

§ 2310. Performance-based contracts or task orders for services to be treated as contracts for the procurement of commercial items

(a) **CRITERIA.**—A performance-based contract for the procurement of services entered into by an executive agency or a performance-based task order for services issued by an executive agency may be treated as a contract for the procurement of commercial items if—

(1) the value of the contract or task order is estimated not to exceed \$25,000,000;

(2) the contract or task order sets forth specifically each task to be performed and, for each task—

(A) defines the task in measurable, mission-related terms;

(B) identifies the specific end products or output to be achieved; and

(C) contains firm, fixed prices for specific tasks to be performed or outcomes to be achieved; and

(3) the source of the services provides similar services to the general public under terms and conditions similar to those offered to the Federal Government.

(b) **REGULATIONS.**—Regulations implementing this section shall require agencies to collect and maintain reliable data sufficient to identify the contracts or task orders treated as contracts for commercial items using the authority of this section. The data may be collected using the Federal Procurement Data System or other reporting mechanism.

(c) **REPORT.**—Not later than 2 years after November 24, 2003, the Director of the Office of Management and Budget shall prepare and submit to the Committees on Homeland Security and Governmental Affairs and on Armed Services of the Senate and the Committees on Oversight and Government Reform and on Armed Services of the House of Representatives a report on the contracts or task orders treated as contracts for commercial items using the authority of this section. The report shall include data on the use of the authority, both government-wide and for each department and agency.

(d) **EXPIRATION.**—The authority under this section expires 10 years after November 24, 2003.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3738.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2310	41:437.	Pub. L. 93-400, § 41, as added Pub. L. 108-136, title XIV, § 1431(a), Nov. 24, 2003, 117 Stat. 1671.

In subsection (c), the words “Committees on Homeland Security and Governmental Affairs” are substituted for “Committees on Governmental Affairs” on authority of Senate Resolution No. 445 (108th Congress, October 9, 2004). The words “Committees on Oversight and Government Reform” are substituted for “Committees 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).

§ 2311. Enhanced transparency on interagency contracting and other transactions

The Director of the Office of Management and Budget shall direct appropriate revisions to the Federal Procurement Data System or any successor system to facilitate the collection of complete, timely, and reliable data on interagency contracting actions and on transactions other than contracts, grants, and cooperative agreements issued pursuant to section 4021 of title 10 or similar authorities. The Director of the Office of Management and Budget shall ensure that data, consistent with what is collected for contract actions, is obtained on—

(1) interagency contracting actions, including data at the task or delivery-order level; and

(2) other transactions, including the initial award and any subsequent modifications awarded or orders issued (other than transactions that are reported through the Federal Assistance Awards Data System).

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3739; Pub. L. 117-81, div. A, title XVII, § 1702(h)(11), Dec. 27, 2021, 135 Stat. 2158.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2311	41:405 note.	Pub. L. 110-417, [div. A], title VIII, § 874(a), Oct. 14, 2008, 122 Stat. 4558.

In the first sentence, the words “Not later than one year after the date of enactment of this Act” are omitted because of section 6(f) of the bill.

Editorial Notes

AMENDMENTS

2021—Pub. L. 117-81 substituted “section 4021” for “section 2371” in introductory provisions.

Statutory Notes and Related Subsidiaries

DEADLINE FOR REVISIONS IN FEDERAL PROCUREMENT DATA SYSTEM OR SUCCESSOR SYSTEM

Pub. L. 111-350, § 6(f)(2), Jan. 4, 2011, 124 Stat. 3855, provided that: “The requirement in section 2311 of title 41, United States Code, to direct appropriate revisions in the Federal Procurement Data System or any successor system shall be done not later than one year after October 14, 2008.”

§ 2312. Contingency Contracting Corps

(a) **DEFINITION.**—In this section, the term “Corps” means the Contingency Contracting Corps established in subsection (b).

(b) **ESTABLISHMENT.**—The Administrator of General Services, pursuant to policies established by the Office of Management and Budget, and in consultation with the Secretary of Defense and the Secretary of Homeland Security, shall establish a Government-wide Contingency Contracting Corps.

(c) **FUNCTION.**—The members of the Corps shall be available for deployment in responding to an emergency or major disaster, or a contingency operation, both within or outside the continental United States.

(d) **APPLICABILITY.**—The authorities provided in this section apply with respect to any pro-