

(§§6101–6103) of title VI of Pub. L. 110–252, see Tables for classification] may be cited as the ‘Close the Contractor Fraud Loophole Act.’”

SHORT TITLE OF 2003 ACT

Pub. L. 108–136, div. A, title XIV, §1401, Nov. 24, 2003, 117 Stat. 1663, provided that: “This title [see Tables for classification] may be cited as the ‘Services Acquisition Reform Act of 2003.’”

SHORT TITLE OF 1996 ACT

Pub. L. 104–106, div. D, §4001, Feb. 10, 1996, 110 Stat. 642, as amended by Pub. L. 104–208, div. A, title I, §101(f) [title VIII, §808(a)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–393, provided that: “This division [div. D (§§4001–4402) of Pub. L. 104–106, see Tables for classification] and division E (§§5001–5703 of Pub. L. 104–106, repealed and reenacted, generally, as subtitle III (§11101 et seq.) of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, see Tables for complete classification] may be cited as the ‘Clinger-Cohen Act of 1996.’”

SHORT TITLE OF 1994 ACT

Pub. L. 103–355, §1, Oct. 13, 1994, 108 Stat. 3243, provided that: “This Act [see Tables for classification] may be cited as the ‘Federal Acquisition Streamlining Act of 1994.’”

SHORT TITLE OF 1988 ACT

Pub. L. 100–679, §1, Nov. 17, 1988, 102 Stat. 4055, provided that: “This Act [see Tables for classification] may be cited as the ‘Office of Federal Procurement Policy Act Amendments of 1988.’”

Pub. L. 100–418, title VII, §7001, Aug. 23, 1988, 102 Stat. 1545, provided that: “This title [see Tables for classification] may be cited as the ‘Buy American Act of 1988.’”

SHORT TITLE OF 1986 ACT

Pub. L. 99–634, §1, Nov. 7, 1986, 100 Stat. 3523, provided: “That this Act [see Tables for classification] may be cited as the ‘Anti-Kickback Enforcement Act of 1986.’”

SHORT TITLE OF 1984 ACT

Pub. L. 98–577, §1, Oct. 30, 1984, 98 Stat. 3066, provided that this Act [see Tables for classification] may be cited as the “Small Business and Federal Procurement Competition Enhancement Act of 1984”.

Pub. L. 98–369, div. B, title VII, §2701, July 18, 1984, 98 Stat. 1175, provided that: “This title [see Tables for classification] may be cited as the ‘Competition in Contracting Act of 1984.’”

SHORT TITLE OF 1983 ACT

Pub. L. 98–191, §1, Dec. 1, 1983, 97 Stat. 1325, provided: “That this Act [see Tables for classification] may be cited as the ‘Office of Federal Procurement Policy Act Amendments of 1983.’”

SHORT TITLE OF 1979 ACT

Pub. L. 96–83, §1(a), Oct. 10, 1979, 93 Stat. 648, provided that: “This Act [see Tables for classification] may be cited as the ‘Office of Federal Procurement Policy Act Amendments of 1979.’”

SHORT TITLE OF 1974 ACT

Pub. L. 93–400, §1(a), Aug. 30, 1974, 88 Stat. 796, as amended by Pub. L. 103–355, title X, §10005(a)(1), Oct. 13, 1994, 108 Stat. 3406, provided that: “This Act [see Tables for classification] may be cited as the ‘Office of Federal Procurement Policy Act.’”

SHORT TITLE OF 1949 ACT

Act June 30, 1949, ch. 288, §1(a), 63 Stat. 377, as amended by Pub. L. 103–355, title X, §10005(a)(2), Oct. 13, 1994, 108 Stat. 3406; Pub. L. 107–217, §6(b), Aug. 21, 2002, 116

Stat. 1304; Pub. L. 108–178, §2(b)(1), Dec. 15, 2003, 117 Stat. 2640, provided that: “This Act [see Tables for classification] may be cited as the ‘Federal Property and Administrative Services Act of 1949.’”

[Pub. L. 107–217, §6(b), which had repealed section 1(a) of act June 30, 1949, set out above, was itself repealed effective Aug. 21, 2002, by Pub. L. 108–178, §2(b)(1), insofar as it related to section 1(a) of act June 30, 1949, and Pub. L. 108–178, §2(b)(1), further provided that section 1(a) of act June 30, 1949, was revived to read as if Pub. L. 107–217, §6(b), had not been enacted.]

SHORT TITLE OF 1936 ACT

Act June 30, 1936, ch. 881, §14, formerly §12, as added by Pub. L. 103–355, title X, §10005(f)(5), Oct. 13, 1994, 108 Stat. 3409; renumbered §14, Pub. L. 104–106, div. D, title XLIII, §4321(f)(1)(B), Feb. 10, 1996, 110 Stat. 675, provided that: “This Act [see Tables for classification] may be cited as the ‘Walsh-Healey Act.’”

