

(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; Pub. L. 112-239, div. A, title X, §1076(a)(14), Jan. 2, 2013, 126 Stat. 1948.)

#### 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122 Stat. 4553, which was set out as a note under section 433a of former Title 41, Public Contracts, prior to being repealed and reenacted as subsec.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)”;

(2) in subsection (c)(4)—

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

(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) ....	no source.	
1704(a)(2) ....	41:433a(h).	Pub. L. 110-181, div. A, title VIII, §855, Jan. 28, 2008, 122 Stat. 251.
1704(b)-(f) ..	41:433a(a)-(e).	
1704(g) .....	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

2013—Subsec. (b). Pub. L. 112-239, §1076(a)(14), made technical amendment to directory language of Pub. L. 112-81, §864(a)(2). See 2011 Amendment note below.

2011—Subsec. (b). Pub. L. 112-81, §864(a)(2), as amended by Pub. L. 112-239, §1076(a)(14), substituted “The Associate Administrator shall be located in the Office of Federal Procurement Policy.” for “The Associate Administrator shall be located in the Federal Acquisition Institute (or its successor).” in introductory provisions.

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).

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(14) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

#### EXPANSION OF TRAINING AND USE OF INFORMATION TECHNOLOGY CADRES

Pub. L. 113-291, div. A, title VIII, §835, Dec. 19, 2014, 128 Stat. 3449, provided that:

“(a) PURPOSE.—The purpose of this section is to ensure timely progress by Federal agencies toward developing, strengthening, and deploying information technology acquisition cadres consisting of personnel with highly specialized skills in information technology acquisition, including program and project managers.

“(b) STRATEGIC PLANNING.—

“(1) IN GENERAL.—The Administrator for Federal Procurement Policy, in consultation with the Administrator for E-Government and Information Technology, shall work with Federal agencies, other than the Department of Defense, to update their acquisition human capital plans that were developed pursuant to the October 27, 2009, guidance issued by the Administrator for Federal Procurement Policy in furtherance of section 1704(g) of title 41, United States Code (originally enacted as section 869 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4553)), to address how the agencies are meeting their human capital requirements to support the timely and effective acquisition of information technology.

“(2) ELEMENTS.—The updates required by paragraph (1) shall be submitted to the Administrator for Federal Procurement Policy and shall address, at a minimum, each Federal agency’s consideration or use of the following procedures:

“(A) Development of an information technology acquisition cadre within the agency or use of memoranda of understanding with other agencies that have such cadres or personnel with experience relevant to the agency’s information technology acquisition needs.

“(B) Development of personnel assigned to information technology acquisitions, including cross-functional training of acquisition information technology and program personnel.

“(C) Use of the specialized career path for information technology program managers as designated by the Office of Personnel Management and plans for strengthening information technology program management.

“(D) Use of direct hire authority.

“(E) Conduct of peer reviews.

“(F) Piloting of innovative approaches to information technology acquisition workforce development, such as industry-government rotations.

“(c) FEDERAL AGENCY DEFINED.—In this section, the term ‘Federal agency’ means each agency listed in section 901(b) of title 31, United States Code.”

#### § 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 pro-

curement 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 products and commercial services, 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; Pub. L. 115-232, div. A, title VIII, §836(b)(2), Aug. 13, 2018, 132 Stat. 1861.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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.

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-232 substituted “commercial products and commercial services” for “commercial items”.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

§ 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 appropriate 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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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 pol-