

procurement practices under his jurisdiction conform to the provisions of this order.

SEC. 5. This order shall apply only to contracts entered into after the date hereof. In any case in which the head of an executive agency proposing to purchase domestic materials determines that a greater differential than that provided in this order between the cost of such materials of domestic origin and materials of foreign origin is not unreasonable or that the purchase of materials of domestic origin is not inconsistent with the public interest, this order shall not apply. A written report of the facts of each case in which such a determination is made shall be submitted to the President through the Director of the Office of Management and Budget by the official making the determination within 30 days thereafter.

#### § 8304. Waiver rescission

(a) TYPE OF AGREEMENT.—An agreement referred to in subsection (b) is a reciprocal defense procurement memorandum of understanding between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived this chapter for certain products in that country.

(b) DETERMINATION BY SECRETARY OF DEFENSE.—If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country that is party to an agreement described in subsection (a) has violated the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of this chapter with respect to those types of products produced in that country.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3833.)

##### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)   | Source (Statutes at Large)  |
|-----------------|----------------------|---|
| 8304(a) .....   | 41:10b-2(a)(2), (b). | Pub. L. 103-160, div. A, title VIII, §849(c), (d), Nov. 30, 1993, 107 Stat. 1725. |
| 8304(b) .....   | 41:10b-2(a)(1).      |   |

In subsection (a), the text of 41:10b-2(b) is omitted as unnecessary.

##### SIMILAR PROVISIONS

Provisions similar to those in this section and section 8305 of this title were contained in the following acts:

Pub. L. 114-113, div. C, title VIII, §8028, Dec. 18, 2015, 129 Stat. 2357.

Pub. L. 113-235, div. C, title VIII, §8028, Dec. 16, 2014, 128 Stat. 2258.

Pub. L. 113-76, div. C, title VIII, §8027, Jan. 17, 2014, 128 Stat. 110.

Pub. L. 113-6, div. C, title VIII, §8027, Mar. 26, 2013, 127 Stat. 302.

Pub. L. 112-74, div. A, title VIII, §8027, Dec. 23, 2011, 125 Stat. 811.

Pub. L. 112-10, div. A, title VIII, §8028, Apr. 15, 2011, 125 Stat. 63.

Pub. L. 111-118, div. A, title VIII, §8030, Dec. 19, 2009, 123 Stat. 3435.

Pub. L. 110-329, div. C, title VIII, §8030, Sept. 30, 2008, 122 Stat. 3627.

Pub. L. 110-116, div. A, title VIII, §8029, Nov. 13, 2007, 121 Stat. 1321.

Pub. L. 109-289, div. A, title VIII, §8027, Sept. 29, 2006, 120 Stat. 1279.

Pub. L. 109-148, div. A, title VIII, §8030, Dec. 30, 2005, 119 Stat. 2705.

Pub. L. 108-287, title VIII, §8032, Aug. 5, 2004, 118 Stat. 977.

Pub. L. 108-87, title VIII, §8033, Sept. 30, 2003, 117 Stat. 1079.

Pub. L. 107-248, title VIII, §8033, Oct. 23, 2002, 116 Stat. 1544.

Pub. L. 107-117, div. A, title VIII, §8036, Jan. 10, 2002, 115 Stat. 2255.

Pub. L. 106-259, title VIII, §8036, Aug. 9, 2000, 114 Stat. 682.

Pub. L. 106-79, title VIII, §8038, Oct. 25, 1999, 113 Stat. 1239.

Pub. L. 105-262, title VIII, §8038, Oct. 17, 1998, 112 Stat. 2305.

Pub. L. 105-56, title VIII, §8040, Oct. 8, 1997, 111 Stat. 1229.

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8042], Sept. 30, 1996, 110 Stat. 3009-71, 3009-97.

Pub. L. 104-61, title VIII, §8051, Dec. 1, 1995, 109 Stat. 662.

Pub. L. 103-335, title VIII, §8058, Sept. 30, 1994, 108 Stat. 2631.

Pub. L. 103-139, title VIII, §8069, Nov. 11, 1993, 107 Stat. 1455.

Pub. L. 102-396, title IX, §9096, Oct. 6, 1992, 106 Stat. 1924, as amended by Pub. L. 103-355, title VII, §7206(b), Oct. 13, 1994, 108 Stat. 3382.

Pub. L. 102-190, div. A, title VIII, §833, Dec. 5, 1991, 105 Stat. 1447.

