

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1713(b) .....	41:417a(a).	

In subsection (b), the words “socially and economically disadvantaged individuals” are substituted for “socially and economically disadvantaged businesses” for consistency with the term set out in subsection (a).

**Editorial Notes**

REFERENCES IN TEXT

Section 31(b) of the Small Business Act, referred to in subsec. (a)(1), is classified to section 657a(b) of Title 15, Commerce and Trade.

Section 204 of the Women’s Business Ownership Act of 1988, referred to in subsec. (a)(3), is section 204 of Pub. L. 100–533, which is set out as a note under section 637 of Title 15, Commerce and Trade.

AMENDMENTS

2017—Subsec. (a). Pub. L. 115–91 substituted “section 31(b) of the Small Business Act” for “section 3(p) of the Small Business Act (15 U.S.C. 632(p))”.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective Jan. 1, 2020, see section 1701(j) of Pub. L. 115–91, set out as a note under section 657a of Title 15, Commerce and Trade.

**CHAPTER 19—SIMPLIFIED ACQUISITION PROCEDURES**

Sec.	
1901.	Simplified acquisition procedures.
1902.	Procedures applicable to purchases below micro-purchase threshold.
1903.	Special emergency procurement authority.
1904.	Certain transactions for defense against attack.
1905.	List of laws inapplicable to contracts or subcontracts not greater than simplified acquisition threshold.
1906.	List of laws inapplicable to procurements of commercial products and commercial services.
1907.	List of laws inapplicable to procurements of commercially available off-the-shelf items.
1908.	Inflation adjustment of acquisition-related dollar thresholds.
1909.	Management of purchase cards.

**Editorial Notes**

AMENDMENTS

2018—Pub. L. 115–232, div. A, title VIII, § 836(b)(6)(B)(ii), Aug. 13, 2018, 132 Stat. 1861, substituted “List of laws inapplicable to procurements of commercial products and commercial services” for “List of laws inapplicable to procurements of commercial items” in item 1906.

2012—Pub. L. 112–194, § 2(a)(2), Oct. 5, 2012, 126 Stat. 1447, added item 1909.

**§ 1901. Simplified acquisition procedures**

(a) **WHEN PROCEDURES ARE TO BE USED.**—To promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for purchases of property and services for amounts—

(1) not greater than the simplified acquisition threshold; and

(2) greater than the simplified acquisition threshold but not greater than \$5,000,000 for 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 PURCHASES.**—A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts to use the simplified acquisition procedures required by subsection (a).

(c) **PROMOTION OF COMPETITION REQUIRED.**—When using simplified acquisition procedures, the head of an executive agency shall promote competition to the maximum extent practicable.

(d) **CONSIDERATION OF OFFERS TIMELY RECEIVED.**—The simplified acquisition procedures contained in the Federal Acquisition Regulation shall include a requirement that a contracting officer consider each responsive offer timely received from an eligible offeror.

(e) **SPECIAL RULES FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES.**—The Federal Acquisition Regulation shall provide that an executive agency using special simplified procedures to purchase commercial products or commercial services—

(1) shall publish a notice in accordance with section 1708 of this title and, as provided in section 1708(c)(4) of this title, permit all responsible sources to submit a bid, proposal, or quotation (as appropriate) that the agency shall consider;

(2) may not conduct the purchase on a sole source basis unless the need to do so is justified in writing and approved in accordance with section 3204(e) of title 10 or section 3304(e) of this title, as applicable; and

(3) shall include in the contract file a written description of the procedures used in awarding the contract and the number of offers received.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3719; Pub. L. 115–232, div. A, title VIII, § 836(b)(4), Aug. 13, 2018, 132 Stat. 1861; Pub. L. 117–81, div. A, title XVII, § 1702(h)(6), Dec. 27, 2021, 135 Stat. 2158.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1901 .....	41:427.	Pub. L. 93–400, § 31, as added Pub. L. 103–355, title IV, § 4201(a), Oct. 13, 1994, 108 Stat. 3342; Pub. L. 104–106, title XLII, § 4202(c), title XLIII, § 4302(b), Feb. 10, 1996, 110 Stat. 653, 658, as amended Pub. L. 104–201, title X, § 1074(b)(6) (less effective date), Sept. 23, 1996, 110 Stat. 2660; Pub. L. 105–85, title VIII, § 850(d), Nov. 18, 1997, 111 Stat. 1848.

Section 31(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(e)) is omitted as obsolete.

In subsection (e)(2), the reference to section 253 of this title is limited to section 3303(e) of the revised title for clarity.

**Editorial Notes**

## AMENDMENTS

2021—Subsec. (e)(2). Pub. L. 117-81 substituted “section 3204(e)” for “section 2304(f)”.

2018—Subsec. (a)(2). Pub. L. 115-232, §836(b)(4)(A), substituted “commercial products or commercial services” for “commercial items”.

Subsec. (e). Pub. L. 115-232, §836(b)(4)(B), substituted “Commercial Products and Commercial Services” for “Commercial Items” in heading and, in introductory provisions, substituted “commercial products or 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.

**Statutory Notes and Related Subsidiaries**

## PROCUREMENT THROUGH COMMERCIAL E-COMMERCE PORTALS

Pub. L. 115-91, div. A, title VIII, §846, Dec. 12, 2017, 131 Stat. 1483, as amended by Pub. L. 115-232, div. A, title VIII, §836(a), Aug. 13, 2018, 132 Stat. 1875; Pub. L. 117-81, div. A, title VIII, §853, title XVII, §1702(i)(2), Dec. 27, 2021, 135 Stat. 1848, 2159, provided that:

“(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to procure commercial products through commercial e-commerce portals for purposes of enhancing competition, expediting procurement, enabling market research, and ensuring reasonable pricing of commercial products. The Administrator shall carry out the program in accordance with this section, through multiple contracts with multiple commercial e-commerce portal providers, and shall design the program to be implemented in phases with the objective of enabling Government-wide use of such portals.

“(b) USE OF PROGRAM.—The head of a department or agency may procure, as appropriate, commercial products for the department or agency using the program established pursuant to subsection (a).

“(c) IMPLEMENTATION AND REPORTING REQUIREMENTS.—The Director of the Office of Management and Budget, in consultation with the Administrator and the heads of other relevant departments and agencies, shall carry out the implementation phases set forth in, and submit to the appropriate congressional committees the items of information required by, the following paragraphs:

“(1) PHASE I: IMPLEMENTATION PLAN.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], an implementation plan and schedule for carrying out the program established pursuant to subsection (a), including a discussion and recommendations regarding whether any changes to, or exemptions from, laws that set forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government are necessary for effective implementation of this section.

“(2) PHASE II: MARKET ANALYSIS AND CONSULTATION.—Not later than one year after the date of the submission of the implementation plan and schedule required under paragraph (1), recommendations for any changes to, or exemptions from, laws necessary for effective implementation of this section, and information on the results of the following actions:

“(A) Market analysis and initial communications with potential commercial e-commerce portal providers on technical considerations of how the portals function (including the use of standard terms and conditions of the portals by the Government), the degree of customization that can occur without creating a Government-unique portal, the measures

necessary to address the considerations for supplier and product screening specified in subsection (e), security of data, considerations pertaining to non-traditional Government contractors, and potential fees, if any, to be charged by the Administrator, the portal provider, or the suppliers for participation in the program established pursuant to subsection (a).

