

(B) Section 3406, relating to orders under task and delivery order contracts.

(3) Office of Federal Procurement Policy Act

Paragraphs (1)(B), (1)(D), and (2)(A) of section 1708(b) of title 41, relating to inapplicability of a requirement for procurement notice.

(b) Waiver of certain small business threshold requirements

Subclause (II) of section 637(a)(1)(D)(i) of title 15 and clause (ii) of section 657a(b)(2)(A)¹ of title 15 shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 422 of this title.

(Pub. L. 107–296, title VIII, § 856, Nov. 25, 2002, 116 Stat. 2237; Pub. L. 117–81, div. A, title XVII, § 1702(c)(4), Dec. 27, 2021, 135 Stat. 2155.)

Editorial Notes

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(1) heading, is act June 30, 1949, ch. 288, 63 Stat. 377. Title III of the Act was classified generally to subchapter IV (§251 et seq.) of chapter 4 of former Title 41, Public Contracts, and was substantially repealed and restated in division C (§3101 et seq.) of subtitle I of Title 41, Public Contracts, by Pub. L. 111–350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Short Title of 1949 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

The Office of Federal Procurement Policy Act, referred to in subsec. (a)(3) heading, is Pub. L. 93–400, Aug. 30, 1974, 88 Stat. 796, which was classified principally to chapter 7 (§401 et seq.) of former Title 41, Public Contracts, and was substantially repealed and restated in division B (§1101 et seq.) of subtitle I of Title 41, Public Contracts, by Pub. L. 111–350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

Subsec. (b) of section 657a of title 15, referred to in subsec. (b), was redesignated subsec. (c) of that section by Pub. L. 115–91, div. A, title XVII, § 1701(a)(1), Dec. 12, 2017, 131 Stat. 1795.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–81 added pars. (1) to (3) and struck out former pars. (1) to (3) which listed provisions in titles 10 and 41 to be followed for procurements.

§ 427. Review and report by Comptroller General

(a) Requirements

Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this part; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

¹ See References in Text note below.

(b) Content of report

The report under subsection (a)(2) shall include the following matters:

(1) Assessment

The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this subchapter have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) Recommendations

Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) Consultation

In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

(Pub. L. 107–296, title VIII, § 857, Nov. 25, 2002, 116 Stat. 2237.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b)(1)(A), was in the original “this title”, meaning title VIII of Pub. L. 107–296, which enacted this subchapter, chapter 97 of Title 5, Government Organization and Employees, and section 8J of the Inspector General Act of 1978, Pub. L. 95–452, formerly set out in the Appendix to Title 5 (see 5 U.S.C. 418), amended section 6 of the Inspector General Act of 1978 (see 5 U.S.C. 406), section 2517 of Title 18, Crimes and Criminal Procedure, Rule 6 of the Federal Rules of Criminal Procedure, set out in the Appendix to Title 18, section 1105 of Title 31, Money and Finance, section 416 of former Title 41, Public Contracts, and sections 1806, 1825, and 3365 of Title 50, War and National Defense, enacted provisions set out as notes under section 101 of this title, section 6 of the Inspector General Act of 1978, and section 1105 of Title 31, amended provisions set out as notes under section 2517 of Title 18, section 40101 of Title 49, Transportation, and section 2301 of Title 50, and repealed provisions set out as a note under section 1113 of Title 31. For complete classification of title VIII to the Code, see Tables.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. 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.

(Pub. L. 107-296, title VIII, §862, Nov. 25, 2002, 116 Stat. 2238.)

§ 428. Identification of new entrants into the Federal marketplace

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

(Pub. L. 107-296, title VIII, §858, Nov. 25, 2002, 116 Stat. 2238.)

PART G—SUPPORT ANTI-TERRORISM BY FOSTERING EFFECTIVE TECHNOLOGIES

§ 441. Administration

(a) In general

The Secretary shall be responsible for the administration of this part.

(b) Designation of qualified anti-terrorism technologies

The Secretary may designate anti-terrorism technologies that qualify for protection under the system of risk management set forth in this part in accordance with criteria that shall include, but not be limited to, the following:

- (1) Prior United States Government use or demonstrated substantial utility and effectiveness.
- (2) Availability of the technology for immediate deployment in public and private settings.
- (3) Existence of extraordinarily large or extraordinarily unquantifiable potential third party liability risk exposure to the Seller or other provider of such anti-terrorism technology.
- (4) Substantial likelihood that such anti-terrorism technology will not be deployed unless protections under the system of risk management provided under this part are extended.
- (5) Magnitude of risk exposure to the public if such anti-terrorism technology is not deployed.
- (6) Evaluation of all scientific studies that can be feasibly conducted in order to assess the capability of the technology to substantially reduce risks of harm.
- (7) Anti-terrorism technology that would be effective in facilitating the defense against acts of terrorism, including technologies that prevent, defeat or respond to such acts.

(c) Regulations

The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, as may be necessary to carry out this part.

Statutory Notes and Related Subsidiaries

SHORT TITLE

For short title of this part as the “Support Anti-terrorism by Fostering Effective Technologies Act of 2002” or the “SAFETY Act”, see section 861 of Pub. L. 107-296, set out as a Short Title note under section 101 of this title.

§ 442. Litigation management

(a) Federal cause of action

(1) In general

There shall exist a Federal cause of action for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law. Such Federal cause of action shall be brought only for claims for injuries that are proximately caused by sellers¹ that provide qualified anti-terrorism technology to Federal and non-Federal government² customers.

(2) Jurisdiction

Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller.

(b) Special rules

In an action brought under this section for damages the following provisions apply:

(1) Punitive damages

No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(2) Noneconomic damages

(A) In general

Noneconomic damages may be awarded against a defendant only in an amount directly proportional to the percentage of responsibility of such defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(B) Definition

For purposes of subparagraph (A), the term “noneconomic damages” means damages for

¹ So in original. Probably should be “Sellers”.

² So in original. Probably should be “Government”.