

VII, §702(b)(2), Dec. 26, 2013, 127 Stat. 1189, struck out item 1127 “Determining benchmark compensation amount”.

SUBCHAPTER I—GENERAL

§ 1101. Office of Federal Procurement Policy

(a) ORGANIZATION.—There is an Office of Federal Procurement Policy in the Office of Management and Budget.

(b) PURPOSES.—The purposes of the Office of Federal Procurement Policy are to—

- (1) provide overall direction of Government-wide procurement policies, regulations, procedures, and forms for executive agencies; and
- (2) promote economy, efficiency, and effectiveness in the procurement of property and services by the executive branch of the Federal Government.

(c) AUTHORIZATION OF APPROPRIATIONS.—Necessary amounts may be appropriated each fiscal year for the Office of Federal Procurement Policy to carry out the responsibilities of the Office for that fiscal year.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3684.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1101(a), (b)	41:404(a).	Pub. L. 93-400, §(5)(a), Aug. 30, 1974, 88 Stat. 797; Pub. L. 104-106, title XLIII, §4305(a)(1), Feb. 10, 1996, 110 Stat. 665.
1101(c)	41:410.	Pub. L. 93-400, §11, Aug. 30, 1974, 88 Stat. 799; Pub. L. 96-83, §7, Oct. 10, 1979, 93 Stat. 651; Pub. L. 98-191, §6, Dec. 1, 1983, 97 Stat. 1329; Pub. L. 100-679, §3(b), Nov. 17, 1988, 102 Stat. 4056; Pub. L. 104-106, title XLIII, §4305(c)(2), Feb. 10, 1996, 110 Stat. 665.

Statutory Notes and Related Subsidiaries

PROMOTING RIGOROUS AND INNOVATIVE COST EFFICIENCIES FOR FEDERAL PROCUREMENT AND ACQUISITIONS

Pub. L. 117-88, Feb. 22, 2022, 136 Stat. 20, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Promoting Rigorous and Innovative Cost Efficiencies for Federal Procurement and Acquisitions Act of 2021’ or the ‘PRICE Act of 2021’.

“SEC. 2. FINDINGS.

“Congress finds that—

“(1) small business participation in the Federal marketplace is key to ensuring a strong industrial base;

“(2) the Business Opportunity Development Reform Act of 1988 (Public Law 100-656) [see Tables for classification] sets forth the requirement for the President to establish Government-wide goals for procurement contracts awarded to small businesses;

“(3) each year, the Small Business Administration works with each Federal agency to set their respective contracting goals and publishes a scorecard to ensure that the total of all Federal agency goals meets the required targets for the Federal Government;

“(4) the Department has received among the highest scorecard letter grades 10 years in a row and is the largest Federal agency to have such a track record;

“(5) in virtually every segment of the economy of the United States, including the homeland security community, there are small businesses working to support the mission and playing a critical role in delivering efficient and innovative solutions to the acquisition needs of the Federal Government;

“(6) the Procurement Innovation Lab of the Department—

“(A) is aimed at experimenting with innovative acquisition techniques across the Homeland Security Enterprise;

“(B) provides a forum to test new ideas, share lessons learned, and promote best practices;

“(C) fosters cultural changes that promote innovation and managed risk taking through a continuous cycle of testing, obtaining feedback, sharing information, and retesting where appropriate; and

“(D) aims to make the acquisition process more smooth and innovative within the construct of the Federal Acquisition Regulation for both the Federal Government and contractors; and

“(7) despite progress in the adoption of new and better business practices by many Federal agencies, the overall adoption of modernized business practices and advanced technologies across the Federal Government remains slow and uneven.

“SEC. 3. DEFINITIONS.

“In this Act:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator for Federal Procurement Policy.

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

“(A) the Committee on Homeland Security and Governmental Affairs and the Committee on Small Business and Entrepreneurship of the Senate; and

“(B) the Committee on Homeland Security, the Committee on Oversight and Reform [now Committee on Oversight and Accountability], and the Committee on Small Business of the House of Representatives.

“(3) COUNCIL.—The term ‘Council’ means the Chief Acquisition Officers Council established under section 1311 of title 41, United States Code.

“(4) DEPARTMENT.—The term ‘Department’ means the Department of Homeland Security.