“(B) Consultation with affected departments and agencies about their unique procurement needs, such as supply chain risks for health care products, information technology, software, or any other category determined necessary by the Administrator.

“(C) An assessment of the products or product categories that are suitable for purchase on the commercial e-commerce portals.

“(D) An assessment of the precautions necessary to safeguard any information pertaining to the Federal Government, especially precautions necessary to protect against national security or cybersecurity threats.

“(E) A review of standard terms and conditions of commercial e-commerce portals in the context of Government requirements.

“(F) An assessment of the impact on existing programs, including schedules, set-asides for small business concerns, and other preference programs.

“(3) PHASE III: PROGRAM IMPLEMENTATION GUIDANCE.—Not later than two years after the date of the submission of the implementation plan and schedule required under paragraph (1), guidance to implement and govern the use of the program established pursuant to subsection (a), including protocols for oversight of procurement through the program, and compliance with laws pertaining to supplier and product screening requirements, data security, and data analytics.

“(4) ADDITIONAL IMPLEMENTATION PHASES.—A description of additional implementation phases, as determined by the Administrator, that includes a selection of agencies to participate in any such additional implementation phase (which may include the award of contracts to multiple commercial e-commerce portal providers).

“(5) ADDITIONAL TESTING.—Not later than 180 days after the date of the enactment of this paragraph [Dec. 27, 2021], the Administrator shall—

“(A) begin testing commercial e-commerce portal models (other than any such model selected for the initial proof of concept) identified pursuant to paragraph (2); and

“(B) submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Oversight and Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that includes—

“(i) a summary of the assessments conducted under paragraph (2) with respect to a commercial e-commerce portal model identified pursuant to such paragraph;

“(ii) a list of the types of commercial products that could be procured using models tested pursuant to subparagraph (A);

“(iii) an estimate of the amount that could be spent by the head of a department or agency under the program, disaggregated by type of commercial e-commerce portal model; and

“(iv) an update on the models tested pursuant to subparagraph (A) and a timeline for completion of such testing.

“(6) REPORT.—Upon completion of testing conducted under paragraph (5) and before taking any action with respect to the commercial e-commerce portal models tested, the Administrator of General Services shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Oversight and Reform of the House of Representatives, and the Committee on

Homeland Security and Governmental Affairs of the Senate, a report on the results of such testing that includes—

“(A) an assessment and comparison of commercial e-commerce portal models with respect to—

“(i) price and quality of the commercial products supplied by each commercial e-commerce portal model;

“(ii) supplier reliability and service;

“(iii) safeguards for the security of Government information and third-party supplier proprietary information;

“(iv) protections against counterfeit commercial products;

“(v) supply chain risks, particularly with respect to complex commercial products; and

“(vi) overall adherence to Federal procurement rules and policies; and

“(B) an analysis of the costs and benefits of the convenience to the Federal Government of procuring commercial products from each such commercial e-commerce portal model.

“(d) CONSIDERATIONS FOR COMMERCIAL E-COMMERCE PORTALS.—The Administrator shall consider commercial e-commerce portals for use under the program established pursuant to subsection (a) that are widely used in the private sector and have or can be configured to have features that facilitate the execution of program objectives, including features related to supplier and product selection that are frequently updated, an assortment of product and supplier reviews, invoicing payment, and customer service.

“(e) INFORMATION ON SUPPLIERS, PRODUCTS, AND PURCHASES.—

“(1) SUPPLIER PARTICIPATION AND PRODUCT SCREENING.—The Administrator shall provide or ensure electronic availability to a commercial e-commerce portal provider awarded a contract pursuant to subsection (a) on a periodic basis information necessary to ensure compliance with laws pertaining to supplier and product screening as identified during implementation phase III, as described in subsection (c)(3).

“(2) PROVISION OF ORDER INFORMATION.—The Administrator shall require each commercial e-commerce portal provider awarded a contract pursuant to subsection (a) to provide order information as determined by the Administrator during implementation phase II, as described in subsection (c)(2).

“(f) RELATIONSHIP TO OTHER PROVISIONS OF LAW.—

“(1) All laws, including laws that set forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, apply to the program established pursuant to subsection (a) unless otherwise provided in this section.

“(2) A procurement of a product made through a commercial e-commerce portal under the program established pursuant to subsection (a) is deemed to be an award of a prime contract for purposes of the goals established under section 15(g) of the Small Business Act (15 U.S.C. 644(g)), if the purchase is from a supplier that is a small business concern.

“(3) Nothing in this section shall be construed as limiting the authority of a department or agency to restrict competition to small business concerns.

“(4) Nothing in this section shall be construed as limiting the applicability of section 1341 of title 31, United States Code (popularly referred to as the Anti-Deficiency Act).

“(5) A procurement of a product made through a commercial e-commerce portal under the program established pursuant to subsection (a) is deemed to satisfy requirements for full and open competition pursuant to sections 3201 through 3205 of title 10, United States Code, and section 3301 of title 41, United States Code, if—

“(A) there are offers from two or more suppliers of such a product or similar product with substantially the same physical, functional, or performance characteristics on the online marketplace; and

“(B) the Administrator establishes procedures to implement subparagraph (A) and notifies Congress at least 30 days before implementing such procedures.

“(g) USE OF COMMERCIAL PRACTICES AND STANDARD TERMS AND CONDITIONS.—A procurement of a product through a commercial e-commerce portal used under the program established pursuant to subsection (a) shall be made, to the maximum extent practicable, under the standard terms and conditions of the portal relating to purchasing on the portal.

“(h) DISCLOSURE, PROTECTION, AND USE OF INFORMATION.—In any contract awarded to a commercial e-commerce portal provider pursuant to subsection (a), the Administrator shall require that the provider—

“(1) agree not to sell or otherwise make available to any third party any information pertaining to a product ordered by the Federal Government through the commercial e-commerce portal in a manner that identifies the Federal Government, or any of its departments or agencies, as the purchaser, except if the information is needed to process or deliver an order or the Administrator provides written consent;

“(2) agree to take the necessary precautions to safeguard any information pertaining to the Federal Government, especially precautions necessary to protect against national security or cybersecurity threats; and

“(3) agree not to use, for pricing, marketing, competitive, or other purposes, any information, including any Government-owned data, such as purchasing trends or spending habits, related to a product from a third-party supplier featured on the commercial e-commerce portal or the transaction of such product, except as necessary to comply with the requirements of the program established in subsection (a).

“(i) SIMPLIFIED ACQUISITION THRESHOLD.—A procurement through a commercial e-commerce portal used under the program established pursuant to subsection (a) shall not exceed the simplified acquisition threshold in section 134 of title 41, United States Code.