Pub. L. 102-172, title VIII, §8123, Nov. 26, 1991, 105 Stat. 1205.

Pub. L. 101-189, div. A, title VIII, §823, Nov. 29, 1989, 103 Stat. 1504.

#### § 8305. Annual report

Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to Congress a report on the amount of purchases by the Department of Defense from foreign entities in that fiscal year. The report shall separately indicate the dollar value of items for which this chapter was waived pursuant to—

(1) a reciprocal defense procurement memorandum of understanding described in section 8304(a) of this title;

(2) the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.); or

(3) an international agreement to which the United States is a party.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3833.)

##### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)  |
|-----------------|--------------------|---|
| 8305 .....      | 41:10b-3.          | Pub. L. 104-201, div. A, title VIII, §827, Sept. 23, 1996, 110 Stat. 2611; Pub. L. 105-85, div. A, title VIII, §846, Nov. 18, 1997, 111 Stat. 1845; Pub. L. 105-261, div. A, title VIII, §812, Oct. 17, 1998, 112 Stat. 2086. |

#### CHAPTER 85—COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Sec.

8501. Definitions.

8502. Committee for Purchase From People Who Are Blind or Severely Disabled.

8503. Duties and powers of the Committee.

8504. Procurement requirements for the Federal Government.

8505. Audit.

8506. Authorization of appropriations.

#### § 8501. Definitions

In this chapter:

(1) BLIND.—The term “blind” refers to an individual or class of individuals whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

(2) COMMITTEE.—The term “Committee” means the Committee for Purchase From People Who Are Blind or Severely Disabled established under section 8502 of this title.

(3) DIRECT LABOR.—The term “direct labor”—

(A) includes all work required for preparation, processing, and packing of a product, or work directly relating to the performance of a service; but

(B) does not include supervision, administration, inspection, or shipping.

(4) ENTITY OF THE FEDERAL GOVERNMENT AND FEDERAL GOVERNMENT.—The terms “entity of the Federal Government” and “Federal Government” include an entity of the legislative or judicial branch, a military department or executive agency (as defined in sections 102 and 105 of title 5, respectively), the United States Postal Service, and a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

(5) OTHER SEVERELY DISABLED.—The term “other severely disabled” means an individual or class of individuals under a physical or mental disability, other than blindness, which (according to criteria established by the Committee after consultation with appropriate entities of the Federal Government and taking into account the views of non-Federal Government entities representing the disabled) constitutes a substantial handicap to employment and is of a nature that prevents the individual from currently engaging in normal competitive employment.

(6) QUALIFIED NONPROFIT AGENCY FOR OTHER SEVERELY DISABLED.—The term “qualified nonprofit agency for other severely disabled” means an agency—

(A)(i) organized under the laws of the United States or a State;

(ii) operated in the interest of severely disabled individuals who are not blind; and

(iii) of which no part of the net income of the agency inures to the benefit of a shareholder or other individual;

(B) that complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

(C) that in the production of products and in the provision of services (whether or not the products or services are procured under this chapter) during the fiscal year employs blind or other severely disabled individuals for at least 75 percent of the hours of direct labor required for the production or provision of the products or services.

(7) QUALIFIED NONPROFIT AGENCY FOR THE BLIND.—The term “qualified nonprofit agency for the blind” means an agency—

(A)(i) organized under the laws of the United States or a State;

(ii) operated in the interest of blind individuals; and

(iii) of which no part of the net income of the agency inures to the benefit of a shareholder or other individual;

(B) that complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

(C) that in the production of products and in the provision of services (whether or not the products or services are procured under this chapter) during the fiscal year employs blind individuals for at least 75 percent of the hours of direct labor required for the production or provision of the products or services.

(8) SEVERELY DISABLED INDIVIDUAL.—The term “severely disabled individual” means an individual or class of individuals under a physical or mental disability, other than blindness, which (according to criteria established by the Committee after consultation with appropriate entities of the Federal Government and taking into account the views of non-Federal Government entities representing the disabled) constitutes a substantial handicap to employment and is of a nature that prevents the individual from currently engaging in normal competitive employment.