“(5) HOMELAND SECURITY ENTERPRISE.—The term ‘Homeland Security Enterprise’ has the meaning given the term in section 2211(h) of the Homeland Security Act of 2002 (6 U.S.C. 661(h)) [see 6 U.S.C. 650(1)].

“(6) SCORECARD.—The term ‘scorecard’ means the scorecard described in section 868(b) of the National Defense Authorization Act for Fiscal Year 2016 [Pub. L. 114-92] (15 U.S.C. 644 note) [now 15 U.S.C. 644(y)(6)].

“(7) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(8) SMALL BUSINESS.—The term ‘small business’ means—

“(A) a qualified HUBZone small business concern, a small business concern, a small business concern owned and controlled by service-disabled veterans, or a small business concern owned and controlled by women, as those terms are defined in section 3 of the Small Business Act (15 U.S.C. 632);

“(B) a small business concern owned and controlled by socially and economically disadvantaged individuals, as defined in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)); or

“(C) a small business concern unconditionally owned by an economically disadvantaged Indian tribe or an economically disadvantaged Native Hawaiian organization that qualifies as a socially and economically disadvantaged small business concern, as defined in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).

“(9) UNDER SECRETARY.—The term ‘Under Secretary’ means the Under Secretary for Management of the Department.

“SEC. 4. PROCUREMENT INNOVATION LAB REPORT.

“(a) REPORT.—The Under Secretary shall publish an annual report on a website of the Department on Procurement Innovation Lab projects that have used innovative techniques within the Department to accomplish—

- “(1) improving or encouraging better competition;
- “(2) reducing time to award;
- “(3) cost savings;
- “(4) better mission outcomes; or
- “(5) meeting the goals for contracts awarded to small business concerns under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

“(b) EDUCATION.—The Under Secretary shall develop and disseminate guidance and offer training for contracting officers, contracting specialists, program managers, and other personnel of the Department, as determined appropriate by the Under Secretary, concerning when and how to use the innovative procurement techniques of the Department.

“(c) BEST PRACTICES.—The Under Secretary shall share best practices across the Department and make available to other Federal agencies information to improve procurement methods and training, as determined appropriate by the Under Secretary.

“(d) SUNSET.—This section shall cease to be effective on the date that is 3 years after the date of enactment of this Act [Feb. 22, 2022].

“SEC. 5. COUNCIL.

“(a) ESTABLISHMENT.—Not later than 45 days after the date of enactment of this Act [Feb. 22, 2022], the Administrator shall convene the Council to examine best practices for acquisition innovation in contracting in the Federal Government, including small business contracting in accordance with the goals established under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

“(b) WORKING GROUP.—The Council may form a working group to address the requirements of this section, which, if formed, shall—

“(1) be chaired by the Administrator or a designee of the Administrator; and

“(2) be composed of—

“(A) the Chief Procurement Officer of the Department;

“(B) Council members from—

- “(i) the General Services Administration;
- “(ii) the Department of Defense;
- “(iii) the Department of the Treasury;
- “(iv) the Department of Veterans Affairs;
- “(v) the Department of Health and Human Services;
- “(vi) the Small Business Administration; and
- “(vii) such other Federal agencies as determined by the chair of the Council from among Federal agencies that have demonstrated significant, sustained progress using innovative acquisition practices and technologies, including for small business contracting, during each of the 3 years preceding the date of enactment of this Act; and

“(C) other employees, as determined appropriate by the chair of the Council, of Federal agencies with the requisite senior experience to make recommendations to improve Federal agency efficiency, effectiveness, and economy, including in promoting small business contracting.

“(c) DUTIES OF THE COUNCIL.—The Council, or a working group formed under subsection (b), shall—

“(1) convene not later than 90 days after the date of enactment of this Act and thereafter on a quarterly basis until the Council submits the report required under subsection (d)(1); and

“(2) conduct outreach with the workforce and the public in meeting the requirements under subsection (d)(1).

“(d) REPORT.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Council shall sub-

mit to the appropriate congressional committees a report that describes—

“(A) innovative acquisition practices and applications of technologies that have worked well in achieving better procurement outcomes, including increased efficiency, improved program outcomes, better customer experience, and meeting or exceeding the goals under section 15(g) of the Small Business Act (15 U.S.C. 644(g)), and the reasons why those practices have succeeded;

“(B) steps to identify and adopt transformational commercial business practices, modernized data analytics, and advanced technologies that allow decision making to occur in a more friction-free buying environment and improve customer experience; and

“(C) any recommendations for statutory changes to accelerate the adoption of innovative acquisition practices.