“(j) COMPTROLLER GENERAL ASSESSMENTS.—

“(1) ASSESSMENT OF IMPLEMENTATION PLAN.—Not later than 90 days after the Director of the Office of Management and Budget submits the implementation plan described in subsection (c)(1) to the appropriate congressional committees, the Comptroller General of the United States shall submit to the appropriate congressional committees an assessment of the plan, including any other matters the Comptroller General considers relevant to the plan.

“(2) ASSESSMENT OF PROGRAM IMPLEMENTATION.—Not later than three years after the first contract with a commercial e-commerce portal provider is awarded pursuant to subsection (a), the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the challenges and benefits the General Services Administration and participating departments and agencies observe regarding implementation of the program established pursuant to subsection (a). The report shall include the following elements:

“(A) A description of the acquisition of the commercial e-commerce portals (including the extent to which the portals had to be configured or otherwise modified to meet the needs of the program) costs, and the implementation schedule.

“(B) A description of participation by suppliers, with particular attention to those described under subsection (e), that have registered or that have sold goods with at least one commercial e-commerce portal provider, including numbers, categories, and trends.

“(C) The effect, if any, of the program on the ability of agencies to meet goals established for suppliers and products described under subsection (e), including goals established under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

“(D) A discussion of the limitations, if any, to participation by suppliers in the program.

“(E) Any other matters the Comptroller General considers relevant to report.

“(k) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of General Services.

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the following:

“(A) The Committees on Armed Services of the Senate and House of Representatives.

“(B) The Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives.

“(C) The Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

“(3) COMMERCIAL E-COMMERCE PORTAL.—The term ‘commercial e-commerce portal’ means a commercial solution providing for the purchase of commercial products aggregated, distributed, sold, or manufactured via an online portal. The term does not include an online portal managed by the Government for, or predominantly for use by, Government agencies.

“(4) COMMERCIAL PRODUCT.—The term ‘commercial product’ means a commercially available off-the-shelf item, as defined in section 104 of title 41, United States Code, except the term does not include services.

“(5) SMALL BUSINESS CONCERN.—The term ‘small business concern’ has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632).”

**§ 1902. Procedures applicable to purchases below micro-purchase threshold**

(a) DEFINITION.—

(1) Except as provided in paragraph (2) of this subsection, for purposes of this section, the micro-purchase threshold is \$10,000.

(2) For purposes of this section, the micro-purchase threshold for procurement activities administered under sections 6303 through 6305 of title 31 by institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), or related or affiliated nonprofit entities, or by nonprofit research organizations or independent research institutes is—

(A) \$10,000; or

(B) such higher threshold as determined appropriate by the head of the relevant executive agency and consistent with clean audit findings under chapter 75 of title 31, internal institutional risk assessment, or State law.

**(b) COMPLIANCE WITH CERTAIN REQUIREMENTS AND NONAPPLICABILITY OF CERTAIN AUTHORITY.—**

(1) COMPLIANCE WITH CERTAIN REQUIREMENTS.—The head of each executive agency shall ensure that procuring activities of that agency, when awarding a contract with a price exceeding the micro-purchase threshold, comply with the requirements of section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and section 7102 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355, 15 U.S.C. 644 note).

(2) NONAPPLICABILITY OF CERTAIN AUTHORITY.—The authority under part 13.106(a)(1) of the Federal Acquisition Regulation (48 C.F.R. 13.106(a)(1)), as in effect on November 18, 1993, to make purchases without securing competitive quotations does not apply to a purchase

with a price exceeding the micro-purchase threshold.

(c) NONAPPLICABILITY OF CERTAIN PROVISIONS.—An executive agency purchase with an anticipated value of the micro-purchase threshold or less is not subject to section 15(j) of the Small Business Act (15 U.S.C. 644(j)) and chapter 83 of this title.

(d) PURCHASES WITHOUT COMPETITIVE QUOTATIONS.—A purchase with a price not greater than the micro-purchase threshold may be made without obtaining competitive quotations if an employee of an executive agency or a member of the armed forces, authorized to do so, determines that the price for the purchase is reasonable.

(e) EQUITABLE DISTRIBUTION.—Purchases with a price not greater than the micro-purchase threshold shall be distributed equitably among qualified suppliers.

(f) IMPLEMENTATION THROUGH FEDERAL ACQUISITION REGULATION.—This section shall be implemented through the Federal Acquisition Regulation.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3720; Pub. L. 114-328, div. A, title II, §217(b), Dec. 23, 2016, 130 Stat. 2051; Pub. L. 115-91, div. A, title VIII, §806(a), Dec. 12, 2017, 131 Stat. 1456; Pub. L. 115-232, div. A, title VIII, §§812(a)(2)(C)(ix), 821(b), Aug. 13, 2018, 132 Stat. 1847, 1853.)

**ADJUSTMENT OF MICRO-PURCHASE THRESHOLD**

*For adjustment of dollar threshold pursuant to section 1908 of this title, see definition of micro-purchase threshold in Federal Acquisition Regulation 2.101.*

**HISTORICAL AND REVISION NOTES**

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1902 .....	41:428.	Pub. L. 93-400, §32, as added Pub. L. 103-355, title IV, §4301(a), Oct. 13, 1994, 108 Stat. 3346; Pub. L. 104-106, title XLIII, §§4304(b)(4), (c)(3), 4311, Feb. 10, 1996, 110 Stat. 664, 671.

**SENATE REVISION AMENDMENT**

In subssecs. (a), (d), and (e), “\$3,000” substituted for “\$2,500” by S. Amdt. 4726 (111th Cong.). See 156 Cong. Rec. 18682 (2010).

**Editorial Notes**

**AMENDMENTS**

2018—Subsec. (a)(1). Pub. L. 115-232, §821(b), struck out “sections 2338 and 2339 of title 10 and” after “Except as provided in”.

Subsec. (b)(1). Pub. L. 115-232, §812(a)(2)(C)(ix), struck out “, section 2323 of title 10,” after “(15 U.S.C. 637(a))”.

2017—Subsec. (a)(1). Pub. L. 115-91 substituted “\$10,000” for “\$3,000”.

2016—Subsec. (a). Pub. L. 114-328, §217(b)(1), designated existing provisions as par. (1), substituted “Except as provided in sections 2338 and 2339 of title 10 and paragraph (2) of this subsection, for purposes” for “For purposes” and added par. (2).

Subsecs. (d), (e). Pub. L. 114-328, §217(b)(2), substituted “with a price not greater than the micro-purchase threshold” for “not greater than \$3,000”.

**Statutory Notes and Related Subsidiaries**

## CONVENIENCE CHECKS

Pub. L. 115–91, div. A, title VIII, §806(b), Dec. 12, 2017, 131 Stat. 1456, provided that: “A convenience check may not be used for an amount in excess of one half of the micro-purchase threshold under section 1902(a) of title 41, United States Code, or a lower amount established by the head of the agency.”

