

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1505	41:422(k).	Pub. L. 93-400, §26(k), as added Pub. L. 100-679, §5(a), Nov. 17, 1988, 102 Stat. 4062.

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in text, is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 1506. Authorization of appropriations

Necessary amounts may be appropriated to carry out this chapter.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3700.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1506	41:422(l).	Pub. L. 93-400, §26(l), as added Pub. L. 100-679, §5(a), Nov. 17, 1988, 102 Stat. 4063.

CHAPTER 17—AGENCY RESPONSIBILITIES AND PROCEDURES

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§ 1701. Cooperation with the Administrator

On the request of the Administrator, each executive agency shall—

(1) make its services, personnel, and facilities available to the Office of Federal Procurement Policy to the greatest practicable extent for the performance of functions under this division; and

(2) except when prohibited by law, furnish to the Administrator, and give the Administrator access to, all information and records in its possession that the Administrator may determine to be necessary for the performance of the functions of the Office.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3700.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1701	41:406.	Pub. L. 93-400, §7, Aug. 30, 1974, 88 Stat. 798.

EX. ORD. NO. 12073. FEDERAL PROCUREMENT IN LABOR SURPLUS AREAS

Ex. Ord. No. 12073, Aug. 16, 1978, 43 F.R. 36873, provided:

By the authority vested in me as President by the Constitution of the United States of America, and in order to strengthen the economic base of our Nation, it is hereby ordered as follows:

1-1. PROCUREMENTS IN LABOR SURPLUS AREAS

1-101. Executive agencies shall emphasize procurement set-asides in labor surplus areas in order to strengthen our Nation's economy.

1-102. Labor surplus area procurements shall be consistent with this Order and, to the extent funds are available, the priorities of Section 15 of the Small Business Act, as amended by Public Law 95-89 (15 U.S.C. 644).

1-2. ADMINISTRATOR OF GENERAL SERVICES

1-201. The Administrator shall coordinate with and advise State and local officials with regard to Federal efforts to encourage procurements in labor surplus areas with the aim of fostering economic development in labor surplus areas.

1-202. The Administrator shall establish specific labor surplus area procurement targets for Executive agencies in consultation with the heads of those agencies.

1-203. In cooperation with the heads of Executive agencies, the Administrator shall encourage the use of set-asides or other appropriate methods for meeting procurement targets in labor surplus areas.

1-204. The Administrator shall report every six months to the President on the progress of the agencies in achieving the procurement targets.

1-3. AGENCY RESPONSIBILITIES

1-301. The Secretary of Labor shall classify and designate labor markets which are labor surplus areas. The Secretary shall provide labor market data to the heads of agencies and State and local officials in order to promote the development of business opportunities in labor surplus areas.

1-302. The heads of Executive agencies shall cooperate with the Administrator in carrying out his responsibilities for labor surplus area programs and shall provide the information necessary for setting procurement targets and recording achievement. They shall keep the Administrator informed of plans and programs which affect labor surplus procurements, with particular attention to opportunities for minority firms.

1-303. In accord with Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405), the Administrator for Federal Procurement Policy shall be responsible for the overall direction and oversight of the policies affecting procurement programs for labor surplus areas.

JIMMY CARTER.

EX. ORD. NO. 12931. FEDERAL PROCUREMENT REFORM

Ex. Ord. No. 12931, Oct. 13, 1994, 59 F.R. 52387, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure effective and efficient spending of public funds through fundamental reforms in Government procurement, it is hereby ordered as follows:

SECTION 1. To make procurement more effective in support of mission accomplishment and consistent with recommendations of the National Performance Review, heads of executive agencies engaged in the procurement of supplies and services shall:

(a) Review agency procurement rules, reporting requirements, contractual requirements, certification procedures, and other administrative procedures over and above those required by statute, and, where practicable, replace them with guiding principles that encourage and reward innovation;

(b) Review existing and planned agency programs to assure that such programs meet agency mission needs;

(c) Ensure that procurement organizations focus on measurable results and on increased attention to understanding and meeting customer needs;

(d) Increase the use of commercially available items where practicable, place more emphasis on past contractor performance, and promote best value rather than simply low cost in selecting sources for supplies and services;

(e) Ensure that simplified acquisition procedures are used, to the maximum extent practicable, for procurements under the simplified acquisition threshold in order to reduce administrative burdens and more effectively support the accomplishment of agency missions;

(f) Expand the use of the Government purchase card by the agency and take maximum advantage of the micro-purchase authority provided in the Federal Acquisition Streamlining Act of 1994 [Pub. L. 103-355, see Short Title of 1994 Act note set out under section 101 of this title] by delegating the authority, to the maximum extent practicable, to the offices that will be using the supplies or services to be purchased;

(g) Establish clear lines of contracting authority and accountability;

(h) Establish career education programs for procurement professionals, including requirements for successful completion of educational requirements or mandatory training for entry level positions and for promotion to higher level positions, in order to ensure a highly qualified procurement work force;

(i) Designate a Procurement Executive with agency-wide responsibility to oversee development of procurement goals, guidelines, and innovation, measure and evaluate procurement office performance against stated goals, enhance career development of the procurement work force, and advise the agency heads whether goals are being achieved; and

(j) Review existing and planned information technology acquisitions and contracts to ensure that the agency receives the best value with regard to price and technology, and consider alternatives in cases where best value is not being obtained.

SEC. 2. The Director of the Office of Personnel Management, in consultation with the heads of executive agencies, shall ensure that personnel policies and classification standards meet the needs of executive agencies for a professional procurement work force.

SEC. 3. The Administrator of the Office of Federal Procurement Policy, after consultation with the Director of the Office of Management and Budget, shall work jointly with the heads of executive agencies to provide broad policy guidance and overall leadership necessary to achieve procurement reform, including, but not limited to:

- (a) Coordinating Government-wide efforts;
- (b) Assisting executive agencies in streamlining guidance for procurement processes;
- (c) Identifying desirable Government-wide procurement system criteria; and
- (d) Identifying major inconsistencies in law and policies relating to procurement that impose unnecessary burdens on the private sector and Federal procurement officials, and, following coordination with executive agencies, submitting necessary legislative initiatives to the Office of Management and Budget for the resolution of such inconsistencies.

SEC. 4. Executive Order No. 12352 is revoked.

WILLIAM J. CLINTON.

§ 1702. Chief Acquisition Officers and senior procurement executives

(a) APPOINTMENT OR DESIGNATION OF CHIEF ACQUISITION OFFICER.—The head of each executive agency described in section 901(b)(1) (other than the Department of Defense) or 901(b)(2)(C) of title 31 with a Chief Financial Officer appointed or designated under section 901(a) of title 31 shall appoint or designate a non-career employee as Chief Acquisition Officer for the agency.

(b) AUTHORITY AND FUNCTIONS OF CHIEF ACQUISITION OFFICER.—

(1) PRIMARY DUTY.—The primary duty of a Chief Acquisition Officer is acquisition management.

(2) ADVICE AND ASSISTANCE.—A Chief Acquisition Officer shall advise and assist the head of the executive agency and other agency officials to ensure that the mission of the executive agency is achieved through the management of the agency's acquisition activities.

(3) OTHER FUNCTIONS.—The functions of each Chief Acquisition Officer include—

(A) monitoring the performance of acquisition activities and acquisition programs of the executive agency, evaluating the performance of those programs on the basis of applicable performance measurements, and advising the head of the executive agency regarding the appropriate business strategy to achieve the mission of the executive agency;

(B) increasing the use of full and open competition in the acquisition of property and services by the executive agency by establishing policies, procedures, and practices that ensure that the executive agency receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Federal Government's requirements (including performance and delivery schedules) at the lowest cost or best value considering the nature of the property or service procured;

(C) increasing appropriate use of performance-based contracting and performance specifications;

(D) making acquisition decisions consistent with all applicable laws and establishing clear lines of authority, accountability, and responsibility for acquisition decision-making within the executive agency;

(E) managing the direction of acquisition policy for the executive agency, including implementation of the unique acquisition policies, regulations, and standards of the executive agency;

(F) developing and maintaining an acquisition career management program in the executive agency to ensure that there is an adequate professional workforce; and

(G) as part of the strategic planning and performance evaluation process required under section 306 of title 5 and sections 1105(a)(28), 1115, 1116, and 9703 (added by section 5(a) of Public Law 103-62 (107 Stat. 289)) of title 31—

(i) assessing the requirements established for agency personnel regarding knowledge and skill in acquisition resources management and the adequacy of those requirements for facilitating the achievement of the performance goals established for acquisition management;

(ii) developing strategies and specific plans for hiring, training, and professional development to rectify a deficiency in meeting those requirements; and

(iii) reporting to the head of the executive agency on the progress made in improving acquisition management capability.