“(2) BRIEFING.—Not later than 18 months after the date of enactment of this Act, the Administrator shall brief the appropriate congressional committees on the means by which the findings and recommendations of the report have been disseminated under paragraph (3).

“(3) PUBLICATION AND DISSEMINATION OF REPORT FINDINGS.—To promote more rapid adoption of acquisition best practices, the Administrator shall—

“(A) publish the report required under paragraph (1) on the website of the Office of Management and Budget and on the Innovation Hub on the Acquisition Gateway or any successor Government-wide site available for increasing awareness of resources dedicated to procurement innovation; and

“(B) encourage the head of each Federal agency to maintain a site on the website of the Federal agency for acquisition and contracting professionals, program managers, members of the public, and others as appropriate that is—

“(i) dedicated to acquisition innovation; and

“(ii) identifies—

“(I) resources, including the acquisition innovation advocate and industry liaison of the Federal agency;

“(II) learning assets for the workforce, including the findings and recommendations made in the report required under paragraph (1);

“(III) events to build awareness and understanding of innovation activities;

“(IV) award recognition programs and recent recipients; and

“(V) upcoming plans to leverage innovative practices and technologies.

“(e) EXPERTS.—In carrying out the duties of the Council under this section, the Council is encouraged to consult with governmental and nongovernmental experts.

“(f) TERMINATION.—The duties of the Council as set forth in this section shall terminate 30 days after the date on which the Council conducts the briefing required under subsection (d)(2).”

REQUIREMENTS FOR USE OF APPROPRIATIONS BY EXECUTIVE AGENCIES FOR SERVICES BY CONTRACT

Pub. L. 102-394, title V, §502, Oct. 6, 1992, 106 Stat. 1825, provided that: “No part of any appropriation contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 401 et seq.) [see this division (except sections 1123, 2303, 2304, and 2313)], pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-170, title V, §502, Nov. 26, 1991, 105 Stat. 1140.

Pub. L. 101-517, title V, §502, Nov. 5, 1990, 104 Stat. 2221.
 Pub. L. 101-166, title V, §502, Nov. 21, 1989, 103 Stat. 1189.
 Pub. L. 100-202, §101(h) [title V, §502], Dec. 22, 1987, 101 Stat. 1329-256, 1329-287.
 Pub. L. 99-500, §101(i) [H.R. 5233, title V, §502], Oct. 18, 1986, 100 Stat. 1783-287, and Pub. L. 99-591, §101(i) [H.R. 5233, title V, §502], Oct. 30, 1986, 100 Stat. 3341-287.
 Pub. L. 99-178, title V, §502, Dec. 12, 1985, 99 Stat. 1132.
 Pub. L. 98-619, title V, §502, Nov. 8, 1984, 98 Stat. 3332.
 Pub. L. 98-139, title V, §502, Oct. 31, 1983, 97 Stat. 899.
 Pub. L. 97-377, title I, §101(e)(1) [title V, §502], Dec. 21, 1982, 96 Stat. 1878, 1904.

sections 1122(a) to (c)(1), 1125, 1126, 1130, 1131, and 2305 of this title.

(d) WHEN CERTAIN AGENCIES ARE UNABLE TO AGREE OR FAIL TO ACT.—In any instance in which the Administrator determines that the Department of Defense, the National Aeronautics and Space Administration, and the General Services Administration are unable to agree on or fail to issue Government-wide regulations, procedures, and forms in a timely manner, including regulations, procedures, and forms necessary to implement prescribed policy the Administrator initiates under subsection (b), the Administrator, with due regard for applicable laws and the program activities of the executive agencies and consistent with the policies and functions set forth in this division, shall prescribe Government-wide regulations, procedures, and forms which executive agencies shall follow in procuring items listed in subsection (c)(1).

§ 1102. Administrator

(a) HEAD OF OFFICE.—The head of the Office of Federal Procurement Policy is the Administrator for Federal Procurement Policy.