## MICRO-PURCHASE THRESHOLD FOR PROCUREMENT SOLICITATIONS BY RESEARCH INSTITUTIONS

Pub. L. 114–329, div. A, title II, §207, Jan. 6, 2017, 130 Stat. 3001, provided that:

“(a) MICRO-PURCHASE THRESHOLD.—The micro-purchase threshold for procurement activities administered under sections 6303 through 6305 of title 31, United States Code, awarded by the Foundation, the National Aeronautics and Space Administration, or the National Institute of Standards and Technology to institutions of higher education, or related or affiliated nonprofit entities, or to nonprofit research organizations or independent research institutes is—

“(1) \$10,000 (as adjusted periodically to account for inflation); or

“(2) such higher threshold as determined appropriate by the head of the relevant executive agency and consistent with audit findings under chapter 75 of title 31, United States Code, internal institutional risk assessment, or State law.

“(b) UNIFORM GUIDANCE.—The Uniform Guidance shall be revised to conform with the requirements of this section. For purposes of the preceding sentence, the term ‘Uniform Guidance’ means the uniform administrative requirements, cost principles, and audit requirements for Federal awards contained in part 200 of title 2 of the Code of Federal Regulations.”

[For definitions of terms used in section 207 of Pub. L. 114–329, set out above, see section 2 of Pub. L. 114–329, set out as a note under section 1862s of Title 42, The Public Health and Welfare.]

## MICRO-PURCHASE GUIDELINES

Pub. L. 111–240, title I, §1332, Sept. 27, 2010, 124 Stat. 2541, provided that: “Not later than 1 year after the date of enactment of this Act [Sept. 27, 2010], the Director of the Office of Management and Budget, in coordination with the Administrator of General Services, shall issue guidelines regarding the analysis of purchase card expenditures to identify opportunities for achieving and accurately measuring fair participation of small business concerns in purchases in an amount not in excess of the micro-purchase threshold, as defined in section 32 of the Office of Federal Procurement Policy Act (former) 41 U.S.C. 428 [now 41 U.S.C. 1902] (in this section referred to as ‘micro-purchases’), consistent with the national policy on small business participation in Federal procurements set forth in sections 2(a) and 15(g) of the Small Business Act (15 U.S.C. 631(a) and 644(g)), and dissemination of best practices for participation of small business concerns in micro-purchases.”

[For definition of ‘small business concern’ as used in section 1332 of Pub. L. 111–240, set out above, see section 1001 of Pub. L. 111–240, set out as a note under section 632 of Title 15, Commerce and Trade.]

**§ 1903. Special emergency procurement authority**

(a) APPLICABILITY.—The authorities provided in subsections (b) and (c) apply with respect to a procurement of property or services by or for an executive agency that the head of the executive agency determines are to be used—

(1) in support of a contingency operation (as defined in section 101(a) of title 10);

(2) to facilitate the defense against or recovery from cyber, nuclear, biological, chemical,

or radiological attack against the United States;

(3) in support of a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate the provision of international disaster assistance pursuant to chapter 9 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2292 et seq.); or

(4) in support of an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).

(b) INCREASED THRESHOLDS AND LIMITATION.—For a procurement to which this section applies under subsection (a)—

(1) the amount specified in section 1902(a), (d), and (e) of this title shall be deemed to be—

(A) \$15,000 in the case of a contract to be awarded and performed, or purchase to be made, in the United States; and

(B) \$25,000 in the case of a contract to be awarded and performed, or purchase to be made, outside the United States;

(2) the term “simplified acquisition threshold” means—

(A) \$750,000 in the case of a contract to be awarded and performed, or purchase to be made, in the United States; and

(B) \$1,500,000 in the case of a contract to be awarded and performed, or purchase to be made, outside the United States; and

(3) the \$5,000,000 limitation in sections 1901(a)(2) and 3305(a)(2) of this title and section 3205(a)(2) of title 10 is deemed to be \$10,000,000.

(c) AUTHORITY TO TREAT PROPERTY OR SERVICE AS COMMERCIAL PRODUCT OR COMMERCIAL SERVICE.—

(1) IN GENERAL.—The head of an executive agency carrying out a procurement of property or a service to which this section applies under subsection (a)(2) may treat the property or service as a commercial product or a commercial service for the purpose of carrying out the procurement.

(2) CERTAIN CONTRACTS NOT EXEMPT FROM STANDARDS OR REQUIREMENTS.—A contract in an amount of more than \$15,000,000 that is awarded on a sole source basis for a product or service treated as a commercial product or a commercial service under paragraph (1) is not exempt from—

(A) cost accounting standards prescribed under section 1502 of this title; or

(B) cost or pricing data requirements (commonly referred to as truth in negotiating) under chapter 35 of this title and chapter 271 of title 10.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3721; Pub. L. 114–92, div. A, title VIII, §816, Nov. 25, 2015, 129 Stat. 897; Pub. L. 114–328, div. A, title VIII, §816, title XVI, §1641, Dec. 23, 2016, 130 Stat. 2272, 2600; Pub. L. 115–232, div. A, title VIII, §836(b)(5), Aug. 13, 2018, 132 Stat. 1861; Pub. L. 117–81, div. A, title XVII, §1702(h)(7), Dec. 27, 2021, 135 Stat. 2158.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1903(a) .....	41:428a(a), (e).	Pub. L. 93-400, §32A, as added Pub. L. 108-136, title XIV, §1443(a)(1), Nov. 24, 2003, 117 Stat. 1675; Pub. L. 108-375, title VIII, §822, Oct. 28, 2004, 118 Stat. 2016.
1903(b) .....	41:428a(b), (c).	
1903(c) .....	41:428a(d).	

Editorial Notes

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(3), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424. Chapter 9 of part I of the Act is classified generally to part IX [§2292 et seq.] of subchapter I of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

AMENDMENTS

2021—Subsec. (b)(3). Pub. L. 117-81, §1702(h)(7)(A), substituted “section 3205(a)(2)” for “section 2304(g)(1)(B)”.  
 Subsec. (c)(2)(B). Pub. L. 117-81, §1701(h)(7)(B), substituted “chapter 271” for “section 2306a”.

2018—Subsec. (c). Pub. L. 115-232, §836(b)(5)(A), substituted “Commercial Product or Commercial Service” for “Commercial Item” in heading.

Subsec. (c)(1). Pub. L. 115-232, §836(b)(5)(B), substituted “as a commercial product or a commercial service” for “as a commercial item”.

Subsec. (c)(2). Pub. L. 115-232, §836(b)(5)(C), substituted “for a product or service treated as a commercial product or a commercial service” for “for an item or service treated as a commercial item” in introductory provisions.

2016—Subsec. (a)(2). Pub. L. 114-328, §1641, inserted “cyber,” before “nuclear.”

Subsec. (a)(3), (4). Pub. L. 114-328, §816, added pars. (3) and (4).

2015—Subsec. (b)(2)(A). Pub. L. 114-92, §816(1), substituted “\$750,000” for “\$250,000”.

Subsec. (b)(2)(B). Pub. L. 114-92, §816(2), substituted “\$1,500,000” for “\$1,000,000”.

Statutory Notes and Related Subsidiaries

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.

