

(1) the Department of Defense is responsible for the system and the total expenditures for research, development, testing, and evaluation for the system are estimated to exceed \$75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement exceeds \$300,000,000 (based on fiscal year 1980 constant dollars);

(2) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed the greater of \$750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a major system established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled “Major Systems Acquisitions”; or

(3) the head of the agency responsible for the system designates the system a major system.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3680.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
109	41:259(c)(7). 41:403(9).	June 30, 1949, ch. 288, title III, §309(c)(7), 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. Pub. L. 93-400, §4(9), formerly §4(10), as added Pub. L. 98-577, title I, §102(3), Oct. 30, 1984, 98 Stat. 3067; redesignated as §4(9), Pub. L. 100-679, §3(c), Nov. 17, 1988, 102 Stat. 4056; Pub. L. 103-355, title VIII, §8001(b)(1)-(3), Oct. 13, 1994, 108 Stat. 3386.

§ 110. Nondevelopmental item

In this subtitle, the term “nondevelopmental item” means—

(1) a commercial product;

(2) a previously developed item of supply that is in use by a department or agency of the Federal Government, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(3) an item of supply described in paragraph (1) or (2) that requires only minor modification or modification of the type customarily available in the commercial marketplace to meet the requirements of the procuring department or agency; or

(4) an item of supply currently being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item is not yet in use.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3680; Pub. L. 115-232, div. A, title VIII, §836(a)(2)(C), Aug. 13, 2018, 132 Stat. 1860.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
110	41:259(c)(12). 41:264a (“non-developmental item”). 41:403(13).	June 30, 1949, ch. 288, title III, §309(c)(12), 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. June 30, 1949, ch. 288, title III, §314A (“nondevelopmental item”), as added Pub. L. 103-355, title VIII, §8202, Oct. 13, 1994, 108 Stat. 3394. Pub. L. 93-400, §4(13), as added Pub. L. 103-355, title VIII, §8001(a), Oct. 13, 1994, 108 Stat. 3385.

Editorial Notes

AMENDMENTS

2018—Par. (1). 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.

§ 111. Procurement

In this subtitle, the term “procurement” includes all stages of the process of acquiring property or services, beginning with the process for determining a need for property or services and ending with contract completion and close-out.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3681.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
111	41:259(c)(1). 41:403(2).	June 30, 1949, ch. 288, title III, §309(c)(1), 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. 3298. Pub. L. 93-400, §4(2), Aug. 30, 1974, 88 Stat. 797; Pub. L. 96-83, §3, Oct. 10, 1979, 93 Stat. 649; Pub. L. 98-191, §4, Dec. 1, 1983, 97 Stat. 1326; Pub. L. 103-355, title VIII, §8001(b)(1)-(3), Oct. 13, 1994, 108 Stat. 3386.

§ 112. Procurement system

In this subtitle, the term “procurement system” means the integration of the procurement process, the professional development of procurement personnel, and the management structure for carrying out the procurement function.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3681.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
112	41:259(c)(2).	June 30, 1949, ch. 288, title III, §309(c)(2), 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.
	41:403(3).	Pub. L. 93-400, §4(3), Aug. 30, 1974, 88 Stat. 797; Pub. L. 96-83, §3, Oct. 10, 1979, 93 Stat. 649; Pub. L. 98-191, §4, Dec. 1, 1983, 97 Stat. 1326; Pub. L. 103-355, title VIII, §8001(b)(1)-(3), Oct. 13, 1994, 108 Stat. 3386.

§ 113. Responsible source

In this subtitle, the term “responsible source” means a prospective contractor that—

- (1) has adequate financial resources to perform the contract or the ability to obtain those resources;
- (2) is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and Government business commitments;
- (3) has a satisfactory performance record;
- (4) has a satisfactory record of integrity and business ethics;
- (5) has the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain the organization, experience, controls, and skills;
- (6) has the necessary production, construction, and technical equipment and facilities, or the ability to obtain the equipment and facilities; and
- (7) is otherwise qualified and eligible to receive an award under applicable laws and regulations.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3681.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
113	41:259(c)(5).	June 30, 1949, ch. 288, title III, §309(c)(5), 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.
	41:403(7).	Pub. L. 93-400, §4(7), formerly §4(8), as added Pub. L. 98-369, title VII, §2731(3), July 18, 1984, 98 Stat. 1195; Pub. L. 98-577, title I, §102(2), Oct. 30, 1984, 98 Stat. 3067; redesignated as §4(7), Pub. L. 100-679, §3(c), Nov. 17, 1988, 102 Stat. 4056; Pub. L. 103-355, title VIII, §8001(b)(1)-(3), Oct. 13, 1994, 108 Stat. 3386.

§ 114. Standards

In this subtitle, the term “standards” means the criteria for determining the effectiveness of the procurement system by measuring the performance of the various elements of the system.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3681.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
114	41:259(c)(3).	June 30, 1949, ch. 288, title III, §309(c)(3), 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.
	41:403(4).	Pub. L. 93-400, §4(4), formerly §4(5), Aug. 30, 1974, 88 Stat. 797; Pub. L. 96-83, §3, Oct. 10, 1979, 93 Stat. 649; Pub. L. 98-191, §4, Dec. 1, 1983, 97 Stat. 1326; Pub. L. 98-369, title VII, §2731(2), July 18, 1984, 98 Stat. 1195; redesignated as §4(4), Pub. L. 100-679, §3(c), Nov. 17, 1988, 102 Stat. 4056; Pub. L. 103-355, title VIII, §8001(b)(1), (2), (4), Oct. 13, 1994, 108 Stat. 3386.

§ 115. Supplies

In this subtitle, the term “supplies” has the same meaning as the terms “item” and “item of supply”.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3681.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
115	41:259(c)(10).	June 30, 1949, ch. 288, title III, §309(c)(10) (“supplies”), 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.
	41:403(10) (“supplies”).	Pub. L. 93-400, §4(10) (“supplies”), formerly §4(11), as added Pub. L. 98-577, title I, §102(3), Oct. 30, 1984, 98 Stat. 3067; redesignated as §4(10), Pub. L. 100-679, §3(c), Nov. 17, 1988, 102 Stat. 4056; Pub. L. 103-355, title VIII, §8001(b)(1), (2), (4), Oct. 13, 1994, 108 Stat. 3386.

§ 116. Technical data

In this subtitle, the term “technical data”—

- (1) means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer software documentation) relating to supplies procured by an agency; but
- (2) does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3681.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
116	41:259(c)(6).	June 30, 1949, ch. 288, title III, §309(c)(6), 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.