(c) SENIOR PROCUREMENT EXECUTIVE.—

(1) DESIGNATION.—The head of each executive agency shall designate a senior procurement executive.

(2) RESPONSIBILITY.—The senior procurement executive is responsible for management direction of the procurement system of the executive agency, including implementation of the unique procurement policies, regulations, and standards of the executive agency.

(3) WHEN CHIEF ACQUISITION OFFICER APPOINTED OR DESIGNATED.—For an executive agency for which a Chief Acquisition Officer has been appointed or designated under subsection (a), the head of the executive agency shall—

(A) designate the Chief Acquisition Officer as the senior procurement executive for the executive agency; or

(B) ensure that the senior procurement executive designated under paragraph (1) reports directly to the Chief Acquisition Officer without intervening authority.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3701.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1702(a), (b)(1), (2).	41:414(a).	Pub. L. 93-400, §16, as added Pub. L. 98-191, §7, Dec. 1, 1983, 97 Stat. 1330; Pub. L. 98-369, title VII, §2732(b)(2), July 18, 1984, 98 Stat. 1199; Pub. L. 108-136, div. A, title XIV, §1421(a)(1), Nov. 24, 2003, 117 Stat. 1666.
1702(b)(3)	41:414(b).	
1702(c)	41:414(c).	

§ 1703. Acquisition workforce

(a) DESCRIPTION.—For purposes of this section, the acquisition workforce of an agency consists of all employees serving in acquisition positions listed in subsection (g)(1)(A).

(b) APPLICABILITY.—

(1) NONAPPLICABILITY TO CERTAIN EXECUTIVE AGENCIES.—Except as provided in subsection (i), this section does not apply to an executive agency that is subject to chapter 87 of title 10.

(2) APPLICABILITY OF PROGRAMS.—The programs established by this section apply to the acquisition workforce of each executive agency.

(c) MANAGEMENT POLICIES.—

(1) DUTIES OF HEAD OF EXECUTIVE AGENCY.—

(A) ESTABLISH POLICIES AND PROCEDURES.—After consultation with the Administrator, the head of each executive agency shall establish policies and procedures for the effective management (including accession, education, training, career development, and performance incentives) of the acquisition workforce of the agency. The development of acquisition workforce policies under this section shall be carried out consistent with the merit system principles set forth in section 2301(b) of title 5.

(B) ENSURE UNIFORM IMPLEMENTATION.—The head of each executive agency shall ensure that, to the maximum extent practicable, acquisition workforce policies and procedures established are uniform in their implementation throughout the agency.

(2) DUTIES OF ADMINISTRATOR.—

(A) IN GENERAL.—The Administrator shall issue policies to promote uniform implementation of this section by executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Administrator shall coordinate with the Deputy Director for Management of the Office of Management and Budget to ensure that the policies are consistent with the policies and procedures established, and enhanced system of incentives provided, pursuant to section 5051(c) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355, 108 Stat. 3351). The Administrator shall evaluate the implementation of this section by executive agencies.

(B) GOVERNMENT-WIDE TRAINING STANDARDS AND CERTIFICATION.—The Administrator, acting through the Federal Acquisition Institute, shall provide and update government-wide training standards and certification requirements, including—

(i) developing and modifying acquisition certification programs;

(ii) ensuring quality assurance for agency implementation of government-wide training and certification standards;

(iii) analyzing the acquisition training curriculum to ascertain if all certification competencies are covered or if adjustments are necessary;

(iv) developing career path information for certified professionals to encourage retention in government positions;

(v) coordinating with the Office of Personnel Management for human capital efforts; and

(vi) managing rotation assignments to support opportunities to apply skills included in certification.

(d) AUTHORITY AND RESPONSIBILITY OF SENIOR PROCUREMENT EXECUTIVE.—Subject to the authority, direction, and control of the head of an executive agency, the senior procurement executive of the agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementing this section. The senior procurement executive shall ensure that the policies of the head of the executive agency established in accordance with this section are implemented throughout the agency.

(e) COLLECTING AND MAINTAINING INFORMATION.—The Administrator shall ensure that the heads of executive agencies collect and maintain standardized information on the acquisition workforce related to implementing this section. To the maximum extent practicable, information requirements shall conform to standards the Director of the Office of Personnel Management establishes for the Central Personnel Data File.

(f) CAREER DEVELOPMENT.—

(1) CAREER PATHS.—

(A) IDENTIFICATION.—The head of each executive agency shall ensure that appropriate career paths for personnel who desire to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career pro-

gression to the most senior acquisition positions. The head of each executive agency shall make available information on those career paths.

(B) CRITICAL DUTIES AND TASKS.—For each career path, the head of each executive agency shall identify the critical acquisition-related duties and tasks in which, at minimum, employees of the agency in the career path shall be competent to perform at full performance grade levels. For this purpose, the head of the executive agency shall provide appropriate coverage of the critical duties and tasks identified by the Director of the Federal Acquisition Institute.

(C) MANDATORY TRAINING AND EDUCATION.—For each career path, the head of each executive agency shall establish requirements for the completion of course work and related on-the-job training in the critical acquisition-related duties and tasks of the career path. The head of each executive agency also shall encourage employees to maintain the currency of their acquisition knowledge and generally enhance their knowledge of related acquisition management disciplines through academic programs and other self-developmental activities.

(2) PERFORMANCE INCENTIVES.—The head of each executive agency shall provide for an enhanced system of incentives to encourage excellence in the acquisition workforce that rewards performance of employees who contribute to achieving the agency's performance goals. The system of incentives shall include provisions that—

(A) relate pay to performance (including the extent to which the performance of personnel in the workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 3103(b) of this title); and

(B) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in the workforce contributes to achieving the cost goals, schedule goals, and performance goals.

(g) QUALIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall—

(A) establish qualification requirements, including education requirements, for—

(i) entry-level positions in the General Schedule Contracting series (GS-1102);

(ii) senior positions in the General Schedule Contracting series (GS-1102);

(iii) all positions in the General Schedule Purchasing series (GS-1105); and

(iv) positions in other General Schedule series in which significant acquisition-related functions are performed; and

(B) prescribe the manner and extent to which the qualification requirements shall apply to an individual serving in a position described in subparagraph (A) at the time the requirements are established.

(2) RELATIONSHIP TO REQUIREMENTS APPLICABLE TO DEFENSE ACQUISITION WORKFORCE.—The

Administrator shall establish qualification requirements and make prescriptions under paragraph (1) that are comparable to those established for the same or equivalent positions pursuant to chapter 87 of title 10 with appropriate modifications.

(3) APPROVAL OF REQUIREMENTS.—The Administrator shall submit any requirement established or prescription made under paragraph (1) to the Director of the Office of Personnel Management for approval. The Director is deemed to have approved the requirement or prescription if the Director does not disapprove the requirement or prescription within 30 days after receiving it.

(h) EDUCATION AND TRAINING.—

(1) FUNDING LEVELS.—The head of an executive agency shall set forth separately the funding levels requested for educating and training the acquisition workforce in the budget justification documents submitted in support of the President's budget submitted to Congress under section 1105 of title 31.

(2) TUITION ASSISTANCE.—The head of an executive agency may provide tuition reimbursement in education (including a full-time course of study leading to a degree) in accordance with section 4107 of title 5 for personnel serving in acquisition positions in the agency.

(3) RESTRICTED OBLIGATION.—Amounts appropriated for education and training under this section may not be obligated for another purpose.

(i) TRAINING FUND.—

(1) PURPOSES.—The purposes of this subsection are to ensure that the Federal acquisition workforce—

(A) adapts to fundamental changes in the nature of Federal Government acquisition of property and services associated with the changing roles of the Federal Government; and

(B) acquires new skills and a new perspective to enable it to contribute effectively in the changing environment of the 21st century.

(2) ESTABLISHMENT AND MANAGEMENT OF FUND.—There is an acquisition workforce training fund. The Administrator of General Services shall manage the fund through the Federal Acquisition Institute to support the activities set forth in section 1201(a) of this title, except as provided in paragraph (5). The Administrator of General Services shall consult with the Administrator in managing the fund.