§ 1904. Certain transactions for defense against attack

(a) AUTHORITY.—

(1) IN GENERAL.—The head of an executive agency that engages in basic research, applied research, advanced research, and development projects that are necessary to the responsibilities of the executive agency in the field of research and development and have the potential to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack may exercise the same authority (subject to the same restrictions and conditions) with respect to the research and projects as the Secretary of Defense may exercise under section 2371<sup>1</sup> of title

10, except for subsections (b) and (f) of section 2371.

(2) PROTOTYPE PROJECTS.—The head of an executive agency, under the authority of paragraph (1), may carry out prototype projects that meet the requirements of paragraph (1) in accordance with the requirements and conditions provided for carrying out prototype projects under section 845<sup>1</sup> of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160, 10 U.S.C. 2371 note), including that, to the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under section 845(a) of that Act and that the period of authority to carry out projects under section 845(a) of that Act terminates as provided in section 845(i) of that Act.

(3) APPLICATION OF REQUIREMENTS AND CONDITIONS.—In applying the requirements and conditions of section 845 of that Act under this subsection—

(A) section 845(c) of that Act shall apply with respect to prototype projects carried out under paragraph (2); and

(B) the Director of the Office of Management and Budget shall perform the functions of the Secretary of Defense under section 845(d) of that Act.

(4) APPLICABILITY TO SELECTED EXECUTIVE AGENCIES.—

(A) OFFICE OF MANAGEMENT AND BUDGET.—The head of an executive agency may exercise authority under this subsection for a project only if authorized by the Director of the Office of Management and Budget.

(B) DEPARTMENT OF HOMELAND SECURITY.—Authority under this subsection does not apply to the Secretary of Homeland Security while section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391) is in effect.

(b) REGULATIONS.—The Director of the Office of Management and Budget shall prescribe regulations to carry out this section. No transaction may be conducted under the authority of this section before the regulations take effect.

(c) ANNUAL REPORT.—The annual report of the head of an executive agency that is required under section 2371(h)<sup>1</sup> of title 10, as applied to the head of the executive agency by subsection (a), shall be submitted to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.

(d) TERMINATION OF AUTHORITY.—The authority to carry out transactions under subsection (a) terminates on September 30, 2008.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3721.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1904 .....	41:428a note.	Pub. L. 108-136, title XIV, §1441, Nov. 24, 2003, 117 Stat. 1673.

In subsection (a)(2), the reference to subsection (g) of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160, 10 U.S.C. 2371 note) is changed to subsection (i) because of section

<sup>1</sup> See References in Text note below.

847(c)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136, 117 Stat. 1554), which redesignated subsection (g) as subsection (h), and section 823(2) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163, 119 Stat. 3387), which redesignated subsection (h) as subsection (i).

In subsection (a)(3)(A), the words “paragraph (2)” are substituted for “this paragraph” to correct the cross-reference.

In subsection (a)(4)(A), the words “to use the authority for such project” are omitted as unnecessary.

In subsection (c), 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). The words “Committee on Oversight and Government Reform” are substituted for “Committee 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).

### Editorial Notes

#### REFERENCES IN TEXT

Section 2371 of title 10, referred to in subsec. (a)(1), was renumbered section 4021 of title 10 by Pub. L. 116-283, § 1841(b)(1), as amended by Pub. L. 117-81, div. A, title XVII, § 1701(u)(2)(B), Dec. 27, 2021, 135 Stat. 2151.

Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160, 10 U.S.C. 2371 note), referred to in subsec. (a)(2), was repealed by Pub. L. 114-92, div. A, title VIII, § 815(c), Nov. 25, 2015, 129 Stat. 896.

Section 2371(h) of title 10, referred to in subsec. (c), was repealed by Pub. L. 113-291, div. A, title X, § 1071(f)(20), Dec. 19, 2014, 128 Stat. 3511.

### 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.

### § 1905. List of laws inapplicable to contracts or subcontracts not greater than simplified acquisition threshold

(a) DEFINITION.—In this section, the term “Council” has the meaning given that term in section 1301 of this title.

(b) INCLUSION IN FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold. A provision of law properly included on the list pursuant to paragraph (2) does not apply to contracts or subcontracts in amounts not greater than the simplified acquisition threshold that are made by an executive agency. This section does not render a provision of law not included on the list inapplicable to contracts and subcontracts in amounts not greater than the simplified acquisition threshold.

(2) LAWS ENACTED AFTER OCTOBER 13, 1994.—A provision of law described in subsection (c) that is enacted after October 13, 1994, shall be included on the list of inapplicable provisions of laws required by paragraph (1) unless the

Council makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts or subcontracts in amounts not greater than the simplified acquisition threshold from the applicability of the provision.

(c) COVERED LAW.—A provision of law referred to in subsection (b)(2) is a provision of law that the Council determines sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that—

(1) provides for criminal or civil penalties; or  
(2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold.

(d) PETITION.—A person may petition the Administrator to take appropriate action when a provision of law described in subsection (c) is not included on the list of inapplicable provisions of law as required by subsection (b) and the Council has not made a written determination pursuant to subsection (b)(2). The Administrator shall revise the Federal Acquisition Regulation to include the provision on the list of inapplicable provisions of law unless the Council makes a determination pursuant to subsection (b)(2) within 60 days after the petition is received.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3722.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1905(a) .....	no source.	
1905(b)-(d) ..	41:429.	Pub. L. 93-400, § 33, as added Pub. L. 103-355, title IV, § 4101, Oct. 13, 1994, 108 Stat. 3339.

### § 1906. List of laws inapplicable to procurements of commercial products and commercial services

(a) DEFINITION.—In this section, the term “Council” has the meaning given that term in section 1301 of this title.

(b) CONTRACTS.—

(1) INCLUSION IN FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercial products or commercial services. A provision of law properly included on the list pursuant to paragraph (2) does not apply to purchases of commercial products or commercial services by an executive agency. This section does not render a provision of law not included on the list inapplicable to contracts for the procurement of commercial products or commercial services.

(2) LAWS ENACTED AFTER OCTOBER 13, 1994.—A provision of law described in subsection (d) that is enacted after October 13, 1994, shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Council makes a written determination that it would not be in the best interest of the Fed-

eral Government to exempt contracts for the procurement of commercial products or commercial services from the applicability of the provision.

(c) SUBCONTRACTS.—

(1) DEFINITION.—In this subsection, the term “subcontract” includes a transfer of commercial products or commercial services between divisions, subsidiaries, or affiliates of a contractor or subcontractor. The term does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.

(2) INCLUSION IN FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to subcontracts under a contract or subcontract for the procurement of commercial products or commercial services. A provision of law properly included on the list pursuant to paragraph (3) does not apply to those subcontracts. This section does not render a provision of law not included on the list inapplicable to subcontracts under a contract for the procurement of commercial products or commercial services.

(3) PROVISIONS TO BE EXCLUDED FROM LIST.—A provision of law described in subsection (d) shall be included on the list of inapplicable provisions of law required by paragraph (2) unless the Council makes a written determination that it would not be in the best interest of the Federal Government to exempt subcontracts under a contract for the procurement of commercial products or commercial services from the applicability of the provision.

(4) WAIVER NOT AUTHORIZED.—This subsection does not authorize the waiver of the applicability of any provision of law with respect to any subcontract under a contract with a prime contractor reselling or distributing commercial products or commercial services of another contractor without adding value.

