



Statement of

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Homeland Security Contracting: Does the Department Effectively Leverage Emerging
Technologies

Before the

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Good morning, Chairman McCaul, Ranking member Speier and Members of the Subcommittee. My name is Jim Williams, and I am Vice Chair of TechAmerica's Homeland Security Committee. Thank you for providing TechAmerica the opportunity to present the technology industry's views on the contracting process at the Department of Homeland Security (DHS) and the opportunities to leverage emerging technologies and support the mission of the agency. Technology and the services TechAmerica's companies offer play a critical role in all aspects of the DHS mission. From the detection and prevention of terrorism, protection of America's borders and interior, to providing resiliency after disasters to ensuring integrity in our immigration laws, TechAmerica's companies are focused on being part of the solution. As the threats continue to evolve, it is vital that the more than 230,000 employees of DHS have the modern technological tools and the best procurement methods to face these challenges.

The role of DHS at the top of the homeland security pyramid is also critical to the homeland security needs of state, local, tribal, private sector and international partners. Improvements in DHS's capabilities can be used by these other partners as part of a layered strategy for meeting the homeland security mission. The more DHS combines its acquisition buying power with that of their partners, the more precious dollars are leveraged to provide greater mission accomplishment. Thus, any improvements to the acquisition of better technologies and methods within DHS can have far-reaching positive impacts.

TechAmerica is the leading voice for the U.S. technology industry, which is the driving force behind productivity, growth and jobs creation in the United States and the foundation of the global innovation economy. Representing approximately 1,000 member companies of all sizes from the public and commercial sectors of the economy, it is the industry's largest advocacy organization. TechAmerica member companies provide the bulk of contracted-out services at DHS. The Association is also the technology industry's only grassroots-to-global advocacy network, with offices in state capitals around the United States and in Washington, D.C., Europe (Brussels) and Asia (Beijing). TechAmerica was formed by the merger of AeA (formerly the American Electronics Association), the Cyber Security Industry Alliance (CSIA), the Information Technology Association of America (ITAA) and the Government Electronics & Information Technology Association (GEIA).

TechAmerica's extensive track record of addressing issues related to government contracting and procurement is well known, and we continue to maintain a healthy program specifically focused on this important area. Our Homeland Security Committee meets monthly to discuss developments in this space, and senior executives from the government are always featured as our guest speakers. We are also highly active within the National Defense University and Defense Acquisition University

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systems where executives from our member companies are invited to provide presentations on the industry perspective of the government contracting process. TechAmerica has conducted this program for the better part of twenty-years, and we believe the frank and open dialogue that takes place at these sessions is one factor that has led to improved procurements across the federal government.

Today's hearing provides for an important moment to examine and reflect on the current contracting process at DHS and an opportunity to investigate new methods and modifications to that process to speed the adoption of technologies critical to the advancement of the Department's mission. TechAmerica and its member companies look forward to further discussions about how to best advance the government contracting and procurement process and the issues I will outline today.

Difficulty of the DHS Mission

The mission DHS is charged with is broad in scope: to secure and protect the American people across nearly 7,000 miles of land border and along 95,000 miles of maritime border. In the early years of the Department, focus was largely directed to physical threats. However, in the ten years since 9/11, the preponderance and sophistication of cyber attacks on the homeland has further stretched the Department's resources and threat environment. America's enemies are evolving and quickly adopting new technologies with increased coordination and sophistication. We have great respect for the work that all DHS employees do every day on behalf of our nation and we believe it is critical then that the methods and technologies we utilize to face these threats keep pace or surpass those of our adversaries.

Today DHS receives approximately 700 proposals annually in response to requests for new technology or technology services. TechAmerica believes there are a number ways that the agency can improve the process and better meet their mission. This is not wholly a staffing or funding problem; it is our belief that this is ultimately a communication challenge. The communications challenges occur between the private sector and the Department and internally within DHS. From our perspective, it appears that too frequently DHS components do not know what the larger department is doing, which leads to redundant efforts, slows the pace of technology adoption and can be wasteful of precious funding.