(3) CREDITS TO FUND.—Five percent of the fees collected by executive agencies (other than the Department of Defense) under the following contracts shall be credited to the fund:

(A) Government-wide task and delivery-order contracts entered into under sections 4103 and 4105 of this title.

(B) Government-wide contracts for the acquisition of information technology as defined in section 11101 of title 40 and multi-agency acquisition contracts for that technology authorized by section 11314 of title 40.

(C) multiple-award schedule contracts entered into by the Administrator of General Services.

(4) REMITTANCE BY HEAD OF EXECUTIVE AGENCY.—The head of an executive agency that administers a contract described in paragraph (3) shall remit to the General Services Administration the amount required to be credited to the fund with respect to the contract at the end of each quarter of the fiscal year.

(5) TRANSFER AND USE OF FEES COLLECTED FROM DEPARTMENT OF DEFENSE.—The Administrator of General Services shall transfer to the Secretary of Defense fees collected from the Department of Defense pursuant to paragraph (3). The Defense Acquisition University shall use the fees for acquisition workforce training.

(6) AMOUNTS NOT TO BE USED FOR OTHER PURPOSES.—The Administrator of General Services, through the Office of Federal Procurement¹ Policy, shall ensure that amounts collected under this section are not used for a purpose other than the activities set forth in section 1201(a) of this title.

(7) AMOUNTS ARE IN ADDITION TO OTHER AMOUNTS FOR EDUCATION AND TRAINING.—Amounts credited to the fund are in addition to amounts requested and appropriated for education and training referred to in subsection (h)(1).

(8) AVAILABILITY OF AMOUNTS.—Amounts credited to the fund remain available to be expended only in the fiscal year for which they are credited and the 2 succeeding fiscal years.

(j) RECRUITMENT PROGRAM.—

(1) SHORTAGE CATEGORY POSITIONS.—For purposes of sections 3304, 5333, and 5753 of title 5, the head of a department or agency of the Federal Government (other than the Secretary of Defense) may determine, under regulations prescribed by the Office of Personnel Management, that certain Federal acquisition positions (as described in subsection (g)(1)(A)) are shortage category positions in order to use the authorities in those sections to recruit and appoint highly qualified individuals directly to those positions in the department or agency.

(2) TERMINATION OF AUTHORITY.—The head of a department or agency may not appoint an individual to a position of employment under this subsection after September 30, 2012.

(k) REEMPLOYMENT WITHOUT LOSS OF ANNUITY.—

(1) ESTABLISHMENT OF POLICIES AND PROCEDURES.—The head of each executive agency, after consultation with the Administrator and the Director of the Office of Personnel Management, shall establish policies and procedures under which the agency head may reemploy in an acquisition-related position (as described in subsection (g)(1)(A)) an individual receiving an annuity from the Civil Service Retirement and Disability Fund, on the basis of the individual's service, without discontinuing the annuity. The head of each executive agency shall keep the Administrator informed of the agency's use of this authority.

(2) CRITERIA FOR CONTINUATION OF ANNUITY.—Policies and procedures established under paragraph (1) shall authorize the head of the executive agency, on a case-by-case basis, to continue an annuity if any of the following makes the reemployment of an individual essential:

(A) The unusually high or unique qualifications of an individual receiving an annuity from the Civil Service Retirement and Disability Fund on the basis of the individual's service.

(B) The exceptional difficulty in recruiting or retaining a qualified employee.

(C) A temporary emergency hiring need.

(3) SERVICE NOT SUBJECT TO CSRS OR FERS.—An individual reemployed under this subsection shall not be deemed an employee for purposes of chapter 83 or 84 of title 5.

(4) REPORTING REQUIREMENT.—The Administrator shall submit annually to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the use of the authority under this subsection, including the number of employees reemployed under authority of this subsection.

(5) SUNSET PROVISION.—The authority under this subsection expires on December 31, 2011.

(l) ACQUISITION INTERNSHIP AND TRAINING PROGRAMS.—All Federal civilian agency acquisition internship or acquisition training programs shall follow guidelines provided by the Office of Federal Procurement Policy to ensure consistent training standards necessary to develop uniform core competencies throughout the Federal Government.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3702; Pub. L. 112-74, div. C, title V, §526, Dec. 23, 2011, 125 Stat. 914; Pub. L. 112-81, div. A, title VIII, §864(c), (d), Dec. 31, 2011, 125 Stat. 1525.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1703(a)	41:433(e) (last sentence).	Pub. L. 93-400, §37(b)-(h)(2), as added Pub. L. 104-106, title XLIII, §4307(a)(1), Feb. 10, 1996, 110 Stat. 666.
1703(b)(1)	41:433(a).	Pub. L. 93-400, §37(a), as added Pub. L. 104-106, title XLIII, §4307(a)(1), Feb. 10, 1996, 110 Stat. 666; Pub. L. 109-163, div. A, title VIII, §821(b)(1), Jan. 6, 2006, 119 Stat. 3386.
1703(b)(2)	41:433(e) (1st sentence).	
1703(c)	41:433(b).	
1703(d)	41:433(c).	
1703(e)	41:433(d).	
1703(f)	41:433(f).	
1703(g)	41:433(g).	
1703(h)(1)	41:433(h)(1)(A).	
1703(h)(2)	41:433(h)(2).	
1703(h)(3)	41:433(h)(1)(B).	
1703(i)(1)	41:433 note.	
1703(i)(2)-(8)	41:433(h)(3).	Pub. L. 108-136, div. A, title XIV, §1412(a), Nov. 24, 2003, 117 Stat. 1664. Pub. L. 93-400, §37(h)(3), as added Pub. L. 108-136, div. A, title XIV, §1412(b), Nov. 24, 2003, 117 Stat. 1664; Pub. L. 109-163, div. A, title VIII, §821(a), Jan. 6, 2006, 119 Stat. 3386; Pub. L. 110-181, div. A, title VIII, §854, Jan. 28, 2008, 122 Stat. 251.

¹ So in original. Probably should be "Procurement".

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1703(j)	41:433 note.	Pub. L. 108-136, div. A, title XIV, §1413, Nov. 24, 2003, 117 Stat. 1665; Pub. L. 110-181, div. A, title VIII, §853, title X, §1063(g)(2), Jan. 28, 2008, 122 Stat. 250, 323.
1703(k)	41:433(i).	Pub. L. 93-400, §37(i), as added Pub. L. 109-313, §4, Oct. 6, 2006, 120 Stat. 1737.

In subsection (e), the word “information” the second time it appears is substituted for “data” for consistency in the subsection.

In subsection (i)(6), the words “Office of Federal Procurement Policy” are substituted for “Office of Federal Acquisition Policy” to provide the correct name of the office.

In subsection (j), the text of 1413(c) of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136, 117 Stat. 1665) is omitted as obsolete.

In subsection (k)(4), the words “Committee on Oversight and Government Reform” are substituted for “Committee on Government Reform” on authority of Rule X(1)(m) of the Rules of the House of Representatives, adopted by House Resolution No. 6 (110th Congress, January 5, 2007).

REFERENCES IN TEXT

Section 5051(c) of the Federal Acquisition Streamlining Act of 1994, referred to in subsec. (c)(2)(A), is section 5051(c) of Pub. L. 103-305, which is set out as a note under this section.

AMENDMENTS

2011—Subsec. (c)(2). Pub. L. 112-81, §864(c)(1), designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (i)(2). Pub. L. 112-81, §864(d)(1), substituted “to support the activities set forth in section 1201(a) of this title” for “to support the training of the acquisition workforce of the executive agencies”.

Subsec. (i)(6). Pub. L. 112-81, §864(d)(2), substituted “ensure that amounts collected under this section are not used for a purpose other than the activities set forth in section 1201(a) of this title” for “ensure that amounts collected for training under this subsection are not used for a purpose other than the purpose specified in paragraph (2)”.

Pub. L. 112-74, which directed amendment of par. (6) by striking out “for training” after “amounts collected” and substituting “subparagraphs (A) and (C) to (J) of section 1122(a)(5) of this title” for “paragraph (2)”, was not executed to reflect the probable intent of Congress and the subsequent amendment by Pub. L. 112-81, §864(d)(2). See above.

Subsec. (l). Pub. L. 112-81, §864(c)(2), added subsec. (l).

TRAINING FOR CONTRACTING AND ENFORCEMENT PERSONNEL

Pub. L. 111-240, title I, §1343(a), Sept. 27, 2010, 124 Stat. 2545, provided that: “Not later than 1 year after the date of enactment of this Act [Sept. 27, 2010], the Federal Acquisition Institute, in consultation with the Administrator for Federal Procurement Policy, the Defense Acquisition University, and the Administrator [of the Small Business Administration], shall develop courses for acquisition personnel concerning proper classification of business concerns and small business size and status for purposes of Federal contracts, subcontracts, grants, cooperative agreements, and cooperative research and development agreements.”

