

Editorial Notes

PRIOR PROVISIONS

Prior similar provisions were contained in section 219 of act July 30, 1953, ch. 282, title II, 67 Stat. 239, which was previously classified to section 648 of this title. The provisions of section 213 of act July 30, 1953, formerly classified to this section, were transferred to section 2[8] of Pub. L. 85-536, and are classified to section 637(b)(6), (7) of this title. See Codification note set out under section 631 of this title.

§ 643. Fair charge for use of Government-owned property

To the fullest extent the Administration deems practicable, it shall make a fair charge for the use of Government-owned property and make and let contracts on a basis that will result in a recovery of the direct costs incurred by the Administration.

(Pub. L. 85-536, §2[14], July 18, 1958, 72 Stat. 395.)

Editorial Notes

PRIOR PROVISIONS

Prior similar provisions were contained in section 220 of act July 30, 1953, ch. 282, title II, 67 Stat. 240, which was previously classified to section 649 of this title. The provisions of section 214 of act July 30, 1953, formerly classified to this section, were transferred to section 2[15] of Pub. L. 85-536, and are classified to section 644 of this title. See Codification note set out under section 631 of this title.

§ 644. Awards or contracts**(a) Small business procurements****(1) In general**

For purposes of this chapter, small business concerns shall receive any award or contract if such award or contract is, in the determination of the Administrator and the contracting agency, in the interest of—

(A) maintaining or mobilizing the full productive capacity of the United States;

(B) war or national defense programs; or

(C) assuring that a fair proportion of the total purchases and contracts for goods and services of the Government in each industry category (as defined under paragraph (2)) are awarded to small business concerns.

(2) Industry category defined**(A) In general**

In this subsection, the term “industry category” means a discrete group of similar goods and services, as determined by the Administrator in accordance with the North American Industry Classification System codes used to establish small business size standards, except that the Administrator shall limit an industry category to a greater extent than provided under the North American Industry Classification System codes if the Administrator receives evidence indicating that further segmentation of the industry category is warranted—

(i) due to special capital equipment needs;

(ii) due to special labor requirements;

(iii) due to special geographic requirements, except as provided in subparagraph (B);

(iv) due to unique Federal buying patterns or requirements; or

(v) to recognize a new industry.

(B) Exception for geographic requirements

The Administrator may not further segment an industry category based on geographic requirements unless—

(i) the Government typically designates the geographic area where work for contracts for goods or services is to be performed;

(ii) Government purchases comprise the major portion of the entire domestic market for such goods or services; and

(iii) it is unreasonable to expect competition from business concerns located outside of the general geographic area due to the fixed location of facilities, high mobilization costs, or similar economic factors.

(3) Determinations with respect to awards or contracts

Determinations made pursuant to paragraph (1) may be made for individual awards or contracts, any part of an award or contract or task order, or for classes of awards or contracts or task orders.

(4) Increasing prime contracting opportunities for small business concerns**(A) Description of covered proposed procurements**

The requirements of this paragraph shall apply to a proposed procurement that includes in its statement of work goods or services currently being supplied or performed by a small business concern and, as determined by the Administrator—

(i) is in a quantity or of an estimated dollar value which makes the participation of a small business concern as a prime contractor unlikely;

(ii) in the case of a proposed procurement for construction, seeks to bundle or consolidate discrete construction projects; or

(iii) is a solicitation that involves an unnecessary or unjustified bundling of contract requirements.

(B) Notice to procurement center representatives

With respect to proposed procurements described in subparagraph (A), at least 30 days before issuing a solicitation and concurrent with other processing steps required before issuing the solicitation, the contracting agency shall provide a copy of the proposed procurement to the procurement center representative of the contracting agency (as described in subsection (I)) along with a statement explaining—

(i) why the proposed procurement cannot be divided into reasonably small lots (not less than economic production runs) to permit offers on quantities less than the total requirement;

(ii) why delivery schedules cannot be established on a realistic basis that will encourage the participation of small business