(d) COVERED LAW.—A provision of law referred to in subsections (b)(2) and (c) is a provision of law that the Council determines sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that—

- (1) provides for criminal or civil penalties; or
- (2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercial products or commercial services.

(e) PETITION.—A person may petition the Administrator to take appropriate action when a provision of law described in subsection (d) is not included on the list of inapplicable provisions of law as required by subsection (b) or (c) and the Council has not made a written determination pursuant to subsection (b)(2) or (c)(3). The Administrator shall revise the Federal Acquisition Regulation to include the provision on

the list of inapplicable provisions of law unless the Council makes a determination pursuant to subsection (b)(2) or (c)(3) within 60 days after the petition is received.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3723; Pub. L. 115–91, div. A, title VIII, §820, Dec. 12, 2017, 131 Stat. 1464; Pub. L. 115–232, div. A, title VIII, §836(b)(6)(A), (B)(i), Aug. 13, 2018, 132 Stat. 1861.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1906(a) .....	no source.	
1906(b)–(e) ..	41:430.	Pub. L. 93–400, §34, as added Pub. L. 103–355, title VIII, §8003(a), Oct. 13, 1994, 108 Stat. 3388.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–232, §836(b)(6)(B)(i), substituted “List of laws inapplicable to procurements of commercial products and commercial services” for “List of laws inapplicable to procurements of commercial items” in section catchline.

Subsecs. (b) to (d). Pub. L. 115–232, §836(b)(6)(A), substituted “commercial products or commercial services” for “commercial items” wherever appearing.

2017—Subsec. (c)(1). Pub. L. 115–91 inserted at end “The term does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.”

Statutory Notes and Related Subsidiaries

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.

§ 1907. List of laws inapplicable to procurements of commercially available off-the-shelf items

(a) INCLUSION IN FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercially available off-the-shelf items. A provision of law properly included on the list pursuant to paragraph (2) does not apply to contracts for the procurement of commercially available off-the-shelf items. This section does not render a provision of law not included on the list inapplicable to contracts for the procurement of commercially available off-the-shelf items.

(2) LAWS TO BE INCLUDED.—A provision of law described in subsection (b) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Administrator makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of commercially available off-the-shelf items from the applicability of the provision.

(3) OTHER AUTHORITIES OR RESPONSIBILITIES NOT AFFECTED.—This section does not modify,



supersede, impair, or restrict authorities or responsibilities under—

- (A) section 15 of the Small Business Act (15 U.S.C. 644); or
- (B) bid protest procedures developed under the authority of—
  - (i) subchapter V of chapter 35 of title 31;
  - (ii) section 3308 of title 10; or
  - (iii) sections 3706 and 3707 of this title.

(b) COVERED LAW.—Except as provided in subsection (a)(3), a provision of law referred to in subsection (a)(1) is a provision of law that the Administrator determines imposes Federal Government-unique policies, procedures, requirements, or restrictions for the procurement of property or services on persons whom the Federal Government has awarded contracts for the procurement of commercially available off-the-shelf items, except for a provision of law that—

- (1) provides for criminal or civil penalties; or
- (2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercially available off-the-shelf items.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3724; Pub. L. 117-81, div. A, title XVII, §1702(h)(8), Dec. 27, 2021, 135 Stat. 2158.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1907 .....	41:431(a), (b).	Pub. L. 93-400, §35(a), (b), as added Pub. L. 104-106, title XLII, §4203(a), Feb. 10, 1996, 110 Stat. 654; Pub. L. 105-85, title X, §1073(g)(2)(C), Nov. 18, 1997, 111 Stat. 1906.

AMENDMENTS

2021—Subsec. (a)(3)(B)(ii). Pub. L. 117-81 substituted “section 3308” for “section 2305(e) and (f)”.

**§ 1908. Inflation adjustment of acquisition-related dollar thresholds**

(a) DEFINITION.—In this section, the term “Council” has the meaning given that term in section 1301 of this title.

(b) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the requirement for adjustment under subsection (c) applies to a dollar threshold that is specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency, as the Council determines.

(2) EXCEPTIONS.—Subsection (c) does not apply to dollar thresholds—

- (A) in chapters 67 and 83 of this title;
- (B) in sections 3141 to 3144, 3146, and 3147 of title 40;
- (C) the United States Trade Representative establishes pursuant to title III of the Trade Agreements Act of 1979 (19 U.S.C. 2511 et seq.); or
- (D) in sections 3131 through 3134 of title 40, except any modification of any such dollar threshold made by regulation in effect on

the date of the enactment of this subparagraph shall remain in effect.

(3) RELATIONSHIP TO OTHER INFLATION ADJUSTMENT AUTHORITIES.—This section supercedes the applicability of other provisions of law that provide for the adjustment of a dollar threshold that is adjustable under this section.

(c) REQUIREMENT FOR PERIODIC ADJUSTMENT.—

(1) BASELINE CONSTANT DOLLAR VALUE.—For purposes of paragraph (2), the baseline constant dollar value for a dollar threshold—

(A) in effect on October 1, 2000, that was first specified in a law that took effect on or before October 1, 2000, is the October 1, 2000, constant dollar value of that dollar threshold; and

(B) specified in a law that takes effect after October 1, 2000, is the constant dollar value of that threshold as of the effective date of that dollar threshold pursuant to that law.

(2) ADJUSTMENT.—On October 1 of each year evenly divisible by 5, the Council shall adjust each acquisition-related dollar threshold provided by law, as described in subsection (b)(1), to the baseline constant dollar value of that threshold.

(3) EXCLUSIVE MEANS OF ADJUSTMENT.—A dollar threshold adjustable under this section shall be adjusted only as provided in this section.

(d) PUBLICATION.—The Council shall publish a notice of the adjusted dollar thresholds under this section in the Federal Register. The thresholds take effect on the date of publication and shall apply, in the case of the procurement of property or services by contract, to a contract, and any subcontract at any tier under the contract, in effect on that date without regard to the date of award of the contract or subcontract.

(e) CALCULATION.—An adjustment under this section shall be—

(1) calculated on the basis of changes in the Consumer Price Index for all-urban consumers published monthly by the Secretary of Labor; and

(2) rounded, in the case of a dollar threshold that as calculated under paragraph (1) is—

- (A) less than \$10,000, to the nearest \$500;
- (B) not less than \$10,000, but less than \$100,000, to the nearest \$5,000;
- (C) not less than \$100,000, but less than \$1,000,000, to the nearest \$50,000;
- (D) not less than \$1,000,000, but less than \$10,000,000, to the nearest \$500,000;
- (E) not less than \$10,000,000, but less than \$100,000,000, to the nearest \$5,000,000;
- (F) not less than \$100,000,000, but less than \$1,000,000,000, to the nearest \$50,000,000; and
- (G) \$1,000,000,000 or more, to the nearest \$500,000,000.