DEFENSE ACQUISITION UNIVERSITY FUNDING

Pub. L. 109-163, div. A, title VIII, §821(c), Jan. 6, 2006, 119 Stat. 3386, provided that: “Amounts transferred under section 37(h)(3)(D) of the Office of Federal Pro-

urement Policy Act [now 41 U.S.C. 1703(i)(5)] (as amended by subsection (a)) for use by the Defense Acquisition University shall be in addition to other amounts authorized for the University.”

ENHANCED SYSTEM OF PERFORMANCE INCENTIVES

Pub. L. 103-355, title V, §5051(c), Oct. 13, 1994, 108 Stat. 3351, provided that: “Within one year after the date of the enactment of this Act [Oct. 13, 1994], the Deputy Director for Management of the Office of Management and Budget, in consultation with appropriate officials in other departments and agencies of the Federal Government, shall, to the maximum extent consistent with applicable law—

“(1) establish policies and procedures for the heads of such departments and agencies to designate acquisition positions and manage employees (including the accession, education, training and career development of employees) in the designated acquisition positions; and

“(2) review the incentives and personnel actions available to the heads of departments and agencies of the Federal Government for encouraging excellence in the acquisition workforce of the Federal Government and provide an enhanced system of incentives for the encouragement of excellence in such workforce which—

“(A) relates pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 313(b) of the Federal Property and Administrative Services Act of 1949, as added by subsection (a) [now 41 U.S.C. 3103(b)]); and

“(B) provides for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving such cost goals, schedule goals, and performance goals.”

§ 1704. Planning and policy-making for acquisition workforce

(a) DEFINITIONS.—In this section:

(1) ASSOCIATE ADMINISTRATOR.—The term “Associate Administrator” means the Associate Administrator for Acquisition Workforce Programs as designated by the Administrator pursuant to subsection (b).

(2) CHIEF ACQUISITION OFFICER.—The term “Chief Acquisition Officer” means a Chief Acquisition Officer for an executive agency appointed pursuant to section 1702 of this title.

(b) ASSOCIATE ADMINISTRATOR FOR ACQUISITION WORKFORCE PROGRAMS.—The Administrator shall designate a member of the Senior Executive Service as the Associate Administrator for Acquisition Workforce Programs. The Associate Administrator shall be chosen on the basis of demonstrated knowledge and expertise in acquisition, human capital, and management. The Associate Administrator shall be located in the Office of Federal Procurement Policy. The Associate Administrator shall be responsible for—

(1) supervising the acquisition workforce training fund established under section 1703(i) of this title;

(2) developing, in coordination with Chief Acquisition Officers and Chief Human Capital Officers, a strategic human capital plan for the acquisition workforce of the Federal Government;

(3) reviewing and providing input to individual agency acquisition workforce succession plans;

(4) recommending to the Administrator and other senior government officials appropriate programs, policies, and practices to increase the quantity and quality of the Federal acquisition workforce;

(5) implementing workforce programs under subsections (f) through (l) of section 1703 of this title; and

(6) carrying out other functions that the Administrator may assign.

(c) ACQUISITION AND CONTRACTING TRAINING PROGRAMS WITHIN EXECUTIVE AGENCIES.—

(1) CHIEF ACQUISITION OFFICER AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the head of an executive agency, the Chief Acquisition Officer for that agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this subsection. The Chief Acquisition Officer shall ensure that the policies established by the head of the agency in accordance with this subsection are implemented throughout the agency.

(2) REQUIREMENT.—The head of each executive agency, after consultation with the Associate Administrator, shall establish and operate acquisition and contracting training programs. The programs shall—

(A) have curricula covering a broad range of acquisition and contracting disciplines corresponding to the specific acquisition and contracting needs of the agency involved;

(B) be developed and applied according to rigorous standards; and

(C) be designed to maximize efficiency, through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever those features can be applied without reducing the effectiveness of the training or negatively affecting academic standards.

(d) GOVERNMENT-WIDE POLICIES AND EVALUATION.—The Administrator shall issue policies to promote the development of performance standards for training and uniform implementation of this section by executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Administrator shall evaluate the implementation of the provisions of subsection (c) by executive agencies.

(e) INFORMATION ON ACQUISITION AND CONTRACTING TRAINING.—The Administrator shall ensure that the heads of executive agencies collect and maintain standardized information on the acquisition and contracting workforce related to the implementation of subsection (c).

(f) ACQUISITION WORKFORCE HUMAN CAPITAL SUCCESSION PLAN.—

(1) IN GENERAL.—Each Chief Acquisition Officer for an executive agency shall develop, in consultation with the Chief Human Capital Officer for the agency and the Associate Administrator, a succession plan consistent with the agency's strategic human capital plan for the recruitment, development, and retention of the agency's acquisition workforce, with a particular focus on warranted contracting officers and program managers of the agency.

(2) CONTENT OF PLAN.—The acquisition workforce succession plan shall address—

(A) recruitment goals for personnel from procurement intern programs;

(B) the agency's acquisition workforce training needs;

(C) actions to retain high performing acquisition professionals who possess critical relevant skills;

(D) recruitment goals for personnel from the Federal Career Intern Program; and

(E) recruitment goals for personnel from the Presidential Management Fellows Program.

(g) ACQUISITION WORKFORCE DEVELOPMENT STRATEGIC PLAN.—

(1) PURPOSE.—The purpose of this subsection is to authorize the preparation and completion of the Acquisition Workforce Development Strategic Plan, which is a plan for Federal agencies other than the Department of Defense to—

(A) develop a specific and actionable 5-year plan to increase the size of the acquisition workforce; and

(B) operate a government-wide acquisition intern program for the Federal agencies.

(2) ESTABLISHMENT OF PLAN.—The Associate Administrator shall be responsible for the management, oversight, and administration of the Acquisition Workforce Development Strategic Plan in cooperation and consultation with the Office of Federal Procurement Policy and with the assistance of the Federal Acquisition Institute.

(3) CRITERIA.—The Acquisition Workforce Development Strategic Plan shall include an examination of the following matters:

(A) The variety and complexity of acquisitions conducted by each Federal agency covered by the plan, and the workforce needed to effectively carry out the acquisitions.

(B) The development of a sustainable funding model to support efforts to hire, retain, and train an acquisition workforce of appropriate size and skill to effectively carry out the acquisition programs of the Federal agencies covered by the plan, including an examination of interagency funding methods and a discussion of how the model of the Defense Acquisition Workforce Development Fund could be applied to civilian agencies.

(C) Any strategic human capital planning necessary to hire, retain, and train an acquisition workforce of appropriate size and skill at each Federal agency covered by the plan.

(D) Methodologies that Federal agencies covered by the plan can use to project future acquisition workforce personnel hiring requirements, including an appropriate distribution of such personnel across each category of positions designated as acquisition workforce personnel under section 1703(g) of this title.

(E) Government-wide training standards and certification requirements necessary to enhance the mobility and career opportunities of the Federal acquisition workforce within the Federal agencies covered by the plan.

(F) If the Associate Administrator recommends as part of the plan a growth in the acquisition workforce of the Federal agencies covered by the plan below 25 percent over the next 5 years, an examination of each of the matters specified in subparagraphs (A) to (E) in the context of a 5-year plan that increases the size of such acquisition workforce by not less than 25 percent, or an explanation why such a level of growth would not be in the best interest of the Federal Government.

(4) **DEADLINE FOR COMPLETION.**—The Acquisition Workforce Development Strategic Plan shall be completed not later than one year after October 14, 2008, and in a fashion that allows for immediate implementation of its recommendations and guidelines.

(5) **FUNDS.**—The acquisition workforce development strategic plan shall be funded from the acquisition workforce training fund under section 1703(i) of this title.

(h) **TRAINING IN THE ACQUISITION OF ARCHITECT AND ENGINEERING SERVICES.**—The Administrator shall ensure that a sufficient number of Federal employees are trained in the acquisition of architect and engineering services.

