

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1121(f)	41:405(c).	Pub. L. 93-400, § 6(c), 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.

In subsection (c)(2), the text of 41:405a (1st sentence relating to promulgating a single, simplified, uniform Federal procurement regulation) is omitted as superseded by 41:405(a) because of section 11 of the Office of Federal Procurement Policy Act Amendments of 1979 (Public Law 96-83, 93 Stat. 652).

Statutory Notes and Related Subsidiaries

SUPERSEDURE OF INCONSISTENT STATUTORY PROVISIONS

Pub. L. 96-83, § 11, Oct. 10, 1979, 93 Stat. 652, provided that: “The provisions of the Act [Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, see this division (except sections 1123, 2303, 2304, and 2313)] as amended by this Act [see Short Title of 1979 Act note set out under section 101 of this title] shall supersede the provisions of section 222 of the Act of October 24, 1978, entitled ‘An Act to amend the Small Business Act and the Small Business Investment Act of 1958’ ([former] 41 U.S.C. 405a) [now 41 U.S.C. 1121(c)(2), 1123] to the extent they are inconsistent therewith.”

FEDERAL SUPPORT FOR ENHANCEMENT OF STATE AND LOCAL ANTI-TERRORISM RESPONSE CAPABILITIES

Pub. L. 108-136, div. A, title VIII, § 803, Nov. 24, 2003, 117 Stat. 1541, provided that:

“(a) PROCUREMENTS OF ANTI-TERRORISM TECHNOLOGIES AND SERVICES BY STATE AND LOCAL GOVERNMENTS.—The Administrator for Federal Procurement Policy shall establish a program under which States and units of local government may procure through contracts entered into by the Department of Defense or the Department of Homeland Security anti-terrorism technologies or anti-terrorism services for the purpose of preventing, detecting, identifying, deterring, or recovering from acts of terrorism.

“(b) AUTHORITIES.—Under the program, the Secretary of Defense and the Secretary of Homeland Security may, but shall not be required to, award contracts using the procedures established by the Administrator of General Services for the multiple awards schedule program of the General Services Administration.

“(c) DEFINITION.—In this section, the term ‘State or local government’ has the meaning provided in section 502(c)(3) of title 40, United States Code.”

PROFIT METHODOLOGY STUDY

Pub. L. 100-679, § 7, Nov. 17, 1988, 102 Stat. 4068, provided that:

“(a) IN GENERAL.—The Administrator shall conduct a study to develop a consistent methodology which executive agencies should use for measuring the profits earned by government contractors on procurements, other than procurements where the price is based on adequate price competition or on established catalog or market prices of commercial items sold in substantial quantities to the general public.

“(b) CONTRACTORS’ FINANCIAL DATA.—The methodology developed under subsection (a) shall include adequate procedures for verifying and maintaining the confidentiality of contractors’ financial data.”

§ 1122. Functions

(a) IN GENERAL.—The functions of the Administrator include—

(1) providing leadership and ensuring action by the executive agencies in establishing, developing, and maintaining the single system of

simplified Government-wide procurement regulations and resolving differences among the executive agencies in developing simplified Government-wide procurement regulations, procedures, and forms;

(2) coordinating the development of Government-wide procurement system standards that executive agencies shall implement in their procurement systems;

(3) providing leadership and coordination in formulating the executive branch position on legislation relating to procurement;

(4)(A) providing for and directing the activities of the computer-based Federal Procurement Data System (including recommending to the Administrator of General Services a sufficient budget for those activities), which shall be located in the General Services Administration, in order to adequately collect, develop, and disseminate procurement data; and

(B) ensuring executive agency compliance with the record requirements of section 1712 of this title;

(5) providing for and directing the activities of the Federal Acquisition Institute established under section 1201 of this title, including recommending to the Administrator of General Services a sufficient budget for such activities.¹

(6) administering section 1703(a) to (i) of this title;

(7) establishing criteria and procedures to ensure the effective and timely solicitation of the viewpoints of interested parties in the development of procurement policies, regulations, procedures, and forms;

(8) developing standard contract forms and contract language in order to reduce the Federal Government’s cost of procuring property and services and the private sector’s cost of doing business with the Federal Government;