SHORT TITLE OF 1933 ACT

Act Mar. 3, 1933, ch. 212, title III, §7, formerly §5, as added by Pub. L. 103–355, title X, §10005(f)(4), Oct. 13, 1994, 108 Stat. 3409; renumbered §7 and amended by Pub. L. 104–106, div. D, title XLIII, §4321(a)(11), Feb. 10, 1996, 110 Stat. 671, provided that: “This title [see Tables for classification] may be cited as the ‘Buy American Act.’”

§ 102. Commercial component

In this subtitle, the term “commercial component” means a component that is a commercial product.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3678; Pub. L. 115–232, div. A, title VIII, §836(a)(2)(A), Aug. 13, 2018, 132 Stat. 1860.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
102	41:259(c)(13).	June 30, 1949, ch. 288, title III, §309(c)(13), as added Pub. L. 98–369, title VII, §2711(a)(3), July 18, 1984, 98 Stat. 1180; Pub. L. 98–577, title V, §504(a)(4), Oct. 30, 1984, 98 Stat. 3086; Pub. L. 103–355, title I, §1551, Oct. 13, 1994, 108 Stat. 3299.
	41:264a (“commercial component”).	June 30, 1949, ch. 288, title III, §314A (“commercial component”), as added Pub. L. 103–355, title VIII, §8202, Oct. 13, 1994, 108 Stat. 3394.
	41:403(15).	Pub. L. 93–400, §4(15), as added Pub. L. 103–355, title VIII, §8001(a), Oct. 13, 1994, 108 Stat. 3386.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–232 substituted “commercial product” for “commercial item”.

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.

§ 103. Commercial product

In this subtitle, the term “commercial product” means any of the following:

- (1) A product, other than real property, that—

(A) is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes; and

(B) has been sold, leased, or licensed, or offered for sale, lease, or license, to the general public.

(2) A product that—

(A) evolved from a product described in paragraph (1) through advances in technology or performance; and

(B) is not yet available in the commercial marketplace but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Federal Government solicitation.

(3) A product that would satisfy the criteria in paragraph (1) or (2) were it not for—

(A) modifications of a type customarily available in the commercial marketplace; or

(B) minor modifications made to meet Federal Government requirements.

(4) Any combination of products meeting the requirements of paragraph (1), (2), or (3) that are of a type customarily combined and sold in combination to the general public.

(5) A product, or combination of products, referred to in paragraphs (1) through (4), even though the product, or combination of products, is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

(6) A nondevelopmental item if the procuring agency determines, in accordance with conditions in the Federal Acquisition Regulation, that—

(A) the product was developed exclusively at private expense; and

(B) has been sold in substantial quantities, on a competitive basis, to multiple State and local governments or to multiple foreign governments.

(Added Pub. L. 115-232, div. A, title VIII, § 836(a)(1), Aug. 13, 2018, 132 Stat. 1859.)

Editorial Notes

PRIOR PROVISIONS

A prior section 103, Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3679; Pub. L. 115-91, div. A, title VIII, § 847(a), Dec. 12, 2017, 131 Stat. 1487, defined term “commercial item”, prior to repeal by Pub. L. 115-232, div. A, title VIII, § 836(a)(1), Aug. 13, 2018, 132 Stat. 1859, effective Jan. 1, 2020. See Effective Date note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective, and repeal of former section 103 effective, on 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.

§ 103a. Commercial service

In this subtitle, the term “commercial service” means any of the following:

(1) Installation services, maintenance services, repair services, training services, and other services if—

(A) those services are procured for support of a commercial product, regardless of whether the services are provided by the same source or at the same time as the commercial product; and

(B) the source of the services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;

(2) Services of a type offered and sold competitively, in substantial quantities, in the commercial marketplace—

(A) based on established catalog or market prices;

(B) for specific tasks performed or specific outcomes to be achieved; and

(C) under standard commercial terms and conditions.

(3) A service described in paragraph (1) or (2), even though the service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

(Added Pub. L. 115-232, div. A, title VIII, § 836(a)(1), Aug. 13, 2018, 132 Stat. 1860.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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.

§ 104. Commercially available off-the-shelf item

In this subtitle, the term “commercially available off-the-shelf item”—

(1) means an item that—

(A) is a commercial product (as described in section 103(1) of this title);

(B) is sold in substantial quantities in the commercial marketplace; and

(C) is offered to the Federal Government, without modification, in the same form in which it is sold in the commercial marketplace; but

(2) does not include bulk cargo, as defined in section 40102(4) of title 46, such as agricultural products and petroleum products.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3679; Pub. L. 115-232, div. A, title VIII, § 836(a)(2)(B), Aug. 13, 2018, 132 Stat. 1860; Pub. L. 116-283, div. A, title X, § 1081(d)(4)(A), Jan. 1, 2021, 134 Stat. 3874.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
104	41:431(c).	Pub. L. 93-400, § 35(c), as added Pub. L. 104-106, title XLII, § 4203(a), Feb. 10, 1996, 110 Stat. 655.

In paragraph (2), the words “section 40102(4) of title 46” are substituted for “section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)” because of section 18(c) of Public Law 109-304 (46 U.S.C. note prec. 101).