(i) **UTILIZATION OF RECRUITMENT AND RETENTION AUTHORITIES.**—The Administrator, in coordination with the Director of the Office of Personnel Management, shall encourage executive agencies to use existing authorities, including direct hire authority and tuition assistance programs, to recruit and retain acquisition personnel and consider recruiting acquisition personnel who may be retiring from the private sector, consistent with existing laws and regulations.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3706; Pub. L. 111-383, div. A, title X, § 1075(e)(15), Jan. 7, 2011, 124 Stat. 4375; Pub. L. 112-81, div. A, title VIII, § 864(a), Dec. 31, 2011, 125 Stat. 1522.)

AMENDMENTS NOT SHOWN IN TEXT

Subsec. (g) of this section was derived from Pub. L. 110-417, [div. A], title VIII, § 869, Oct. 14, 2008, 122 Stat. 4553, which was set out as a note under section 433a of former Title 41, Public Contracts, prior to being repealed and reenacted as subsec. (g) of this section by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. Section 869 of Pub. L. 110-417 was amended by Pub. L. 111-383, div. A, title X, § 1075(e)(15), Jan. 7, 2011, 124 Stat. 4375. For applicability of that amendment to this section, see section 6(a) of Pub. L. 111-350, set out as a Transitional and Savings Provisions note preceding section 101 of this title. Section 869 of Pub. L. 110-417 was amended as follows:

(1) in subsection (b), by striking “433(a)” and inserting “433a(a)”; and

(2) in subsection (c)(4)—

(A) by striking “37(j)” and inserting “37(g)”; and

(B) by striking “433(j)” and inserting “433(g)”.

Such references did not appear in the text of subsec. (g) as enacted. See Historical and Revision Notes below.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1704(a)(1) 1704(a)(2)	no source. 41:433a(h).	Pub. L. 110-181, div. A, title VIII, § 855, Jan. 28, 2008, 122 Stat. 251.
1704(b)-(f) .. 1704(g)	41:433a(a)-(e). 41:433a note.	Pub. L. 110-417, [div. A], title VIII, § 869, Oct. 14, 2008, 122 Stat. 4553.
1704(h), (i) ..	41:433a(f), (g).	

In subsection (a), the definition of “executive agency” is omitted as unnecessary.

In subsection (f)(1), the words “Not later than 1 year after the date of the enactment of this Act” are omitted as obsolete.

In subsection (g)(2), the words “Associate Administrator” are substituted for “Associate Administrator for Acquisition Workforce Programs designated under section 855(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 251; 41 U.S.C. 433(a))” because of subsection (a)(1).

In subsection (g)(3)(D), the reference to “section 37(j) of the Office of Federal Procurement Policy Act” is changed to “section 1703(g) of this title” to correct an error in the law.

AMENDMENTS

2011—Subsec. (b). Pub. L. 112-81, § 864(a)(2), which directed substitution of “The Associate Administrator shall be located in the Office of Federal Procurement Policy.” for “The Associate Administrator for Acquisition Workforce Programs shall be located in the Federal Acquisition Institute (or its successor).”, was executed by making the substitution for “The Associate Administrator shall be located in the Federal Acquisition Institute (or its successor).” in introductory provisions, to reflect the probable intent of Congress.

Pub. L. 112-81, § 864(a)(1), inserted “The Associate Administrator shall be chosen on the basis of demonstrated knowledge and expertise in acquisition, human capital, and management.” after “Programs.” in introductory provisions.

Subsec. (b)(5), (6). Pub. L. 112-81, § 864(a)(3)-(5), added par. (5) and redesignated former par. (5) as (6).

§ 1705. Advocates for competition

(a) **ESTABLISHMENT AND DESIGNATION.**—

(1) **ESTABLISHMENT.**—Each executive agency has an advocate for competition.

(2) **DESIGNATION.**—The head of each executive agency shall—

(A) designate for the executive agency and for each procuring activity of the executive agency one officer or employee serving in a position authorized for the executive agency on July 18, 1984 (other than the senior procurement executive designated pursuant to section 1702(c) of this title) to serve as the advocate for competition;

(B) not assign those officers or employees duties or responsibilities that are inconsistent with the duties and responsibilities of the advocates for competition; and

(C) provide those officers or employees with the staff or assistance necessary to carry out the duties and responsibilities of the advocate for competition, such as individuals who are specialists in engineering, technical operations, contract administration, financial management, supply management, and utilization of small and disadvantaged business concerns.

(b) **DUTIES AND FUNCTIONS.**—The advocate for competition of an executive agency shall—

(1) be responsible for challenging barriers to, and promoting full and open competition in, the procurement of property and services by the executive agency;

(2) review the procurement activities of the executive agency;

(3) identify and report to the senior procurement executive of the executive agency—

(A) opportunities and actions taken to achieve full and open competition in the procurement activities of the executive agency; and

(B) any condition or action which has the effect of unnecessarily restricting competition in the procurement actions of the executive agency;

(4) prepare and transmit to the senior procurement executive an annual report describing—

(A) the advocate’s activities under this section;

(B) new initiatives required to increase competition; and

(C) remaining barriers to full and open competition;

(5) recommend to the senior procurement executive—

(A) goals and the plans for increasing competition on a fiscal year basis; and

(B) a system of personal and organizational accountability for competition, which may include the use of recognition and awards to motivate program managers, contracting officers, and others in authority to promote competition in procurement programs; and

(6) describe other ways in which the executive agency has emphasized competition in programs for procurement training and research.

(c) RESPONSIBILITIES.—The advocate for competition for each procuring activity is responsible for promoting full and open competition, promoting the acquisition of commercial items, and challenging barriers to acquisition, including unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3709.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1705	41:418.	Pub. L. 93–400, §20, as added Pub. L. 98–369, title VII, §2732(a), July 18, 1984, 98 Stat. 1197; Pub. L. 103–355, title VIII, §8303(a), Oct. 13, 1994, 108 Stat. 3398.

§ 1706. Personnel evaluation

The head of each executive agency subject to division C shall ensure, with respect to the employees of that agency whose primary duties and responsibilities pertain to the award of contracts subject to the provisions of the Small Business and Federal Procurement Competition Enhancement Act of 1984 (Public Law 98–577, 98 Stat. 3066), that the performance appraisal system applicable to those employees affords ap-

propriate recognition to, among other factors, efforts to—

(1) increase competition and achieve cost savings through the elimination of procedures that unnecessarily inhibit full and open competition;

(2) further the purposes of the Small Business and Federal Procurement Competition Enhancement Act of 1984 (Public Law 98–577, 98 Stat. 3066) and the Defense Procurement Reform Act of 1984 (Public Law 98–525, title XII, 98 Stat. 2588); and

(3) further other objectives and purposes of the Federal acquisition system authorized by law.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3710.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1706	41:414a.	Pub. L. 98–577, title V, §502, Oct. 30, 1984, 98 Stat. 3085.

REFERENCES IN TEXT

The Small Business and Federal Procurement Competition Enhancement Act of 1984, referred to in text, is Pub. L. 98–577, Oct. 30, 1984, 98 Stat. 3066. For complete classification of this Act to the Code, see Short Title of 1984 Act note set out under section 101 of this title and Tables.

The Defense Procurement Reform Act of 1984, referred to in par. (2), is Pub. L. 98–525, title XII, Oct. 19, 1984, 98 Stat. 2588. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 2302 of Title 10, Armed Forces, and Tables.

§ 1707. Publication of proposed regulations

(a) COVERED POLICIES, REGULATIONS, PROCEDURES, AND FORMS.—

(1) REQUIRED COMMENT PERIOD.—Except as provided in subsection (d), a procurement policy, regulation, procedure, or form (including an amendment or modification thereto) may not take effect until 60 days after it is published for public comment in the Federal Register pursuant to subsection (b) if it—

(A) relates to the expenditure of appropriated funds; and

(B)(i) has a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form; or

(ii) has a significant cost or administrative impact on contractors or offerors.

(2) EXCEPTION.—A policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but the effective date may not be less than 30 days after the publication date.

(b) PUBLICATION IN FEDERAL REGISTER AND COMMENT PERIOD.—Subject to subsection (c), the head of the agency shall have published in the Federal Register a notice of the proposed procurement policy, regulation, procedure, or form and provide for a public comment period for receiving and considering the views of all interested parties on the proposal. The length of the comment period may not be less than 30 days.

(c) **CONTENTS OF NOTICE.**—Notice of a proposed procurement policy, regulation, procedure, or form prepared for publication in the Federal Register shall include—

(1) the text of the proposal or, if it is impracticable to publish the full text of the proposal, a summary of the proposal and a statement specifying the name, address, and telephone number of the officer or employee of the executive agency from whom the full text may be obtained; and

(2) a request for interested parties to submit comments on the proposal and the name and address of the officer or employee of the Federal Government designated to receive the comments.