(9) providing for a Government-wide award to recognize and promote vendor excellence;

(10) providing for a Government-wide award to recognize and promote excellence in officers and employees of the Federal Government serving in procurement-related positions;

(11) developing policies, in consultation with the Administrator of the Small Business Administration, that ensure that small businesses, qualified HUBZone small business concerns (as defined in section 31(b) of the Small Business Act), small businesses owned and controlled by socially and economically disadvantaged individuals, and small businesses owned and controlled by women are provided with the maximum practicable opportunities to participate in procurements that are conducted for amounts below the simplified acquisition threshold;

(12) developing policies that will promote achievement of goals for participation by small businesses, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns (as defined in section 31(b) of the Small Business Act), small businesses owned and controlled by socially and economically dis-

¹ So in original. The period probably should be a semicolon.

advantaged individuals, and small businesses owned and controlled by women; and

(13) completing action, as appropriate, on the recommendations of the Commission on Government Procurement.

(b) CONSULTATION AND ASSISTANCE.—In carrying out the functions in subsection (a), the Administrator—

(1) shall consult with the affected executive agencies, including the Small Business Administration;

(2) with the concurrence of the heads of affected executive agencies, may designate one or more executive agencies to assist in performing those functions; and

(3) may establish advisory committees or other interagency groups to assist in providing for the establishment, development, and maintenance of a single system of simplified Government-wide procurement regulations and to assist in performing any other function the Administrator considers appropriate.

(c) ASSIGNMENT, DELEGATION, OR TRANSFER.—

(1) TO ADMINISTRATOR.—Except as otherwise provided by law, only duties, functions, or responsibilities expressly assigned by this division shall be assigned, delegated, or transferred to the Administrator.

(2) BY ADMINISTRATOR.—

(A) WITHIN OFFICE.—The Administrator may make and authorize delegations within the Office of Federal Procurement Policy that the Administrator determines to be necessary to carry out this division.

(B) TO ANOTHER EXECUTIVE AGENCY.—The Administrator may delegate, and authorize successive redelegations of, an authority, function, or power of the Administrator under this division (other than the authority to provide overall direction of Federal procurement policy and to prescribe policies and regulations to carry out the policy) to another executive agency with the consent of the head of the executive agency or at the direction of the President.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3685; Pub. L. 112–81, div. A, title VIII, § 864(b)(3), Dec. 31, 2011, 125 Stat. 1524; Pub. L. 115–91, div. A, title XVII, § 1701(a)(4)(F)(i), Dec. 12, 2017, 131 Stat. 1796.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1122(a)	41:405(d).	Pub. L. 93–400, § 6(d), 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)(3), Nov. 17, 1988, 102 Stat. 4055; Pub. L. 103–355, title V, § 5091, title VII, § 7108, Oct. 13, 1994, 108 Stat. 3361, 3378; Pub. L. 104–106, title XLIII, §§ 4307(b), 4321(h)(1), (2), Feb. 10, 1996, 110 Stat. 668, 675; Pub. L. 105–85, title X, § 1073(g)(2)(B), Nov. 18, 1997, 111 Stat. 1906; Pub. L. 105–135, title VI, § 604(f)(1), Dec. 2, 1997, 111 Stat. 2634.

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1122(b)	41:405(e).	Pub. L. 93–400, § 6(e), 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. 98–369, title VII, § 2732(b)(1), July 18, 1984, 98 Stat. 1199.
1122(c)(1)	41:405(g).	Pub. L. 93–400, § 6(g), 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.
1122(c)(2)(A)	41:411(b).	Pub. L. 93–400, § 12, Aug. 30, 1974, 88 Stat. 799; Pub. L. 96–83, § 8, Oct. 10, 1979, 93 Stat. 652; Pub. L. 98–191, § 8(c), Dec. 1, 1983, 97 Stat. 1331.
1122(c)(2)(B)	41:411(a).	

In clause (12), the words “small business concerns owned and controlled by service-disabled veterans” are added to conform to section 15(g)(1) of the Small Business Act (15:644(g)(1)).

Editorial Notes

REFERENCES IN TEXT

Section 31(b) of the Small Business Act, referred to in subsec. (a)(11), (12), is classified to section 657a(b) of Title 15, Commerce and Trade.