Industry Engagement

TechAmerica fully endorses the OFPP Memorandum dated February 2, 2011, titled, "Myth-Busting: Memo to Agency Chief Information Officers and Chief Acquisition Officers," regarding the benefits of more open communications with the private sector.

Enhanced engagement was one of the five key elements of OMB's 25-Point Plan to Reform Information Technology Acquisition and Management. TechAmerica Foundation, in its GTO-21 Commission Report¹, called for enhanced internal and external engagement. This call laid the foundation for the 25-Point Plan, of which more engagement and communication was an essential tenet.

DHS must be more engaged with industry, especially at the earliest stages of the procurement process. This must be an ongoing conversation where both sides share their needs and constraints and work together to identify technological solutions. An early and frequent dialogue serves to introduce new capabilities and technologies to the government buyer and can be critical to mission success.

Requests for Information, or RFIs, provide an important opportunity for industry to understand the needs of the agency, begin to research the market for technological and/or services solutions to the challenge and prepare internally as a potential bidder. Industry days can provide important opportunities for the government to share some substance of new initiative. It is important, however, that industry day events not only provide as much detail as possible about requirements, but also be timed far enough in advance so that government and industry can follow-up in one-on-one discussions to take what is learned at the event and hone it into a successful acquisition strategy.

Industry plays a crucial partnership role with DHS in support of their mission. The technology sector represents thousands of citizens who take pride in their work and the safety that the technologies they build and deploy can provide to their friends, families and all Americans. The more industry and government can work together as informed partners, the better the results will be for all. It should be a goal of the contracting process to match up the needs of particular DHS mission requirements with the best value solutions and services that technology companies can offer to meet these needs in the most effective and efficient manner.

Another opportunity for engagement with industry would be with trade associations like TechAmerica. We meet monthly in an effort to hear from senior DHS representatives to discuss how industry can best address the ever-changing challenges in providing the technologies necessary for carrying out the mission of DHS. But, it has become increasingly difficult to get approval from the Department for key senior representatives to participate in industry dialogue of this sort. TechAmerica believes these conversations inform the decision making process not only of industry as we work to align our resources, but also informs government of the constraints of industry

¹ TechAmerica Foundation, *Government in Technology Opportunity in the 21st Century* (GTO-21) (2010), http://www.techamerica.org/Docs/GTO_21.pdf.

² TechAmerica, *TechAmerica's Twenty-First Annual Survey of Federal Chief Information Officers: Leveraging*

and the current state of technology and DHS should not be constrained from this important line of communication.

The 25-point plan established a requirement to submit a draft Vendor Communications Plan by June 30, 2011 for OMB Review. Hopefully, this practice will help spread best practices across all departments and agencies as those plans are finalized and disseminated back across within departments for implementation. TechAmerica, with its member companies that do business with public sectors around the world, would be glad to offer best practices suggestions on DHS or any agency's draft plans. Finally, on the engagement and procurement fronts, TechAmerica is very supportive of the efforts of the DHS Chief Procurement Officer, Dr. Nick Nayak. His efforts, under the leadership of Undersecretary Secretary Rafael Borrás, are committed to helping the Department built the best possible procurement practices into its operational structure. Under this effort the Department has been holding quarterly meetings with the Top 25 contractors to the Department. However, these meetings could have more impact if the group was expanded to include contractors not in the "Top 25."

End-User Involvement

A successful program implementation must incorporate end-users in the Acquisition process. A system that is planned, designed, acquired, tested and implemented without engagement with the end-users at every step of the process provides too many opportunities for surprise, disappointment and failure. Cognizance of and preparation to accommodate internal processes and staff practices must be accounted for early in the requirements process. We do not believe this will add time, but can in fact save time in the long and short runs. Bringing together end-users, program managers acquisition professionals and industry in face-to-face settings, will afford the opportunity to match the true needs or goals of the Department with what is available from industry. This type of planning and engagement with the end user can shorten acquisition times and can improve the synchronization of agency needs with industry solutions. This recommendation for the Department is applicable to the requirements development process, but is equally appropriate for all parts of an eventual procurement request, including the proposal instructions, evaluation criteria and terms and conditions negotiations.