(d) **WAIVER.**—The requirements of subsections (a) and (b) may be waived by the officer authorized to issue a procurement policy, regulation, procedure, or form if urgent and compelling circumstances make compliance with the requirements impracticable.

(e) **EFFECTIVENESS OF POLICY, REGULATION, PROCEDURE, OR FORM.**—

(1) **TEMPORARY BASIS.**—A procurement policy, regulation, procedure, or form for which the requirements of subsections (a) and (b) are waived under subsection (d) is effective on a temporary basis if—

(A) a notice of the policy, regulation, procedure, or form is published in the Federal Register and includes a statement that the policy, regulation, procedure, or form is temporary; and

(B) provision is made for a public comment period of 30 days beginning on the date on which the notice is published.

(2) **FINAL POLICY, REGULATION, PROCEDURE, OR FORM.**—After considering the comments received, the head of the agency waiving the requirements of subsections (a) and (b) under subsection (d) may issue the final procurement policy, regulation, procedure, or form.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3710.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1707	41:418b.	Pub. L. 93-400, § 22, as added Pub. L. 98-577, title III, § 302(a), Oct. 30, 1984, 98 Stat. 3076; Pub. L. 103-355, title V, § 5092, Oct. 13, 1994, 108 Stat. 3362, as amended Pub. L. 104-106, title XLIII, § 4321(a)(9), Feb. 10, 1996, 110 Stat. 671.

In subsection (a)(2), the words “Notwithstanding the preceding sentence” are omitted as unnecessary.

§ 1708. Procurement notice

(a) **NOTICE REQUIREMENT.**—Except as provided in subsection (b)—

(1) an executive agency intending to solicit bids or proposals for a contract for property or services for a price expected to exceed \$10,000, but not to exceed \$25,000, shall post, for not less than 10 days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (c);

(2) an executive agency shall publish a notice of solicitation described in subsection (c) if the agency intends to—

(A) solicit bids or proposals for a contract for property or services for a price expected to exceed \$25,000; or

(B) place an order, expected to exceed \$25,000, under a basic agreement, basic ordering agreement, or similar arrangement; and

(3) an executive agency awarding a contract for property or services for a price exceeding \$25,000, or placing an order exceeding \$25,000 under a basic agreement, basic ordering agreement, or similar arrangement, shall furnish for publication a notice announcing the award or order if there is likely to be a subcontract under the contract or order.

(b) **EXEMPTIONS.**—

(1) **IN GENERAL.**—A notice is not required under subsection (a) if—

(A) the proposed procurement is for an amount not greater than the simplified acquisition threshold and is to be conducted by—

(i) using widespread electronic public notice of the solicitation in a form that allows convenient and universal user access through a single, Government-wide point of entry; and

(ii) permitting the public to respond to the solicitation electronically;

(B) the notice would disclose the executive agency’s needs and disclosure would compromise national security;

(C) the proposed procurement would result from acceptance of—

(i) an unsolicited proposal that demonstrates a unique and innovative research concept and publication of a notice of the unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal or would disclose proprietary information associated with the proposal; or

(ii) a proposal submitted under section 9 of the Small Business Act (15 U.S.C. 638);

(D) the procurement is made against an order placed under a requirements contract, a task order contract, or a delivery order contract;

(E) the procurement is made for perishable subsistence supplies;

(F) the procurement is for utility services, other than telecommunication services, and only one source is available; or

(G) the procurement is for the services of an expert for use in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government in a trial, hearing, or proceeding before a court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.

(2) **CERTAIN PROCUREMENTS.**—The requirements of subsection (a)(2) do not apply to a procurement—

(A) under conditions described in paragraph (2), (3), (4), (5), or (7) of section 3304(a) of this title or paragraph (2), (3), (4), (5), or (7) of section 2304(c) of title 10; or

(B) for which the head of the executive agency makes a determination in writing,

after consultation with the Administrator and the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

(3) IMPLEMENTATION CONSISTENT WITH INTERNATIONAL AGREEMENTS.—Paragraph (1)(A) shall be implemented in a manner consistent with applicable international agreements.

(c) CONTENTS OF NOTICE.—Each notice of solicitation required by paragraph (1) or (2) of subsection (a) shall include—

(1) an accurate description of the property or services to be contracted for, which description—

(A) shall not be unnecessarily restrictive of competition; and

(B) shall include, as appropriate, the agency nomenclature, National Stock Number or other part number, and a brief description of the item's form, fit, or function, physical dimensions, predominant material of manufacture, or similar information that will assist a prospective contractor to make an informed business judgment as to whether a copy of the solicitation should be requested;

(2) provisions that—

(A)(i) state whether the technical data required to respond to the solicitation will not be furnished as part of the solicitation; and

(ii) identify the source in the Federal Government, if any, from which the technical data may be obtained; and

(B)(i) state whether an offeror or its product or service must meet a qualification requirement in order to be eligible for award; and

(ii) if so, identify the office from which the qualification requirement may be obtained;

(3) the name, business address, and telephone number of the contracting officer;

(4) a statement that all responsible sources may submit a bid, proposal, or quotation (as appropriate) that the agency shall consider;

(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of those procedures and the identity of the intended source; and

(6) in the case of a contract in an amount estimated to be greater than \$25,000 but not greater than the simplified acquisition threshold, or a contract for the procurement of commercial items using special simplified procedures—

(A) a description of the procedures to be used in awarding the contract; and

(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.

(d) ELECTRONIC PUBLICATION OF NOTICE OF SOLICITATION, AWARD, OR ORDER.—A notice of solicitation, award, or order required to be published under subsection (a) shall be published by electronic means. The notice must be electronically accessible in a form that allows convenient and universal user access through the single Government-wide point of entry designated in the Federal Acquisition Regulation.

(e) TIME LIMITATIONS.—

(1) ISSUING NOTICE OF SOLICITATION AND ESTABLISHING DEADLINE FOR SUBMITTING BIDS AND PROPOSALS.—An executive agency required by subsection (a)(2) to publish a notice of solicitation may not—

(A) issue the solicitation earlier than 15 days after the date on which the notice is published; or

(B) in the case of a contract or order expected to be greater than the simplified acquisition threshold, establish a deadline for the submission of all bids or proposals in response to the notice required by subsection (a)(2) that—

(i) in the case of a solicitation for research and development, is earlier than 45 days after the date the notice required for a bid or proposal for a contract described in subsection (a)(2)(A) is published;

(ii) in the case of an order under a basic agreement, basic ordering agreement, or similar arrangement, is earlier than 30 days after the date the notice required for an order described in subsection (a)(2)(B) is published; or

(iii) in any other case, is earlier than 30 days after the date the solicitation is issued.

(2) ESTABLISHING DEADLINE WHEN NONE PROVIDED BY STATUTE.—An executive agency shall establish a deadline for the submission of all bids or proposals in response to a solicitation for which a deadline is not provided by statute. Each deadline for the submission of offers shall afford potential offerors a reasonable opportunity to respond.

(3) FLEXIBLE DEADLINES.—The Administrator shall prescribe regulations defining limited circumstances in which flexible deadlines can be used under paragraph (1) for the issuance of solicitations and the submission of bids or proposals for the procurement of commercial items.

(f) CONSIDERATION OF CERTAIN TIMELY RECEIVED OFFERS.—An executive agency intending to solicit offers for a contract for which a notice of solicitation is required to be posted under subsection (a)(1) shall ensure that contracting officers consider each responsive offer timely received from an offeror.