(f) PETITION FOR INCLUSION OF OMITTED THRESHOLD.—

(1) PETITION SUBMITTED TO ADMINISTRATOR.—A person may request adjustment of a dollar threshold adjustable under this section that is not included in a notice of adjustment published under subsection (d) by submitting a petition for adjustment to the Administrator.

(2) ACTIONS OF ADMINISTRATOR.—On receipt of a petition for adjustment of a dollar threshold under paragraph (1), the Administrator—

(A) shall determine, in writing, whether the dollar threshold is required to be adjusted under this section; and

(B) on determining that it should be adjusted, shall publish in the Federal Register a revised notice of the adjustment dollar thresholds under this section that includes the adjustment of the dollar threshold covered by the petition.

(3) EFFECTIVE DATE OF ADJUSTMENT BY PETITION.—The adjustment of a dollar threshold pursuant to a petition under this subsection takes effect on the date the revised notice adding the adjustment under paragraph (2)(B) is published.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3725; Pub. L. 114–92, div. A, title VIII, § 817, Nov. 25, 2015, 129 Stat. 897; Pub. L. 115–91, div. A, title VIII, § 821, Dec. 12, 2017, 131 Stat. 1464; Pub. L. 117–58, div. G, title IX, § 70922(f), Nov. 15, 2021, 135 Stat. 1305; Pub. L. 117–81, div. A, title VIII, § 861, Dec. 27, 2021, 135 Stat. 1851.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1908(a) ..... 1908(b)(1) ....	no source. 41:431a(c).	Pub. L. 93–400, § 35A, as added Pub. L. 108–375, title VIII, § 807(a)(1), Oct. 28, 2004, 118 Stat. 2010.
1908(b)(2) .... 1908(b)(3) ....	41:431a(d). 41:431a note.	Pub. L. 108–375, title VIII, § 807(c)(1), Oct. 28, 2004, 118 Stat. 2011.
1908(c)(1), (2). 1908(c)(3) ....	41:431a(a). 41:431a note.	Pub. L. 108–375, title VIII, § 807(c)(2), Oct. 28, 2004, 118 Stat. 2011.
1908(d) ..... 1908(e) ..... 1908(f) .....	41:431a(b). 41:431a(e). 41:431a(f).	

In subsection (c)(3), the words “After the date of the enactment of this Act” are omitted as obsolete.

In subsection (e)(1), the words “Secretary of Labor” are substituted for “Department of Labor” because of 29:551.

Editorial Notes

REFERENCES IN TEXT

The Trade Agreements Act of 1979, referred to in subsec. (b)(2)(C), is Pub. L. 96–39, July 26, 1979, 93 Stat. 144. Title III of the Act is classified generally to subchapter I (§ 2511 et seq.) of chapter 13 of Title 19, Customs Duties. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of Title 19 and Tables.

The date of the enactment of this subparagraph, referred to in subsec. (b)(2)(D), is the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

AMENDMENTS

2021—Subsec. (b)(2)(A). Pub. L. 117–58 substituted “chapters 67 and 83” for “chapter 67”.

Subsec. (b)(2)(D). Pub. L. 117–81, § 861(a), added subpar. (D).

Subsec. (d). Pub. L. 117–81, § 861(b), struck out second period at end.

2017—Subsec. (d). Pub. L. 115–91 inserted before period at end “and shall apply, in the case of the procurement of property or services by contract, to a contract, and any subcontract at any tier under the contract, in ef-

fect on that date without regard to the date of award of the contract or subcontract.”

2015—Subsec. (e)(2). Pub. L. 114–92, § 817(1), substituted “as calculated under paragraph (1)” for “on the day before the adjustment” in introductory provisions.

Subsec. (e)(2)(D) to (G). Pub. L. 114–92, § 817(2), (3), added subpars. (D) to (G) and struck out former subpar. (D) which read as follows: “\$1,000,000 or more, to the nearest \$500,000.”

Statutory Notes and Related Subsidiaries

ADJUSTMENT FOR INFLATION OF RIGHT-HAND DRIVE PASSENGER SEDANS

Pub. L. 112–81, div. A, title VIII, § 814(b), Dec. 31, 2011, 125 Stat. 1491, provided that: “The Department of Defense representative to the Federal Acquisition Regulatory Council established under section 1302 of title 41, United States Code, shall ensure that the threshold established in section 2253 of title 10, United States Code, for the acquisition of right-hand drive passenger sedans is included on the list of dollar thresholds that are subject to adjustment for inflation in accordance with the requirements of section 1908 of title 41, United States Code, and is adjusted pursuant to such provision, as appropriate.”

§ 1909. Management of purchase cards

(a) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that issues and uses purchase cards and convenience checks shall establish and maintain safeguards and internal controls to ensure the following:

(1) There is a record in each executive agency of each holder of a purchase card issued by the agency for official use, annotated with the limitations on single transactions and total transactions that are applicable to the use of each such card or check by that purchase card holder.

(2) Each purchase card holder and individual issued a convenience check is assigned an approving official other than the card holder with the authority to approve or disapprove transactions.

(3) The holder of a purchase card and each official with authority to authorize expenditures charged to the purchase card are responsible for—

(A) reconciling the charges appearing on each statement of account for that purchase card with receipts and other supporting documentation; and

(B) forwarding a summary report to the certifying official in a timely manner of information necessary to enable the certifying official to ensure that the Federal Government ultimately pays only for valid charges that are consistent with the terms of the applicable Government-wide purchase card contract entered into by the Administrator of General Services.

(4) Any disputed purchase card charge, and any discrepancy between a receipt and other supporting documentation and the purchase card statement of account, is resolved in the manner prescribed in the applicable Government-wide purchase card contract entered into by the Administrator of General Services.

(5) Payments on purchase card accounts are made promptly within prescribed deadlines to avoid interest penalties.

(6) Rebates and refunds based on prompt payment, sales volume, or other actions by the

agency on purchase card accounts are reviewed for accuracy and properly recorded as a receipt to the agency that pays the monthly bill.

(7) Records of each purchase card transaction (including records on associated contracts, reports, accounts, and invoices) are retained in accordance with standard Government policies on the disposition of records.

(8) Periodic reviews are performed to determine whether each purchase card holder has a need for the purchase card.

(9) Appropriate training is provided to each purchase card holder and each official with responsibility for overseeing the use of purchase cards issued by the executive agency.

(10) The executive agency has specific policies regarding the number of purchase cards issued by various component organizations and categories of component organizations, the credit limits authorized for various categories of card holders, and categories of employees eligible to be issued purchase cards, and that those policies are designed to minimize the financial risk to the Federal Government of the issuance of the purchase cards and to ensure the integrity of purchase card holders.

(11) The executive agency uses effective systems, techniques, and technologies to prevent or identify illegal, improper, or erroneous purchases.

(12) The executive agency invalidates the purchase card of each employee who—

(A) ceases to be employed by the agency, immediately upon termination of the employment of the employee; or

(B) transfers to another unit of the agency, immediately upon the transfer of the employee unless the agency determines that the units are covered by the same purchase card authority.

(13) The executive agency takes steps to recover the cost of any illegal, improper, or erroneous purchase made with a purchase card or convenience check by an employee, including, as necessary, through salary offsets.