Moreover, providing timely and valuable communications with industry throughout the acquisition process in terms of answers to industry questions, as soon as possible, and understanding the status of acquisitions would benefit all parties.

Building the Acquisition Workforce

To improve the contracting process, both industry and government must come to the table with knowledge of each party's needs and background.² To develop and improve this understanding we encourage DHS to create a program manager track to educate decision makers of the common challenges and issues regarding government contracting.

Today, TechAmerica provides senior executive level speakers to present an industry perspective of procurement at Defense Acquisition University and National Defense University classes throughout the country. The presentation provides students with the industry perspective of the contracting process and how each step of the process affects a corporate actor's culture and workflow. Specifically, students get detail on how industry must create a business case and what influences whether a company bids on a specific program or not, and how we forecast the allocation of our resources to ready implementation. Further, it is an opportunity for our speakers to learn more about government structure and the decision-making process. We recommend that DHS incorporate a similar curriculum element in its acquisition training requirements to provide program managers with an opportunity to learn more about the industry decision-making perspective.

Contracts Management and Coordination

DHS would benefit from a streamlined contracts management process and better coordination across divisions. There are opportunities for DHS to increase their efficiencies in the contracting process including increased use of "down select" contract selection, better timing of requests for information and better use of existing past-performance databases to aid the selection process for DHS.

Increased Use of "Down Select"

The use of "down select" speeds the process of procurement, lowers the cost to industry of participating in the proposal process and encourages competition and teaming. As a key part of the acquisition strategy, the Department recently conducted procurements where an initial review of qualifications and proposals from vendors allowed them to "down select" to a smaller pool of qualified competitors. The most recent example of this is Customs and Border Protection's Mobile Surveillance Capability. This strategy allows the department to select two or more solutions that can be more thoroughly tested in the field before either down selecting to a single contractor or maintaining the

² TechAmerica, *TechAmerica's Twenty-First Annual Survey of Federal Chief Information Officers: Leveraging Technology to Improve the Performance of the Government*, (2011)
http://www.techamerica.org/Docs/fileManager.cfm?f=2011_cio_survey.pdf.

option to take two or more solutions into production. This approach reduces risk to the government through a “fly before buy” trial period, allows for the refinement of the requirements and allows more participation by industry which creates greater incentive for industry to invest than under a winner take all approach.

However, just using the down select process anywhere in the acquisition process to narrow the field will result in higher quality of proposals in the end and offer more opportunities to engage/communicate with a smaller number of bidders.

Better Contract Structure

One example would be to set the page limit for a bid higher. Recently, DHS put out a call for proposals with a thirty-page limit. With such a low page limit, DHS was forced to sift through many more proposals than necessary and re-purpose an already thin staff away from other projects. Thirty-pages is not enough for a company to sufficiently describe its capabilities and solution for addressing DHS’ need. More detailed requirements would ensure responses are compliant and deliver needed solutions.

Teaming

Furthermore, this process did not encourage industry to participate in an effective way. Understanding what the Department or its components can do to encourage teaming can help improve the quality of the bids, help focus small business participation and help to streamline communication with a smaller number of bidders.

Contractor Workforce

The Department must also take into account the impact of their requests on the private sector workforce. A recent DHS program set an award date for April 2012 and required designations of key personnel in the proposal. A requirement of this kind, forecast this far out in the future, is extremely difficult if not impossible for industry to meet. To set aside personnel for a potential project a year from now puts industry in the difficult, costly and potentially career damaging position of long-term personnel guessing exercises.

TechAmerica would also recommend that the Department and its components leverage existing acquisition vehicles where it makes sense to best allocate both government’s and industry’s scarce acquisition resources and lower the government’s costs. These efforts could be formalized in a “Best Practices” guide for contracting to be shared across all components. This type of guide could aid in the reduction of contracting backlog as expertise is available to all components.