(g) AVAILABILITY OF COMPLETE SOLICITATION PACKAGE AND PAYMENT OF FEE.—An executive agency shall make available to a business concern, or the authorized representative of a concern, the complete solicitation package for any on-going procurement announced pursuant to a notice of solicitation under subsection (a). An executive agency may require the payment of a fee, not exceeding the actual cost of duplication, for a copy of the package.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3711.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1708(a)	41:416(a)(1).	Pub. L. 93-400, §18, as added Pub. L. 98-369, title VII, §2732(a), July 18, 1984, 98 Stat. 1195; Pub. L. 98-577, title III, §303(a), Oct. 30, 1984, 98 Stat. 3077; Pub. L. 99-500, §101(c) [title X, §922(b), (d)(2)], Oct. 18, 1986, 100 Stat. 1783-151, 1783-152; Pub. L. 99-591, §101(c) [title X, §922(b), (d)(2)], Oct. 30, 1986, 100 Stat. 3341-151, 3341-152; Pub. L. 99-661, title IX, formerly title IV, §922(b), (d)(2), Nov. 14, 1986, 100 Stat. 3931, 3932, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 101-510, title VIII, §806(d), Nov. 5, 1990, 104 Stat. 1592; Pub. L. 103-355, title I, §1055(b)(1), title IV, §§4201(b), (c), 4202(a)-(c), title VIII, §8302, title IX, §9001(b), Oct. 13, 1994, 108 Stat. 3265, 3344, 3398, 3402; Pub. L. 104-106, title XLI, §4101(c), title XLII, §4202(d), title XLIII, §§4310, 4321(h)(3), Feb. 10, 1996, 110 Stat. 642, 654, 670, 675; Pub. L. 105-85, title VIII, §850(e)(2), Nov. 18, 1997, 111 Stat. 1849; Pub. L. 105-261, title X, §1069(d)(1), Oct. 17, 1998, 112 Stat. 2136; Pub. L. 106-398, §1 [div. A], title VIII, §810(a), (b), Oct. 30, 2000, 114 Stat. 1654A-209; Pub. L. 107-296, title VIII, §833(c)(2), Nov. 25, 2002, 116 Stat. 2226.
1708(b)(1), (2).	41:416(c).	
1708(b)(3)	no source.	
1708(c)	41:416(b).	
1708(d)	41:416(a)(2), (7).	
1708(e)	41:416(a)(3), (5), (6).	
1708(f)	41:416(a)(4).	
1708(g)	41:416(d).	

In subsection (a)(3), the words “under a basic agreement, basic ordering agreement, or similar arrangement” are substituted for “referred to in clause (A)(ii)” for clarity. The words “by the Secretary of Commerce” are omitted as obsolete. The Secretary of Commerce no longer has responsibility for publishing notices of awards or orders. See revision note for subsection (d).

In subsection (b)(2), the text of 41 U.S.C. 416(C)(1)(H) is omitted because the procurement authority of the Secretary of Homeland Security pursuant to the special procedures provided in section 833(c) of the Homeland Security Act of 2002 (6 U.S.C. 339(c)) expired on September 30, 2007.

Subsection (b)(3) is added because of section 850(e)(3) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85, 111 Stat. 1849, 15:637 note), which in part provided that the amendments made by section 850(e)(2), which amended 41:416(c)(1), be implemented in a manner consistent with applicable international agreements.

Subsection (d) is substituted for 41:416(a)(2) and (7) to eliminate unnecessary words. Federal Business Opportunities is the designated single point of universal electronic public access for publication of all procurement information and notices previously published by the Secretary of Commerce in the Commerce Business Daily. See 66 Fed. Reg. 27407, May 16, 2001, 68 Fed. Reg. 56678, October 1, 2003, 48 CFR ch. 1, subch. B, part 5, and the special notice posted in CBDNet on December 28, 2001, and printed on January 2, 2002. The special notice can be found by going to <http://cbdnet.gpo.gov> and clicking on “Federal Business Opportunities to replace the Commerce Business Daily”.

In subsection (e)(1)(B)(i), the words “required for a bid or proposal for a contract described in” are substituted for “required by” for clarity.

In subsection (e)(1)(B)(ii), the words “required for an order described in” are substituted for “required by” for clarity.

APPLICABILITY TO TENNESSEE VALLEY AUTHORITY

Pub. L. 98-577, title III, §303(c), Oct. 30, 1984, 98 Stat. 3079, provided that: “The provisions of the amendments made by subsection (a) of this section [see Tables for classification] shall apply to the Tennessee Valley Authority only with respect to procurements to be paid from appropriated funds.”

§ 1709. Contracting functions performed by Federal personnel

(a) COVERED PERSONNEL.—Personnel referred to in subsection (b) are—

- (1) an employee, as defined in section 2105 of title 5;
- (2) a member of the armed forces; and
- (3) an individual assigned to a Federal agency pursuant to subchapter VI of chapter 33 of title 5.

(b) LIMITATION ON PAYMENT FOR ADVISORY AND ASSISTANCE SERVICES.—No individual who is not an individual described in subsection (a) may be paid by an executive agency for services to conduct evaluations or analyses of any aspect of a proposal submitted for an acquisition unless personnel described in subsection (a) with adequate training and capabilities to perform the evaluations and analyses are not readily available in the agency or another Federal agency. When administering this subsection, the head of each executive agency shall determine in accordance with standards and procedures prescribed in the Federal Acquisition Regulation whether—

- (1) a sufficient number of personnel described in subsection (a) in the agency or another Federal agency are readily available to perform a particular evaluation or analysis for the head of the executive agency making the determination; and
- (2) the readily available personnel have the training and capabilities necessary to perform the evaluation or analysis.

(c) CERTAIN RELATIONSHIP NOT AFFECTED.—This section does not affect the relationship between the Federal Government and a Federally funded research and development center.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3714.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1709(a)	41:419(b).	Pub. L. 93-400, §23, as added Pub. L. 103-355, title VI, §6002(a), Oct. 13, 1994, 108 Stat. 3363.
1709(b)	41:419(a).	
1709(c)	41:419(c).	

In subsection (a), before paragraph (1), the words “Personnel referred to in subsection (b) are” are substituted for “For purposes of subsection (a) of this section, the personnel described in this subsection are as follows” to eliminate unnecessary words. In paragraph (3), the words “employee from State or local governments” are substituted for “person” for clarity.

SENATE REVISION AMENDMENT

In subsec. (a)(3), “individual” substituted for “employee from State or local governments” by S. Amdt.

4726 (111th Cong.). See 156 Cong. Rec. S8442, Dec. 2, 2010 (daily ed.).

REQUIREMENT FOR GUIDANCE AND REGULATIONS

Pub. L. 103-355, title VI, §6002(b), Oct. 13, 1994, 108 Stat. 3363, provided that: “The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 421(a)) [now 41 U.S.C. 1302(a)] shall—

“(1) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

“(2) provide guidance and promulgate regulations regarding—

“(A) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

“(B) the manner in which personnel with expertise may be shared with agencies needing expertise for such acquisitions.”

§ 1710. Public-private competition required before conversion to contractor performance

(a) PUBLIC-PRIVATE COMPETITION.—

(1) WHEN CONVERSION TO CONTRACTOR PERFORMANCE IS ALLOWED.—A function of an executive agency performed by 10 or more agency civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition that—

(A) formally compares the cost of performance of the function by agency civilian employees with the cost of performance by a contractor;

(B) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A76, as implemented on May 29, 2003, or any successor circular;

(C) includes the issuance of a solicitation;

(D) determines whether the submitted offers meet the needs of the executive agency with respect to factors other than cost, including quality, reliability, and timeliness;

(E) examines the cost of performance of the function by agency civilian employees and the cost of performance of the function by one or more contractors to demonstrate whether converting to performance by a contractor will result in savings to the Federal Government over the life of the contract, including—

(i) the estimated cost to the Federal Government (based on offers received) for performance of the function by a contractor;

(ii) the estimated cost to the Federal Government for performance of the function by agency civilian employees; and

(iii) an estimate of all other costs and expenditures that the Federal Government would incur because of the award of the contract;

(F) requires continued performance of the function by agency civilian employees unless the difference in the cost of performance of the function by a contractor compared to the cost of performance of the function by agency civilian employees would, over all

performance periods required by the solicitation, be equal to or exceed the lesser of—

(i) 10 percent of the personnel-related costs for performance of that function in the agency tender; or

(ii) \$10,000,000; and

(G) examines the effect of performance of the function by a contractor on the agency mission associated with the performance of the function.

(2) NOT A NEW REQUIREMENT.—A function that is performed by the executive agency and is reengineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, shall not be considered a new requirement.

(3) PROHIBITIONS.—In no case may a function being performed by executive agency personnel be—

(A) modified, reorganized, divided, or in any way changed for the purpose of exempting the conversion of the function from the requirements of this section; or

(B) converted to performance by a contractor to circumvent a civilian personnel ceiling.

(b) CONSULTING WITH AFFECTED EMPLOYEES OR THEIR REPRESENTATIVES.—

(1) CONSULTING WITH AFFECTED EMPLOYEES.—Each civilian employee of an executive agency responsible for determining under Office of Management and Budget Circular A76 whether to convert to contractor performance any function of the executive agency—

(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with civilian employees who will be affected by that determination and consider the views of the employees on the development and preparation of that statement and that study; and

(B) may consult with the employees on other matters relating to that determination.

