STATEMENT OF
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VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
TO THE
SUBCOMMITTEE ON HEALTH
COMMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
VETERANS HEALTH-CARE ITEMS PROCUREMENT REFORM AND IMPROVEMENT ACT OF 2002

JUNE 26, 2002

Mr. Chairman and Members of the Subcommittee:

The American Legion appreciates the opportunity to submit testimony on H.R. 3645 "Veterans Health-Care Items Procurement Reform and Improvement Act of 2002".

The average cost of medical care in the United States has risen astronomically over the past several years and The Department of Veterans Affairs (VA) health care system has not been immune to the detrimental effects of these ever increasing costs. Last year, the VA health care system spent over a billion dollars for medical and surgical supplies and equipment. Any cost savings realized through effective procurement reform will indeed serve to improve the overall quality of healthcare provided to America's veterans through the VA healthcare system.

H.R. 3645, VETERANS HEALTH CARE ITEMS PROCUREMENT REFORM AND IMPROVEMENT ACT OF 2002

Section 2. Limitation On Use Of Local Contracts For Department Of Veterans Affairs Procurement Of Health-Care Items.

§ 8125. Procurement of health-care items.

This subsection requires any procurement of a health-care item by any component of the Department of Veterans Affairs (VA) to be made through the use of a Federal Supply Schedule contract or national contract that meets specified requirements, including the presence of pre-award and post-award audit clauses and a price reduction clause. It allows, in limited circumstances including the presence of a medical emergency at a Department medical center, the use of a contract other than the above contracts, as long as the contract meets the requirements.

In May of 2001, the VA Office of Inspector General (OIG) released a report entitled "*Evaluation of VA Purchasing Practices"*. The result of this assessment, in brief, was that VA is not

leveraging its purchasing power through judicious procurement practices in order to obtain premium prices, in light of the volume of items purchased. The report recommends that in order to improve VA's buying practices, management at VA should consider the following:

- VA facilities should be required to purchase items that are on national contracts, such as the Federal Supply Schedule (FSS), and that the FSS and other national contracts be mandatory sources of medical/surgical supplies and equipment and pharmaceuticals, unless otherwise determined by the Department's Procurement Executive.

- Local contracts should be specifically prohibited unless authorized by the Department's Procurement Executive or designee.

- VA should implement a program to monitor local purchasing and hold local officials accountable for not complying with provisions in the VA Acquisition Regulations (VAAR) and Federal Acquisition Regulations (FAR).

- Policy should be made limiting contracts with distributors to distribution services only, unless the distributor can show that it is responsible for negotiation and establishing prices for items it distributes to the manufacturers' commercial customers.

According to the VA OIG report, there are advantages and important protections to using the FSS. One big advantage includes a cost saving to both the vendor and VA. Additionally, FSS vendors are required to disclose specific information relating to the discounts and concessions given to their commercial customers. FSS contracts contain clauses not found in other Government contracts, including national contracts awarded by VA, that protect the Government's interest over the term of the contract. The price reduction clause requires the vendor to offer the same type of price reductions it offers to an agreed upon comparable commercial customer or category of customer. This clause ensures that the Government maintains commercially favorable pricing throughout the term of the contract. The FSS contract provides VA facilities with a wide choice in pharmaceuticals, medical/surgical supplies, and equipment to better meet the needs of the veteran patient. Finally, FSS contracts are beneficial to vendors, particularly to the smaller vendors in that it allows them to do business with the Government.

In the case of an emergency, the Act provides for the procurement of a health-care item that is necessary to meet a current near-term medical emergency at a medical center, but is not on an FSS contract, or a national contract. This will allow the flexibility needed at the individual medical centers to provide quality health care to veterans.

The Act requires the presence of pre-award and post award audit clauses. Since the use of these clauses today is not as common as it was five years ago, the amount of money effectively recovered has fallen dramatically. In fiscal year 1997, $35 million dollars was recovered under the audit system compared to only $12 million last year.

The Act would also require the inclusion of a price reduction clause in most VA procurement contracts. Essentially, when a vendor offers a health-care item at a lower price to another buyer

in a commercial contract, VA will benefit from the purchase price reduction and receive the new lower purchase price for a health-care item it has previously agreed to purchase from the vendor.

Finally, the Act provides for some accountability with the requirement of an annual report which includes a status on the implementation of this subsection.

The American Legion supports this Act and believes the intent is positive, in terms of saving money and leveraging the buying power of VA by channeling purchases through the FSS. It also reflects, to a great extent, many of the recommendations of the VA OIG. It will be incumbent upon VA to see to fruition the purpose of this Act.

This concludes our testimony. Thank you again for the opportunity to submit testimony on behalf of The American Legion.