

task orders in amounts greater than the simplified acquisition threshold.

“(b) REQUIREMENT FOR DEFINITION.—Unless the Administrator determines otherwise, the amount of time in the definition of PALT developed under subsection (a) shall—

“(1) begin on the date on which an initial solicitation is issued by a Federal department or agency for a contract or task order; and

“(2) end on the date of the award of the contract or task order.

“(c) COORDINATION.—In developing the definition of PALT, the Administrator shall coordinate with—

“(1) the senior procurement executives of Federal agencies;

“(2) the Secretary of Defense; and

“(3) the Administrator of the General Services Administration on modifying the existing data system of the Federal Government to determine the date on which the initial solicitation is issued.

“(d) USE OF EXISTING PROCUREMENT DATA SYSTEM.—In developing the plan for measuring and publicly reporting data on PALT required by subsection (a), the Administrator shall, to the maximum extent practicable, rely on the information contained in the Federal procurement data system established pursuant to section 1122(a)(4) of title 41, United States Code, including any modifications to that system.”

PILOT PROGRAM TO INVENTORY COST AND SIZE OF SERVICE CONTRACTS

Pub. L. 110–161, div. D, title VII, § 748, Dec. 26, 2007, 121 Stat. 2035, provided that: “No later than 180 days after enactment of this Act [Dec. 26, 2007], the Office of Management and Budget shall establish a pilot program to develop and implement an inventory to track the cost and size (in contractor manpower equivalents) of service contracts, particularly with respect to contracts that have been performed poorly by a contractor because of excessive costs or inferior quality, as determined by a contracting officer within the last five years, involve inherently governmental functions, or were undertaken without competition. The pilot program shall be established in at least three Cabinet-level departments, based on varying levels of annual contracting for services, as reported by the Federal Procurement Data System’s Federal Procurement Report for fiscal year 2005, including at least one Cabinet-level department that contracts out annually for \$10,000,000,000 or more in services, at least one Cabinet-level department that contracts out annually for between \$5,000,000,000 and \$9,000,000,000 in services, and at least one Cabinet-level department that contracts out annually for under \$5,000,000,000 in services.”

REPORTING OF BUNDLED CONTRACT OPPORTUNITIES

Pub. L. 105–135, title IV, § 414, Dec. 2, 1997, 111 Stat. 2619, provided that:

“(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 405(d)(4)(A)) [now 41 U.S.C. 1122(a)(4)(A)] shall be modified to collect data regarding bundling of contract requirements when the contracting officer anticipates that the resulting contract price, including all options, is expected to exceed \$5,000,000. The data shall reflect a determination made by the contracting officer regarding whether a particular solicitation constitutes a contract bundling.

“(b) DEFINITIONS.—In this section, the term ‘bundling of contract requirements’ has the meaning given that term in section 3(o) of the Small Business Act (15 U.S.C. 632(o)) (as added by section 412 of this subtitle).”

RESULTS-ORIENTED ACQUISITION PROCESS

Pub. L. 103–355, title V, § 5052, Oct. 13, 1994, 108 Stat. 3352, provided that:

“(a) DEVELOPMENT OF PROCESS REQUIRED.—The Administrator for Federal Procurement Policy, in con-

sultation with the heads of appropriate Federal agencies, shall develop results-oriented acquisition process guidelines for implementation by agencies in acquisitions of property and services by the Federal agencies. The process guidelines shall include the identification of quantitative measures and standards for determining the extent to which an acquisition of items other than commercial items by a Federal agency satisfies the needs for which the items are being acquired.

“(b) INAPPLICABILITY OF PROCESS TO DEPARTMENT OF DEFENSE.—The process guidelines developed pursuant to subsection (a) may not be applied to the Department of Defense.”

DATA COLLECTION THROUGH FEDERAL PROCUREMENT DATA SYSTEM

Pub. L. 103–355, title X, § 10004, Oct. 13, 1994, 108 Stat. 3405, as amended by Pub. L. 115–232, div. A, title VIII, § 812(a)(2)(C)(iv), Aug. 13, 2018, 132 Stat. 1847, provided that:

“(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 405(d)(4)(A)) [now 41 U.S.C. 1122(a)(4)(A)] shall be modified to collect from contracts in excess of the simplified acquisition threshold data identifying the following matters:

“(1) Contract awards made pursuant to competitions conducted pursuant to section 7102 of the Federal Acquisition Streamlining Act of 1994 [Pub. L. 103–355, 15 U.S.C. 644 note].

“(2) Awards to business concerns owned and controlled by women.

“(3) Number of offers received in response to a solicitation.

“(4) Task order contracts.

“(5) Contracts for the acquisition of commercial items.