(9) STATE.—The term “State” includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3833.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                               | Source (Statutes at Large)   |
|-----------------|--|--|
| 8501(1) .....   | 41:48b(1).                                       | June 25, 1938, ch. 697, §5, 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 81; Pub. L. 93-358, §1(3), July 25, 1974, 88 Stat. 393; Pub. L. 94-273, §3(22), Apr. 21, 1976, 90 Stat. 377. |
| 8501(2) .....   | 41:46(a) (words in parentheses before par. (1)). | June 25, 1938, ch. 697, §1(a) (words in parentheses before par. (1)), 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 77.  |
| 8501(3) .....   | 41:48b(5).                                       |  |
| 8501(4) .....   | 41:48b(7).                                       |  |
| 8501(5) .....   | 41:48b(2).                                       |  |
| 8501(6) .....   | 41:48b(4).                                       |  |
| 8501(7) .....   | 41:48b(3).                                       |  |
| 8501(8) .....   | 41:48b(2).                                       |  |
| 8501(9) .....   | 41:48b(8).                                       |  |

In this chapter, the word “disabled” is substituted for “handicapped” for consistency with the name of the Committee. The word “product” is substituted for “commodity” to reflect the current usage of the items produced in the Committee’s program.

In this section, the text of 41:48b(6) is omitted as unnecessary.

In paragraph (9), the words “the Northern Mariana Islands” are substituted for “the Trust Territory of the Pacific Islands” because the Trust Territory of the Pacific Islands terminated. See 48 U.S.C. note prec. 1681. However, section 502(a)(2) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1801 note) provided that laws in existence on the effective date of section 502 that were applicable to Guam and that were of general application to the several States would apply to the Northern Mariana Islands. The Marshall Islands, Palau, and the Federated States of Micronesia are not included because although

they were part of the Trust Territory of the Pacific Islands, they are independent entities and not part of the United States.

**CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES**

Pub. L. 109-364, div. A, title VIII, § 856(a), (d), Oct. 17, 2006, 120 Stat. 2347, 2349, provided that:

**“(a) INAPPLICABILITY OF CERTAIN LAWS.—**

**“(1) INAPPLICABILITY OF THE RANDOLPH-SHEPPARD ACT TO CONTRACTS AND SUBCONTRACTS FOR MILITARY DINING FACILITY SUPPORT SERVICES COVERED BY JAVITS-WAGNER-O’DAY ACT.—**The Randolph-Sheppard Act (20 U.S.C. 107 et seq.) does not apply to full food services, mess attendant services, or services supporting the operation of a military dining facility that, as of the date of the enactment of this Act [Oct. 17, 2006], were services on the procurement list established under section 2 of the Javits-Wagner-O’Day Act ([former] 41 U.S.C. 47) [now 41 U.S.C. 8503].

**“(2) INAPPLICABILITY OF THE JAVITS-WAGNER-O’DAY ACT TO CONTRACTS FOR THE OPERATION OF A MILITARY DINING FACILITY.—**(A) The Javits-Wagner-O’Day Act ([former] 41 U.S.C. 46 et seq.) [now 41 U.S.C. 8501 et seq.] does not apply at the prime contract level to any contract entered into by the Department of Defense as of the date of the enactment of this Act with a State licensing agency under the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) for the operation of a military dining facility.

**“(B)** The Javits-Wagner-O’Day Act [now 41 U.S.C. 8501 et seq.] shall apply to any subcontract entered into by a Department of Defense contractor for full food services, mess attendant services, and other services supporting the operation of a military dining facility.

**“(3) REPEAL OF SUPERSEDED LAW.—**[Repealed section 853(a), (b) of Pub. L. 108-375, 118 Stat. 2021.]

**“(d) DEFINITIONS.—**In this section:

**“(1)** The term ‘State licensing agency’ means any agency designated by the Secretary of Education under section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107a(a)(5)).

**“(2)** The term ‘military dining facility’ means a facility owned, operated, leased, or wholly controlled by the Department of Defense and used to provide dining services to members of the Armed Forces, including a cafeteria, military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces.”

**STATEMENT OF POLICY AND REPORT CONCERNING THE OPERATION AND MANAGEMENT OF CERTAIN MILITARY FACILITIES REGARDING THE BLIND OR SEVERELY DISABLED**

Pub. L. 109-163, div. A, title VIII, § 848(b), (c), Jan. 6, 2006, 119 Stat. 3395, provided that:

**“(b) STATEMENT OF POLICY.—**The Secretary of Defense, the Secretary of Education, and the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled shall jointly issue a statement of policy related to the implementation of the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) and the Javits-Wagner-O’Day Act ([former] 41 U.S.C. 48 [46 et seq.]) [now 41 U.S.C. 8501 et seq.] within the Department of Defense and the Department of Education. The joint statement of policy shall specifically address the application of those Acts to both operation and management of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces, and shall take into account and address, to the extent practicable, the positions acceptable to persons representing programs implemented under each Act.