Requirements Development Process

Government can do a better job of developing requirements and linking them back to government processes and mission goals. More RFIs would give industry a better idea of the end user needs and allow DHS to better structure and refine their Requests for Proposals (RFPs) to allow for more innovative, best value solutions. As an example, TechAmerica would point to the technique used at the Department of Veterans Affairs whereby industry is brought in to meet with IT professionals. Through these exchanges, the needs of the end user can be more clearly defined and translated into the IT requirements.

TechAmerica believes it is important to engage industry in proactive ways throughout the requirements process. Providing drafts, hosting industry days and showing future plans with as much detail as possible can help industry to coordinate and meet the mission of DHS. We see our relationship as partners and are committed to the success of their mission. Threats evolve fast and technology evolves faster, making it critical that industry and government are in sync.

Integrating a Formal Systems Acquisition Process

The Department of Homeland Security would benefit from a formalized systems acquisition process. Government has historically utilized long-term contracting to procure goods and services, however, in information technology, a procurement process based in agile development yields incremental capabilities faster with greater returns on investment. Technology is an evolving resource and upgrades and enhancements come rapidly. The adoption of an agile procurement process would permit government to more rapidly deploy modular technologies and revisions rather than large-scale programs that have greater cost of money and time before mission success can be evaluated.

Use of Pilot Programs

The Department of Homeland Security doesn't use pilot programs enough. Legislation allows for them to take advantage of the use of pilots. The use of pilot programs allows an agency to try new approaches and obtain waivers from most statutory and regulatory structures which appear to add inefficiencies and costs to mission accomplishment. Pilots, done properly, allow the opportunity to test new processes; introduce commercial solutions; attract, non-traditional suppliers; and, speed delivery of needed solutions in the face of critical threats. The key to increased use of pilot programs is leadership within the Department. Leadership must promote and support

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pilot programs and provide top cover in the event the pilot doesn't deliver the expected outcome.

Keep the SAFETY Act Viable

The Federal government, and DHS in particular, must improve the integration of the SAFETY Act's risk management and liability protection provisions with homeland security technology acquisition practices.

Congress passed the SAFETY Act, part of the Homeland Security Act of 2002, to address the potential risk exposure for companies supplying anti-terrorism technologies. The SAFETY Act program has been operational since 2004, but DHS has yet to effectively integrate the SAFETY Act with its anti-terrorism technology procurement activities.

The DHS acquisition process and the SAFETY Act review process must be aligned, including expediting technical evaluations of SAFETY Act applications relating to products and services procured by DHS and other Federal government entities. Addressing liability considerations at the forefront of technology acquisition activities will yield greater competition in, and better results for, investments in homeland security technologies.

DHS should improve efforts to educate Federal contracting officials regarding the SAFETY Act and the SAFETY Act related changes to the Federal Acquisition Regulation ("FAR") that were effective February 17, 2009. FAR subpart 50.200 implements the SAFETY Act's liability protections to promote development and use of anti-terrorism technologies.

DHS should update and publish its agency-specific procurement regulations and procurement procedures in light of the FAR SAFETY Act provisions so that other Federal agencies may implement corresponding updates to their respective procurement regulations and practices.

Federal contracting officials should be instructed to ensure that SAFETY Act considerations are included among the procurement checklists that contracting officers must complete for technology procurements.

Federal program managers as well as contracting officers should consider whether requesting a SAFETY Act Pre-Qualification Designation Notice (as provided in the FAR) would enhance competition with respect to particular homeland security technology procurements.

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DHS leadership must demonstrate focus and commitment to effective SAFETY Act implementation by improved integration with homeland security technology acquisition practices.

Conclusion

The people of DHS are doing great work in service of their country. Industry also has many people and companies that share this mission and seek to improve our partnership and communication to better accomplish this mission. The challenges we face in leveraging emerging technologies is more a question of process, not of people.

I would like to once again thank the committee for allowing TechAmerica to share its views, but more importantly, for focusing this hearing on the important need for improving the contracting process in order to ensure that most up-to-date technology is utilized in order to support the mission of DHS and secure our nation. TechAmerica and our member companies look forward to continuing to work with you on this important issue. Thank you and I would be glad to answer any questions that you may have.