(b) APPOINTMENT.—The Administrator is appointed by the President, by and with the advice and consent of the Senate.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3684.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1102	41:404(b).	Pub. L. 93-400, §(5)(b), Aug. 30, 1974, 88 Stat. 797.

SUBCHAPTER II—AUTHORITY AND FUNCTIONS OF THE ADMINISTRATOR

§ 1121. General authority

(a) OVERALL DIRECTION AND LEADERSHIP.—The Administrator shall provide overall direction of procurement policy and leadership in the development of procurement systems of the executive agencies.

(b) FEDERAL ACQUISITION REGULATION.—To the extent that the Administrator considers appropriate in carrying out the policies and functions set forth in this division, and with due regard for applicable laws and the program activities of the executive agencies, the Administrator may prescribe Government-wide procurement policies. The policies shall be implemented in a single Government-wide procurement regulation called the Federal Acquisition Regulation.

(c) POLICIES TO BE FOLLOWED BY EXECUTIVE AGENCIES.—

(1) AREAS OF PROCUREMENT FOR WHICH POLICIES ARE TO BE FOLLOWED.—The policies implemented in the Federal Acquisition Regulation shall be followed by executive agencies in the procurement of—

- (A) property other than real property in being;
- (B) services, including research and development; and
- (C) construction, alteration, repair, or maintenance of real property.

(2) PROCEDURES TO ENSURE COMPLIANCE.—The Administrator shall establish procedures to ensure compliance with the Federal Acquisition Regulation by all executive agencies.

(3) APPLICATION OF OTHER LAWS.—The authority of an executive agency under another law to prescribe policies, regulations, procedures, and forms for procurement is subject to the authority conferred in this section and

(e) OVERSIGHT OF PROCUREMENT REGULATIONS OF OTHER AGENCIES.—The Administrator, with the concurrence of the Director of the Office of Management and Budget, and with consultation with the head of the agency concerned, may deny the promulgation of or rescind any Government-wide regulation or final rule or regulation of any executive agency relating to procurement if the Administrator determines that the rule or regulation is inconsistent with any policies, regulations, or procedures issued pursuant to subsection (b).

(f) LIMITATION ON AUTHORITY.—The authority of the Administrator under this division shall not be construed to—

- (1) impair or interfere with the determination by executive agencies of their need for, or their use of, specific property, services, or construction, including particular specifications for the property, services, or construction; or
- (2) interfere with the determination by executive agencies of specific actions in the award or administration of procurement contracts.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3684.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1121(a)-(c) (1).	41:405(a).	Pub. L. 93-400, §6(a), Aug. 30, 1974, 88 Stat. 797; Pub. L. 96-83, §4, Oct. 10, 1979, 93 Stat. 649; Pub. L. 98-191, §5, Dec. 1, 1983, 97 Stat. 1326; Pub. L. 100-679, §3(a)(1), Nov. 17, 1988, 102 Stat. 4055.
1121(c)(2)	41:405a (1st sentence).	Pub. L. 95-507, title II, §222 (1st sentence), Oct. 24, 1978, 92 Stat. 1771.
1121(c)(3)	41:408.	Pub. L. 93-400, §9, Aug. 30, 1974, 88 Stat. 799.
1121(d)	41:405(b).	Pub. L. 93-400, §6(b), Aug. 30, 1974, 88 Stat. 797; Pub. L. 96-83, §4, Oct. 10, 1979, 93 Stat. 649; Pub. L. 98-191, §5, Dec. 1, 1983, 97 Stat. 1327; Pub. L. 100-679, §3(a)(2), Nov. 17, 1988, 102 Stat. 4055; Pub. L. 104-106, title XLIII, §4322(a)(1), Feb. 10, 1996, 110 Stat. 677.
1121(e)	41:405(f).	Pub. L. 93-400, §6(f), Aug. 30, 1974, 88 Stat. 797; Pub. L. 96-83, §4, Oct. 10, 1979, 93 Stat. 649; Pub. L. 98-191, §5, Dec. 1, 1983, 97 Stat. 1328; Pub. L. 100-679, §3(a)(4), Nov. 17, 1988, 102 Stat. 4056; Pub. L. 104-201, title X, §1074(f)(1), Sept. 23, 1996, 110 Stat. 2661.