(2) CONSULTING WITH REPRESENTATIVES.—

(A) EMPLOYEES REPRESENTED BY A LABOR ORGANIZATION.—In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

(B) EMPLOYEES NOT REPRESENTED BY A LABOR ORGANIZATION.—In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

(3) REGULATIONS.—The head of each executive agency shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in paragraph (2)(B) for purposes of consultation required by paragraph (1).

(c) CONGRESSIONAL NOTIFICATION.—

(1) REPORT.—Before commencing a public-private competition under subsection (a), the head of an executive agency shall submit to Congress a report containing the following:

(A) The function for which the public-private competition is to be conducted.

(B) The location at which the function is performed by agency civilian employees.

(C) The number of agency civilian employee positions potentially affected.

(D) The anticipated length and cost of the public-private competition, and a specific identification of the budgetary line item from which funds will be used to cover the cost of the public-private competition.

(E) A certification that a proposed performance of the function by a contractor is not a result of a decision by an official of an executive agency to impose predetermined constraints or limitations on agency civilian employees in terms of man years, end strengths, full-time equivalent positions, or maximum number of employees.

(2) EXAMINATION OF POTENTIAL ECONOMIC EFFECT.—The report required under paragraph (1) shall include an examination of the potential economic effect of performance of the function by a contractor on—

(A) agency civilian employees who would be affected by such a conversion in performance; and

(B) the local community and the Federal Government, if more than 50 agency civilian employees perform the function.

(3) OBJECTIONS TO PUBLIC-PRIVATE COMPETITION.—

(A) GROUNDS.—A representative individual or entity at a facility where a public-private competition is conducted may submit to the head of the executive agency an objection to the public-private competition on the grounds that—

(i) the report required by paragraph (1) has not been submitted; or

(ii) the certification required by paragraph (1)(E) was not included in the report required by paragraph (1).

(B) DEADLINES.—The objection shall be in writing and shall be submitted within 90 days after the following date:

(i) In the case of a failure to submit the report when required, the date on which the representative individual or an official of the representative entity authorized to pose the objection first knew or should have known of that failure.

(ii) In the case of a failure to include the certification in a submitted report, the date on which the report was submitted to Congress.

(C) REPORT AND CERTIFICATION REQUIRED BEFORE SOLICITATION OR AWARD OF CONTRACT.—If the head of the executive agency determines that the report required by paragraph (1) was not submitted or that the required certification was not included in the submitted report, the function for which the public-private competition was conducted

for which the objection was submitted may not be the subject of a solicitation of offers for, or award of, a contract until, respectively, the report is submitted or a report containing the certification in full compliance with the certification requirement is submitted.

(d) EXEMPTION FOR THE PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY DISABLED PEOPLE.—This section shall not apply to a commercial or industrial type function of an executive agency that is—

(1) included on the procurement list established pursuant to section 8503 of this title; or

(2) planned to be changed to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely disabled people in accordance with chapter 85 of this title.

(e) INAPPLICABILITY DURING WAR OR EMERGENCY.—The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3715.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1710	41:439.	Pub. L. 93-400, §43, as added Pub. L. 110-181, title III, §327(a), Jan. 28, 2008, 122 Stat. 63.

In the heading for subsection (d) and in subsection (d)(2), the words “disabled people” are substituted for “handicapped persons” for consistency with chapter 85 of the revised title.

§ 1711. Value engineering

Each executive agency shall establish and maintain cost-effective procedures and processes for analyzing the functions of a program, project, system, product, item of equipment, building, facility, service, or supply of the agency. The analysis shall be—

(1) performed by qualified agency or contractor personnel; and

(2) directed at improving performance, reliability, quality, safety, and life cycle costs.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3718.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1711	41:432.	Pub. L. 93-400, §36, as added Pub. L. 104-106, title XLIII, §4306(a), Feb. 10, 1996, 110 Stat. 665.

§ 1712. Record requirements

(a) MAINTAINING RECORDS ON COMPUTER.—Each executive agency shall establish and maintain for 5 years a computer file, by fiscal year, containing unclassified records of all procurements greater than the simplified acquisition threshold in that fiscal year.

(b) CONTENTS.—The record established under subsection (a) shall include, with respect to each procurement carried out using—

- (1) competitive procedures—
 - (A) the date of contract award;
 - (B) information identifying the source to whom the contract was awarded;
 - (C) the property or services the Federal Government obtains under the procurement; and
 - (D) the total cost of the procurement; or
- (2) procedures other than competitive procedures—
 - (A) the information described in paragraph (1);
 - (B) the reason under section 3304(a) of this title or section 2304(c) of title 10 for using the procedures; and
 - (C) the identity of the organization or activity that conducted the procurement.

(c) SEPARATE RECORD CATEGORY FOR PROCUREMENTS RESULTING IN ONE BID OR PROPOSAL.—Information included in a record pursuant to subsection (b)(1) that relates to procurements resulting in the submission of a bid or proposal by only one responsible source shall be separately categorized from the information relating to other procurements included in the record. The record of that information shall be designated “noncompetitive procurements using competitive procedures”.

(d) TRANSMISSION AND DATA ENTRY OF INFORMATION.—The head of each executive agency shall—

- (1) ensure the accuracy of the information included in the record established and maintained by the agency under subsection (a); and
- (2) transmit in a timely manner such information to the General Services Administration for entry into the Federal Procurement Data System referred to in section 1122(a)(4) of this title, or any successor system.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3718.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1712	41:417.	Pub. L. 93–400, § 19, as added Pub. L. 98–369, title VII, § 2732(a), July 18, 1984, 98 Stat. 1197; Pub. L. 103–355, title IV, § 4403, Oct. 13, 1994, 108 Stat. 3349; Pub. L. 110–417, title VIII, § 874(b), Oct. 14, 2008, 122 Stat. 4558.

§ 1713. Procurement data

- (a) DEFINITIONS.—In this section:
- (1) QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—The term “qualified HUBZone small business concern” has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(p)).
 - (2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term “small business concern owned and controlled by socially and economically disadvantaged individuals” has the meaning given that term in section 8(d) of the Small Business Act (15 U.S.C. 637(d)).
 - (3) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY WOMEN.—The term “small business concern owned and controlled by women” has

the meaning given that term in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and section 204 of the Women’s Business Ownership Act of 1988 (Public Law 100–533, 102 Stat. 2692).

(b) REPORTING.—Each Federal agency shall report to the Office of Federal Procurement Policy the number of qualified HUBZone small business concerns, the number of small businesses owned and controlled by women, and the number of small business concerns owned and controlled by socially and economically disadvantaged individuals, by gender, that are first time recipients of contracts from the agency. The Office shall take appropriate action to ascertain, for each fiscal year, the number of those small businesses that have newly entered the Federal market.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3719.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1713(a)	41:417a(b).	Pub. L. 100–533, title V, § 502, Oct. 25, 1988, 102 Stat. 2697; Pub. L. 105–135, title VI, § 604(f)(2), Dec. 2, 1997, 111 Stat. 2634.
1713(b)	41:417a(a).	

In subsection (b), the words “socially and economically disadvantaged individuals” are substituted for “socially and economically disadvantaged businesses” for consistency with the term set out in subsection (a).

REFERENCES IN TEXT

Section 204 of the Women’s Business Ownership Act of 1988, referred to in subsec. (a)(3), is section 204 of Pub. L. 100–533, which is set out as a note under section 637 of Title 15, Commerce and Trade.

CHAPTER 19—SIMPLIFIED ACQUISITION PROCEDURES

- Sec.
- 1901. Simplified acquisition procedures.
- 1902. Procedures applicable to purchases below micro-purchase threshold.
- 1903. Special emergency procurement authority.
- 1904. Certain transactions for defense against attack.
- 1905. List of laws inapplicable to contracts or subcontracts not greater than simplified acquisition threshold.
- 1906. List of laws inapplicable to procurements of commercial items.
- 1907. List of laws inapplicable to procurements of commercially available off-the-shelf items.
- 1908. Inflation adjustment of acquisition-related dollar thresholds.

§ 1901. Simplified acquisition procedures

(a) WHEN PROCEDURES ARE TO BE USED.—To promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for purchases of property and services for amounts—

- (1) not greater than the simplified acquisition threshold; and
- (2) greater than the simplified acquisition threshold but not greater than \$5,000,000 for which the contracting officer reasonably expects, based on the nature of the property or services sought and on market research, that offers will include only commercial items.