**“(c) REPORT.—**Not later than April 1, 2006, the Secretary of Defense, the Secretary of Education, and the Chairman of the Committee for Purchase From People

Who Are Blind or Severely Disabled shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Health, Education, Labor and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report describing the joint statement of policy issued under subsection (b), with such findings and recommendations as the Secretaries consider appropriate.”

**§ 8502. Committee for Purchase From People Who Are Blind or Severely Disabled**

**(a) ESTABLISHMENT.—**There is a Committee for Purchase From People Who Are Blind or Severely Disabled.

**(b) COMPOSITION.—**The Committee consists of 15 members appointed by the President as follows:

**(1)** One officer or employee from each of the following, nominated by the head of the department or agency:

- (A) The Department of Agriculture.
- (B) The Department of Defense.
- (C) The Department of the Army.
- (D) The Department of the Navy.
- (E) The Department of the Air Force.
- (F) The Department of Education.
- (G) The Department of Commerce.
- (H) The Department of Veterans Affairs.
- (I) The Department of Justice.
- (J) The Department of Labor.
- (K) The General Services Administration.

**(2)** One member from individuals who are not officers or employees of the Federal Government and who are conversant with the problems incident to the employment of the blind.

**(3)** One member from individuals who are not officers or employees of the Federal Government and who are conversant with the problems incident to the employment of other severely disabled individuals.

**(4)** One member from individuals who are not officers or employees of the Federal Government and who represent blind individuals employed in qualified nonprofit agencies for the blind.

**(5)** One member from individuals who are not officers or employees of the Federal Government and who represent severely disabled individuals (other than blind individuals) employed in qualified nonprofit agencies for other severely disabled individuals.

**(c) TERMS OF OFFICE.—**Members appointed under paragraph (2), (3), (4), or (5) of subsection (b) shall be appointed for terms of 5 years and may be reappointed if the member meets the qualifications prescribed by those paragraphs.

**(d) CHAIRMAN.—**The members of the Committee shall elect one of the members to be Chairman.

**(e) VACANCY.—**

**(1) MANNER IN WHICH FILLED.—**A vacancy in the membership of the Committee shall be filled in the manner in which the original appointment was made.

**(2) UNFULFILLED TERM.—**A member appointed under paragraph (2), (3), (4), or (5) of subsection (b) to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term. The mem-

ber may serve after the expiration of a term until a successor takes office.

(f) PAY AND TRAVEL EXPENSES.—

(1) AMOUNT TO WHICH MEMBERS ARE ENTITLED.—Except as provided in paragraph (2), members of the Committee are entitled to receive the daily equivalent of the maximum annual rate of basic pay payable for level IV of the Executive Schedule for each day (including travel-time) during which they perform services for the Committee. A member is entitled to travel expenses, including a per diem allowance instead of subsistence, as provided under section 5703 of title 5.

(2) OFFICERS OR EMPLOYEES OF THE FEDERAL GOVERNMENT.—Members who are officers or employees of the Federal Government may not receive additional pay because of their service on the Committee.

(g) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—Subject to rules the Committee may adopt and to chapters 33 and 51 and subchapter III of chapter 53 of title 5, the Chairman may appoint and fix the pay of personnel the Committee determines are necessary to assist it in carrying out this chapter.

(2) PERSONNEL FROM OTHER ENTITIES.—On request of the Committee, the head of an entity of the Federal Government may detail, on a reimbursable basis, any personnel of the entity to the Committee to assist it in carrying out this chapter.

(h) OBTAINING OFFICIAL INFORMATION.—The Committee may secure directly from an entity of the Federal Government information necessary to enable it to carry out this chapter. On request of the Chairman, the head of the entity shall furnish the information to the Committee.

(i) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Committee, on a reimbursable basis, administrative support services the Committee requests.

