my state will surely suffer. That is why I again strongly urge you to do more to ensure all DoD contracting personnel are comprehensively trained in domestic procurement rules and regulations. I am also requesting we meet to discuss how DoD plans to achieve the training that we both agree is important, and what resources Congress can provide to assist in this effort. Thank you and I look forward to meeting with you soon.

Sincerely,



Christopher S. Murphy
United States Senator