“(b) DEFINITION.—In this section, the term ‘simplified acquisition threshold’ has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 403(11)) [now 41 U.S.C. 134].”

§ 1123. Small business concerns

In formulating the Federal Acquisition Regulation and procedures to ensure compliance with the Regulation, the Administrator, in consultation with the Small Business Administration, shall—

(1) conduct analyses of the impact on small business concerns resulting from revised procurement regulations; and

(2) incorporate into revised procurement regulations simplified bidding, contract performance, and contract administration procedures for small business concerns.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3687.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1123	41:405a (last sentence).	Pub. L. 95–507, title II, § 222 (last sentence), Oct. 24, 1978, 92 Stat. 1771.

§ 1124. Tests of innovative procurement methods and procedures

(a) IN GENERAL.—The Administrator may develop innovative procurement methods and procedures to be tested by selected executive agencies. In developing a program to test innovative procurement methods and procedures under this subsection, the Administrator shall consult with the heads of executive agencies to—

(1) ascertain the need for and specify the objectives of the program;

(2) develop the guidelines and procedures for carrying out the program and the criteria to be used in measuring the success of the program;

(3) evaluate the potential costs and benefits which may be derived from the innovative procurement methods and procedures tested under the program;

(4) select the appropriate executive agencies or components of executive agencies to carry out the program;

(5) specify the categories and types of products or services to be procured under the program; and

(6) develop the methods to be used to analyze the results of the program.

(b) **APPROVAL OF EXECUTIVE AGENCIES REQUIRED.**—A program to test innovative procurement methods and procedures may not be carried out unless approved by the heads of the executive agencies selected to carry out the program.

(c) **REQUEST FOR WAIVER OF LAW.**—If the Administrator determines that it is necessary to waive the application of a provision of law to carry out a proposed program to test innovative procurement methods and procedures under subsection (a), the Administrator shall transmit notice of the proposed program 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 and request that the Committees take the necessary action to provide that the provision of law does not apply with respect to the proposed program. The notification to Congress shall include—

(1) a description of the proposed program (including the scope and purpose of the proposed program);

(2) the procedures to be followed in carrying out the proposed program;

(3) the provisions of law affected and the application of any provision of law that must be waived in order to carry out the proposed program; and

(4) the executive agencies involved in carrying out the proposed program.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3688.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1124(a)	41:413(a) (1st, 2d sentences).	Pub. L. 93-400, § 15, as added Pub. L. 98-191, § 7, Dec. 1, 1983, 97 Stat. 1329; Pub. L. 104-201, title X, § 1074(f)(2), Sept. 23, 1996, 110 Stat. 2661.
1124(b)	41:413(a) (last sentence).	
1124(c)	41:413(b).	

In subsection (c), the words “Committee on Oversight and Government Reform” are substituted for “Committee on Government Operations” on authority of section 1(a)(6) of Public Law 104-14 (2 U.S.C. note prec. 21), Rule X(1)(h) of the Rules of the House of Representatives, adopted by House Resolution No. 5 (106th Congress, January 6, 1999), and Rule X(1)(m) of the Rules of the House of Representatives, adopted by House Resolution No. 6 (110th Congress, January 5, 2007). The

words “Committee on Homeland Security and Governmental Affairs” are substituted for “Committee on Governmental Affairs” on authority of Senate Resolution No. 445 (108th Congress, October 9, 2004).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

§ 1125. Recipients of Federal grants or assistance

(a) **AUTHORITY.**—With due regard to applicable laws and the program activities of the executive agencies administering Federal programs of grants or assistance, the Administrator may prescribe Government-wide policies, regulations, procedures, and forms that the Administrator considers appropriate and that executive agencies shall follow in providing for the procurement, to the extent required under those programs, of property or services referred to in section 1121(c)(1) of this title by recipients of Federal grants or assistance under the programs.

(b) **LIMITATION.**—Subsection (a) does not—

(1) permit the Administrator to authorize procurement or supply support, either directly or indirectly, to a recipient of a Federal grant or assistance; or

(2) authorize action by a recipient contrary to State and local law in the case of a program to provide a Federal grant or assistance to a State or political subdivision.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3688.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1125(a)	41:405(i)(1).	Pub. L. 93-400, § 6(i), Aug. 30, 1974, 88 Stat. 797; Pub. L. 96-83, § 4, Oct. 10, 1979, 93 Stat. 649; Pub. L. 98-191, § 5, Dec. 1, 1983, 97 Stat. 1328.
1125(b)	41:405(i)(2).	

§ 1126. Policy regarding consideration of contractor past performance

(a) **GUIDANCE.**—The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

(1) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

(2) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary;

(3) policies for ensuring that—