(j) ANNUAL REPORT.—Not later than December 31 of each year, the Committee shall transmit to the President a report that includes the names of the Committee members serving in the prior fiscal year, the dates of Committee meetings in that year, a description of the activities of the Committee under this chapter in that year, and any recommendations for changes in this chapter which the Committee determines are necessary.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3835.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                                    | Source (Statutes at Large)  |
|-----------------|---|---|
| 8502(a), (b)    | 41:46(a) (less words in parentheses before par. (1)). | June 25, 1938, ch. 697, § 1 (less (a) (words in parentheses before par. (1))), 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 77; Pub. L. 93-358, §1(1), (2), July 25, 1974, 88 Stat. 392; Pub. L. 94-273, §8(2), Apr. 21, 1976, 90 Stat. 378; Pub. L. 102-54, §13(p), June 13, 1991, 105 Stat. 278; Pub. L. 102-569, title IX, §911(a), Oct. 29, 1992, 106 Stat. 4486; Pub. L. 103-73, title III, §301, Aug. 11, 1993, 107 Stat. 736. |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised Section  | Source (U.S. Code)     | Source (Statutes at Large) |
|------------------|------------------------|----------------------------|
| 8502(c) .....    | 41:46(d)(1), (2), (4). |                            |
| 8502(d) .....    | 41:46(c).              |                            |
| 8502(e)(1) ..... | 41:46(b).              |                            |
| 8502(e)(2) ..... | 41:46(d)(3).           |                            |
| 8502(f) .....    | 41:46(e).              |                            |
| 8502(g) .....    | 41:46(f).              |                            |
| 8502(h) .....    | 41:46(g).              |                            |
| 8502(i) .....    | 41:46(h).              |                            |
| 8502(j) .....    | 41:46(i).              |                            |

In subsection (b)(1)(F), the words “Department of Education” are substituted for “Department of Health and Human Services” in 41:46(a)(1) to correct a mistake in the United States Code. In the amendment to the original provision by section 1 of Public Law 92-28 (85 Stat. 77), an officer or employee of the Department of Health, Education, and Welfare was one of the members appointed to the Committee for Purchase From People Who Are Blind or Severely Disabled, because the Department, through the Rehabilitation Services Administration, had the major governmental function in the field of vocational rehabilitation for the blind and other severely handicapped and administered related vocational rehabilitation programs for individuals with disabilities. See House Report 92-228. Under section 301(a)(4)(A) and (C) and (b)(3) of the Department of Education Organization Act (20:3441(a)(4)(A) and (C) and (b)(3)), the functions and offices of the Department and the functions of the Secretary of Health, Education, and Welfare and the Commissioner of Rehabilitation Services were transferred to the Department or Secretary of Education. Section 509 of the Act (20:3508) redesignated the Department and Secretary of Health, Education, and Welfare as the Department and Secretary of Health and Human Services, respectively, and provided that references to the Department and Secretary of Health, Education, and Welfare were deemed to be references to the Department or Secretary of Health and Human Services except to the extent a reference was to a function of the Department or Secretary of Education. The reference in 41:46(a)(1) was changed to “Department of Health and Human Services” but should have been changed to “Department of Education”. Furthermore, the regulations of the Committee include the Department of Education in the list of members of the Committee. See 41 CFR 51-2.1.

In subsection (c), the text of 41:46(d)(2) and (4) is omitted as obsolete.

In subsection (f)(1), the reference to section 5376 of title 5 is substituted for the reference to grade GS-18 of the General Schedule because of section 529 [title I, §101(c)(1)] of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101-509, 104 Stat. 1442, 5 U.S.C. 5376 note). The word “actual” is omitted as unnecessary. The words “A member is entitled to travel expenses, including a per diem allowance instead of subsistence, as provided under section 5703 of title 5” are substituted for 41:46(e)(3) to eliminate unnecessary words. The reference to section 5703 of title 5 is substituted for the reference to section 5703(b) of title 5 because of the amendment to section 5703 by section 4 of the Travel Expense Amendments Act of 1975 (Public Law 94-22, 89 Stat. 85).

In subsection (g), the words “its duties and powers” are omitted as surplus.

In subsection (g)(1), the reference to chapter 33 of title 5 is substituted for “the provisions of title 5 governing appointments in the competitive service” for clarity and for consistency with other titles of the United States Code. The words “relating to classification and General Schedule pay rates” are omitted as unnecessary.

In subsection (j), the words “and to the Congress” are omitted pursuant to section 3003 of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note). See, also, page 199 of House Document No. 103-7.