(b) **GUIDANCE.**—The Director of the Office of Management and Budget shall review existing guidance and, as necessary, prescribe additional guidance governing the implementation of the requirements of subsection (a) by executive agencies.

(c) **PENALTIES FOR VIOLATIONS.**—

(1) **IN GENERAL.**—The head of each executive agency shall provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees of the agency violate agency policies implementing the guidance required by subsection (b) or make illegal, improper, or erroneous purchases with purchase cards or convenience checks.

(2) **DISMISSAL.**—Penalties prescribed for employee misuse of purchase cards or convenience checks shall include dismissal of the employee, as appropriate.

(3) **REPORTS ON VIOLATIONS.**—The guidance prescribed under subsection (b) shall direct each head of an executive agency with more

than \$10,000,000 in purchase card spending annually, and each Inspector General of such an executive agency, on a semiannual basis, to submit to the Director of the Office of Management and Budget a joint report on violations or other actions covered by paragraph (1) by employees of such executive agency. At a minimum, the report shall set forth the following:

(A) A summary description of confirmed violations involving misuse of a purchase card following completion of a review by the agency or by the Inspector General of the agency.

(B) A summary description of all adverse personnel action, punishment, or other action taken based on each violation.

(d) **RISK ASSESSMENTS AND AUDITS.**—The Inspector General of each executive agency shall—

(1) conduct periodic assessments of the agency purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of purchase card or convenience check transactions;

(2) perform analysis or audits, as necessary, of purchase card transactions designed to identify—

(A) potentially illegal, improper, or erroneous uses of purchase cards;

(B) any patterns of such uses; and

(C) categories of purchases that could be made by means other than purchase cards in order to better aggregate purchases and obtain lower prices (excluding transactions made under card-based strategic sourcing arrangements);

(3) report to the head of the executive agency concerned on the results of such analysis or audits; and

(4) report to the Director of the Office of Management and Budget on the implementation of recommendations made to the head of the executive agency to address findings of any analysis or audit of purchase card and convenience check transactions or programs for compilation and transmission by the Director to Congress and the Comptroller General.

(e) **RELATIONSHIP TO DEPARTMENT OF DEFENSE PURCHASE CARD REGULATIONS.**—The requirements of this section shall not apply to the Department of Defense. See section 4754 of title 10 for provisions relating to management of purchase cards in the Department.

(Added Pub. L. 112–194, §2(a)(1), Oct. 5, 2012, 126 Stat. 1445; Pub. L. 117–81, div. A, title XVII, §1702(h)(9), Dec. 27, 2021, 135 Stat. 2158.)

## Editorial Notes

### AMENDMENTS

2021—Subsec. (e). Pub. L. 117–81 substituted “section 4754” for “section 2784”.

**Statutory Notes and Related Subsidiaries**

**DEADLINE FOR GUIDANCE ON MANAGEMENT OF PURCHASE CARDS**

Pub. L. 112-194, §2(c), Oct. 5, 2012, 126 Stat. 1448, required the Director of the Office of Management and Budget to prescribe the guidance required by subsec. (b) of this section not later than 180 days after Oct. 5, 2012.

**CHAPTER 21—RESTRICTIONS ON OBTAINING AND DISCLOSING CERTAIN INFORMATION**

- Sec.
- 2101. Definitions.
- 2102. Prohibitions on disclosing and obtaining procurement information.
- 2103. Actions required of procurement officers when contacted regarding non-Federal employment.
- 2104. Prohibition on former official's acceptance of compensation from contractor.
- 2105. Penalties and administrative actions.
- 2106. Reporting information believed to constitute evidence of offense.
- 2107. Savings provisions.

**§ 2101. Definitions**

In this chapter:

(1) **CONTRACTING OFFICER.**—The term “contracting officer” means an individual who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to the contract.

(2) **CONTRACTOR BID OR PROPOSAL INFORMATION.**—The term “contractor bid or proposal information” means any of the following information submitted to a Federal agency as part of, or in connection with, a bid or proposal to enter into a Federal agency procurement contract, if that information previously has not been made available to the public or disclosed publicly:

(A) Cost or pricing data (as defined in section 3701 of title 10 with respect to procurements subject to that section and section 3501(a) of this title with respect to procurements subject to that section).

(B) Indirect costs and direct labor rates.

(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

(D) Information marked by the contractor as “contractor bid or proposal information”, in accordance with applicable law or regulation.

(3) **FEDERAL AGENCY.**—The term “Federal agency” has the meaning given that term in section 102 of title 40.

(4) **FEDERAL AGENCY PROCUREMENT.**—The term “Federal agency procurement” means the acquisition (by using competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by a Federal agency using appropriated funds.

(5) **OFFICIAL.**—The term “official” means—

(A) an officer, as defined in section 2104 of title 5;

(B) an employee, as defined in section 2105 of title 5; and

(C) a member of the uniformed services, as defined in section 2101(3) of title 5.

(6) **PROTEST.**—The term “protest” means a written objection by an interested party to the award or proposed award of a Federal agency procurement contract, pursuant to subchapter V of chapter 35 of title 31.

(7) **SOURCE SELECTION INFORMATION.**—The term “source selection information” means any of the following information prepared for use by a Federal agency to evaluate a bid or proposal to enter into a Federal agency procurement contract, if that information previously has not been made available to the public or disclosed publicly:

(A) Bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices before public bid opening.

(B) Proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices.

(C) Source selection plans.

(D) Technical evaluation plans.

(E) Technical evaluations of proposals.

(F) Cost or price evaluations of proposals.

(G) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.

(H) Rankings of bids, proposals, or competitors.

(I) Reports and evaluations of source selection panels, boards, or advisory councils.

(J) Other information marked as “source selection information” based on a case-by-case determination by the head of the agency, the head's designee, or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3727; Pub. L. 117-81, div. A, title XVII, §1702(h)(10), Dec. 27, 2021, 135 Stat. 2158.)

**HISTORICAL AND REVISION NOTES**

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
2101(1) .....	41:423(f)(5).	Pub. L. 93-400, §27(f), as added Pub. L. 100-679, §6(a), Nov. 17, 1988, 102 Stat. 4063; Pub. L. 101-189, title VIII, §814(a)-(d)(1), Nov. 29, 1989, 103 Stat. 1495; Pub. L. 101-510, title XIV, §1484(l)(6), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 102-25, title VII, §705(i), Apr. 6, 1991, 105 Stat. 121; Pub. L. 103-355, title VIII, §8301(e), Oct. 13, 1994, 108 Stat. 3397; Pub. L. 104-106, title XLIII, §4304(a), Feb. 10, 1996, 110 Stat. 662.
2101(2) .....	41:423(f)(1).	
2101(3) .....	41:423(f)(3).	
2101(4) .....	41:423(f)(4).	
2101(5) .....	41:423(f)(7).	
2101(6) .....	41:423(f)(6).	
2101(7) .....	41:423(f)(2).	

**Editorial Notes**

**AMENDMENTS**

2021—Par. (2)(A). Pub. L. 117-81 substituted “section 3701” for “section 2306a(h)”.