Ownership Plan for the purposes of this section by using existing Federal reporting mechanisms;

"(2) for a qualified businesses wholly-owned through an Employee Stock Ownership Plan to cert-
ify that not more than 50 percent of the amount paid under the contract will be expended on subcontracts,
subject to such necessary and reasonable waivers as the Secretary may prescribe; and

"(3) to record information on each follow-on con-
tract awarded under subsection (b), including details relevant to the nature of such contract and the quali-
fied business wholly-owned through an Employee Stock Ownership Plan that received such contract,
and to provide such information to the Comptroller General of the United States.

"(d) DATA.—

"(1) IN GENERAL.—If the Secretary of Defense estab-
lishes a pilot program under this section, the Sec-
retary shall establish mechanisms to collect and analy-
ze data on the pilot program for the purposes of—

"(A) developing and sharing best practices relating to the pilot program;

"(B) providing information to leadership and the congres-
sional defense committees [Committees on Armed Services and Appropriations of the Senate and
the House of Representatives] on the pilot pro-
gram, including with respect to each qualified busi-
ness wholly-owned through an Employee Stock
Ownership Plan that received a follow-on contract
under this section—

"(i) the size of such business;

"(ii) performance of the follow-on contract; and

"(iii) other information as determined neces-

dary; and

"(C) providing information to leadership and the congres-
sional defense committees on policy issues related to the pilot program.

"(2) LIMITATION.—The Secretary of Defense may not
carry out the pilot program under this section be-
fore—

"(A) completing a data collection and reporting
strategy and plan to meet the requirements of this
subsection; and

"(B) submitting the strategy and plan to the con-
gressional defense committees.

"(e) SUNSET.—Any pilot program established under
this section shall expire on the date that is five years
after the date of the enactment of this Act [Dec. 27,
2021].

"(f) COMPTROLLER GENERAL REPORT.—

"(1) IN GENERAL.—Not later than three years after
the date of the enactment of this Act, the Com-
troller General of the United States shall submit to Congress a report on any individual and aggreg-
ates of the authority under a pilot program estab-
lished under this section.

"(2) ELEMENTS.—The report under paragraph (1)
shall include the following elements:

"(A) An assessment of the frequency and nature of the use of the authority under the pilot program.

"(B) A review of the financial effect of the change to the justification and approval requirement in subsection (a) on the native corporations and businesses and associated native communities;

"(C) A description of the nature and extent of con-
tracts excluded from the justification and approval requirement by subsection (a); and

"(D) Any related matters the Comptroller General

"(g) Modification of Justification and Approval Requirement.—Notwithstanding section 811 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2405) [41 U.S.C. 3304 note]—

"(1) no justification and approval is required under
such section for a sole-source contract awarded by
the Department of Defense in a covered procurement
for an amount not exceeding $100,000,000; and

"(2) for purposes of subsections (a)(2) and (c)(5)(A)
of such section, the appropriate official designated to
approve the justification for a sole-source contract
awarded by the Department of Defense in a covered
procurement exceeding $100,000,000 is the official des-
gnated in section 3304(f)(1)(B)(i) of title 10, United

"(h) GUIDANCE.—Not later than 90 days after the date
of the enactment of this Act [Dec. 27, 2019], the Sec-
retary of Defense shall issue guidance to implement the authority under subsection (a).

"(i) COMPTROLLER GENERAL REVIEW.—

"(1) DATA TRACKING AND COLLECTION.—The Depart-
ment of Defense shall track the use of the authority
as modified by subsection (a) and make the data
available to the Comptroller General for purposes of
the report required under paragraph (2).