## SENATE REVISION AMENDMENT

In subsec. (f)(1), “for level IV of the Executive Schedule” substituted for “under section 5376 of title 5” by S. Amdt. 4726 (111th Cong.). See 156 Cong. Rec. 18683 (2010).

**§ 8503. Duties and powers of the Committee**

## (a) PROCUREMENT LIST.—

(1) MAINTENANCE OF LIST.—The Committee shall maintain and publish in the Federal Register a procurement list. The list shall include the following products and services determined by the Committee to be suitable for the Federal Government to procure pursuant to this chapter:

(A) Products produced by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely disabled.

(B) The services those agencies provide.

(2) CHANGES TO LIST.—The Committee may, by rule made in accordance with the requirements of section 553(b) to (e) of title 5, add to and remove from the procurement list products so produced and services so provided.

(b) FAIR MARKET PRICE.—The Committee shall determine the fair market price of products and services contained on the procurement list that are offered for sale to the Federal Government by a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely disabled. The Committee from time to time shall revise its price determinations with respect to those products and services in accordance with changing market conditions.

(c) CENTRAL NONPROFIT AGENCY OR AGENCIES.—The Committee shall designate a central nonprofit agency or agencies to facilitate the distribution, by direct allocation, subcontract, or any other means, of orders of the Federal Government for products and services on the procurement list among qualified nonprofit agencies for the blind or qualified nonprofit agencies for other severely disabled.

## (d) REGULATIONS.—The Committee—

(1) may prescribe regulations regarding specifications for products and services on the procurement list, the time of their delivery, and other matters as necessary to carry out this chapter; and

(2) shall prescribe regulations providing that when the Federal Government purchases products produced and offered for sale by qualified nonprofit agencies for the blind or qualified nonprofit agencies for other severely disabled, priority shall be given to products produced and offered for sale by qualified nonprofit agencies for the blind.

(e) STUDY AND EVALUATION OF ACTIVITIES.—The Committee shall make a continuing study and evaluation of its activities under this chapter to ensure effective and efficient administration of this chapter. The Committee on its own or in cooperation with other public or nonprofit private agencies may study—

(1) problems related to the employment of the blind and other severely disabled individuals; and

(2) the development and adaptation of production methods that would enable a greater

utilization of the blind and other severely disabled individuals.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3836.)

## HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)   |
|-----------------|--------------------|--|
| 8503(a) .....   | 41:47(a).          | June 25, 1938, ch. 697, § 2, 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 79. |
| 8503(b) .....   | 41:47(b).          |  |
| 8503(c) .....   | 41:47(c).          |  |
| 8503(d) .....   | 41:47(d).          |  |
| 8503(e) .....   | 41:47(e).          |  |

In subsection (a), the text of 41:47(a)(1) (last sentence) is omitted as obsolete. The words “procurement list” are substituted for “(hereafter in sections 46 to 48c of this title referred to as the ‘procurement list’)” to eliminate unnecessary words.

In subsection (d)(2), the text of 41:47(d)(2)(B) is omitted as obsolete.

**§ 8504. Procurement requirements for the Federal Government**

(a) IN GENERAL.—An entity of the Federal Government intending to procure a product or service on the procurement list referred to in section 8503 of this title shall procure the product or service from a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely disabled in accordance with regulations of the Committee and at the price the Committee establishes if the product or service is available within the period required by the entity.

(b) EXCEPTION.—This section does not apply to the procurement of a product that is available from an industry established under chapter 307 of title 18 and that is required under section 4124 of title 18 to be procured from that industry.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3837.)

## HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)   |
|-----------------|--------------------|--|
| 8504 .....      | 41:48.             | June 25, 1938, ch. 697, § 3, 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 80. |

In subsection (a), the words “referred to in section 8503 of this title” are added for clarity because of the restatement of 41:47(a) in section 8503(a) of the revised title.

In subsection (b), the words “for procurement” are omitted as unnecessary.

**§ 8505. Audit**

For the purpose of audit and examination, the Comptroller General shall have access to the books, documents, papers, and other records of—

(1) the Committee and of each central nonprofit agency the Committee designates under section 8503(c) of this title; and

(2) qualified nonprofit agencies for the blind and qualified nonprofit agencies for other severely disabled that have sold products or services under this chapter to the extent those books, documents, papers, and other records relate to the activities of the agency in a fiscal year in which a sale was made under this chapter.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3838.)

## HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)  |
|-----------------|--------------------|---|
| 8505 .....      | 41:48a.            | June 25, 1938, ch. 697, §4, 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 81. |

In this section, before paragraph (1), the words “or any of his duly authorized representatives” are omitted because of 31:711(2). In paragraph (1), the words “central nonprofit” are added for clarity.

**§ 8506. Authorization of appropriations**

Necessary amounts may be appropriated to the Committee to carry out this chapter.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3838.)

## HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)  |
|-----------------|--------------------|---|
| 8506 .....      | 41:48c.            | June 25, 1938, ch. 697, §6, 52 Stat. 1196; Pub. L. 92-28, §1, June 23, 1971, 85 Stat. 82; Pub. L. 93-76, July 30, 1973, 87 Stat. 176; Pub. L. 93-358, §1(4), July 25, 1974, 88 Stat. 393. |

The reference to the fiscal year ending June 30, 1974 is omitted as obsolete.

**CHAPTER 87—KICKBACKS**

| Sec.  |                              |
|-------|------------------------------|
| 8701. | Definitions.                 |
| 8702. | Prohibited conduct.          |
| 8703. | Contractor responsibilities. |
| 8704. | Inspection authority.        |
| 8705. | Administrative offsets.      |
| 8706. | Civil actions.               |
| 8707. | Criminal penalties.          |

**§ 8701. Definitions**

In this chapter:

(1) CONTRACTING AGENCY.—The term “contracting agency”, when used with respect to a prime contractor, means a department, agency, or establishment of the Federal Government that enters into a prime contract with a prime contractor.

(2) KICKBACK.—The term “kickback” means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided to a prime contractor, prime contractor employee, subcontractor, or subcontractor employee to improperly obtain or reward favorable treatment in connection with a prime contract or a subcontract relating to a prime contract.

(3) PERSON.—The term “person” means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

(4) PRIME CONTRACT.—The term “prime contract” means a contract or contractual action entered into by the Federal Government to obtain supplies, materials, equipment, or services of any kind.

(5) PRIME CONTRACTOR.—The term “prime contractor” means a person that has entered into a prime contract with the Federal Government.

(6) PRIME CONTRACTOR EMPLOYEE.—The term “prime contractor employee” means an officer, partner, employee, or agent of a prime contractor.

(7) SUBCONTRACT.—The term “subcontract” means a contract or contractual action entered into by a prime contractor or subcontractor to obtain supplies, materials, equipment, or services of any kind under a prime contract.

(8) SUBCONTRACTOR.—The term “subcontractor”—

(A) means a person, other than the prime contractor, that offers to furnish or furnishes supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with the prime contract; and

(B) includes a person that offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

(9) SUBCONTRACTOR EMPLOYEE.—The term “subcontractor employee” means an officer, partner, employee, or agent of a subcontractor.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3838.)

## HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)   |
|-----------------|--------------------|--|
| 8701 .....      | 41:52.             | Mar. 8, 1946, ch. 80, §2, 60 Stat. 37; Pub. L. 86-695, Sept. 2, 1960, 74 Stat. 740; Pub. L. 99-634, §2(a), Nov. 7, 1986, 100 Stat. 3523. |

In this section, the text of 41:52(3) is omitted because of the definition of “person” in 1:1.

In paragraph (2), the words “directly or indirectly” are omitted as unnecessary.

## SENATE REVISION AMENDMENT

Senate amendment 4726 (111th Cong.) added par. (3) and redesignated former pars. (3) to (8) as (4) to (9), respectively. See 116 Cong. Rec. 18683 (2010).

**§ 8702. Prohibited conduct**

A person may not—

(1) provide, attempt to provide, or offer to provide a kickback;

(2) solicit, accept, or attempt to accept a kickback; or

(3) include the amount of a kickback prohibited by paragraph (1) or (2) in the contract price—

(A) a subcontractor charges a prime contractor or a higher tier subcontractor; or

(B) a prime contractor charges the Federal Government.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3839.)

## HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)   |
|-----------------|--------------------|--|
| 8702 .....      | 41:53.             | Mar. 8, 1946, ch. 80, §3, 60 Stat. 37; Pub. L. 86-695, Sept. 2, 1960, 74 Stat. 740; Pub. L. 99-634, §2(a), Nov. 7, 1986, 100 Stat. 3524. |

In paragraph (3), before subparagraph (A), the words “directly or indirectly” are omitted as unnecessary.