"(2) REPORT.—Not later than March 1, 2022, the Comptroller General of the United States shall sub-
mit a report to the congressional defense committees
[Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the use of the authority as modified by subsection (a)
through the end of fiscal year 2021. The report shall
include—

"(A) a review of the financial effect of the change to the justification and approval requirement in subsection (a) on the native corporations and businesses and associated native communities;

"(B) a description of the nature and extent of con-
tracts excluded from the justification and approval requirement by subsection (a); and

"(C) other matters the Comptroller General

§ 3205. Simplified procedures for small purchases

(a) AUTHORIZATION.—In order to promote effi-
ciency and economy in contracting and to avoid
unnecessary burdens for agencies and contrac-
tors, the Federal Acquisition Regulation shall
provide for—

"(1) special simplified procedures for pur-
chases of property and services for amounts
not greater than the simplified acquisition threshold; and

"(2) special simplified procedures for pur-
chases of property and services for amounts
greater than the simplified acquisition threshold
but not greater than $5,000,000 with respect
to 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 products
or commercial services.

(b) PROHIBITION ON DIVIDING CONTRACTS.—A
proposed purchase or contract for an amount
above the simplified acquisition threshold may
not be divided into several purchases or con-
tracts for lesser amounts in order to use the
simplified procedures required by subsection (a).

(c) PROMOTION OF COMPETITION.—In using sim-
plified procedures, the head of an agency shall
promote competition to the maximum extent prac-
ticable.

(d) COMPLIANCE WITH SPECIAL REQUIREMENTS
OF FEDERAL ACQUISITION REGULATION.—The head
of an agency shall comply with the Federal Ac-
EDITORIAL NOTES
CODIFICATION

PRIORITY PROVISIONS

AMENDMENTS
2021—Subsec. (a), Pub. L. 116–283, §1811(d)(9)(A), (C), inserted heading, struck out par. (1) designation before “In order to”, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively. Former pars. (2) to (4) redesignated subsecs. (b) to (d), respectively.
Pub. L. 116–283, §1811(d)(9), redesignated subsec. (g) of section 2304 of this title as subsec. (a) of this section.
Subsec. (b), Pub. L. 116–283, §1811(d)(9)(B), redesignated subsec. (a)(2) as (b), inserted heading, and substituted “subsection (a)” for “paragraph (1)”.
Subsec. (c), Pub. L. 116–283, §1811(d)(9)(B), redesignated subsec. (a)(3) as (c) and inserted heading.
Subsec. (d), Pub. L. 116–283, §1811(d)(9)(B), redesignated subsec. (a)(4) as (d) and inserted heading.

STATUTORY NOTES AND RELATED SUBSIDIARIES
EFFECTIVE DATE
Section and amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

§ 3206. Planning and solicitation requirements

(a) PLANNING AND SPECIFICATIONS.—

(1) PREPARING FOR PROCUREMENT.—In preparing for the procurement of property or services, the head of an agency shall—

(A) specify the agency’s needs and solicit bids or proposals in a manner designed to achieve full and open competition for the procurement;

(B) use advance procurement planning and market research; and

(C) develop specifications in such manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired.

(2) REQUIREMENTS OF SPECIFICATIONS.—Each solicitation under chapter 137 legacy provisions shall include specifications which—

(A) consistent with the provisions of chapter 137 legacy provisions, permit full and open competition; and

(B) include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the agency or as authorized by law.

(3) TYPES OF SPECIFICATIONS.—For the purposes of paragraphs (1) and (2), the type of specification included in a solicitation shall depend on the nature of the needs of the agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

(A) function, so that a variety of products or services may qualify;

(B) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

(C) design requirements.

(b) CONTENTS OF SOLICITATION.—In addition to the specifications described in subsection (a), a solicitation for sealed bids or competitive proposals (other than for a procurement for commercial products or commercial services using special simplified procedures or a purchase for an amount not greater than the simplified acquisition threshold) shall at a minimum include—

(1) a statement of—

(A) all significant factors and significant subfactors which the head of the agency reasonably expects to consider in evaluating sealed bids (including price) or competitive proposals (including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors); and

(B) the relative importance assigned to each of those factors and subfactors; and

(2)(A) in the case of sealed bids—

(i) a statement that sealed bids will be evaluated without discussions with the bidders; and

(ii) the time and place for the opening of the sealed bids; or

(B) in the case of competitive proposals—

(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and

(ii) the time and place for submission of proposals.

(c) EVALUATION FACTORS.—

(1) IN GENERAL.—In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—