AMENDMENTS

2017—Subsec. (a)(11), (12). Pub. L. 115–91, § 1701(a)(4)(F)(i), substituted “section 31(b) of the Small Business Act” for “section 3(p) of the Small Business Act (15 U.S.C. 632(p))”.

2011—Subsec. (a)(5). Pub. L. 112–81 amended par. (5) generally. Prior to amendment, par. (5) related to the purposes of the activities of the Federal Acquisition Institute.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective Jan. 1, 2020, see section 1701(j) of Pub. L. 115–91, set out as a note under section 657a of Title 15, Commerce and Trade.

REVISION TO THE FEDERAL PROCUREMENT DATA SYSTEM

Pub. L. 116–92, div. A, title VIII, § 806(b), Dec. 20, 2019, 133 Stat. 1485, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Administrator of General Services, in coordination with the Administrator for Federal Procurement Policy, shall direct appropriate revisions to the Federal procurement data system established pursuant to section 1122(a)(4) of title 41, United States Code (or any successor system), to facilitate the collection of complete, timely, and reliable data on the source selection processes used by Federal agencies for the contract actions being reported in the system. The Administrator of General Services shall ensure that data are collected—

“(1) at a minimum, on the usage of the lowest price technically acceptable contracting methods and best value contracting methods process; and

“(2) on all applicable contracting actions, including task orders or delivery orders issued under indefinite delivery-indefinite quantity contracts.”

PROCUREMENT ADMINISTRATIVE LEAD TIME DEFINITION AND PLAN

Pub. L. 115–232, div. A, title VIII, § 878, Aug. 13, 2018, 132 Stat. 1908, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the

Administrator for Federal Procurement Policy shall develop, make available for public comment, and finalize—

“(1) a definition of the term ‘Procurement administrative lead time’ or ‘PALT’, to be applied Government-wide, that describes the amount of time from the date on which a solicitation for a contract or task order is issued to the date of an initial award of the contract or task order; and

“(2) a plan for measuring and publicly reporting data on PALT for Federal Government contracts and task orders in amounts greater than the simplified acquisition threshold.

“(b) REQUIREMENT FOR DEFINITION.—Unless the Administrator determines otherwise, the amount of time in the definition of PALT developed under subsection (a) shall—

“(1) begin on the date on which an initial solicitation is issued by a Federal department or agency for a contract or task order; and

“(2) end on the date of the award of the contract or task order.

“(c) COORDINATION.—In developing the definition of PALT, the Administrator shall coordinate with—

“(1) the senior procurement executives of Federal agencies;

“(2) the Secretary of Defense; and

“(3) the Administrator of the General Services Administration on modifying the existing data system of the Federal Government to determine the date on which the initial solicitation is issued.

“(d) USE OF EXISTING PROCUREMENT DATA SYSTEM.—In developing the plan for measuring and publicly reporting data on PALT required by subsection (a), the Administrator shall, to the maximum extent practicable, rely on the information contained in the Federal procurement data system established pursuant to section 1122(a)(4) of title 41, United States Code, including any modifications to that system.”

PILOT PROGRAM TO INVENTORY COST AND SIZE OF SERVICE CONTRACTS

Pub. L. 110-161, div. D, title VII, § 748, Dec. 26, 2007, 121 Stat. 2035, provided that: “No later than 180 days after enactment of this Act [Dec. 26, 2007], the Office of Management and Budget shall establish a pilot program to develop and implement an inventory to track the cost and size (in contractor manpower equivalents) of service contracts, particularly with respect to contracts that have been performed poorly by a contractor because of excessive costs or inferior quality, as determined by a contracting officer within the last five years, involve inherently governmental functions, or were undertaken without competition. The pilot program shall be established in at least three Cabinet-level departments, based on varying levels of annual contracting for services, as reported by the Federal Procurement Data System’s Federal Procurement Report for fiscal year 2005, including at least one Cabinet-level department that contracts out annually for \$10,000,000,000 or more in services, at least one Cabinet-level department that contracts out annually for between \$5,000,000,000 and \$9,000,000,000 in services, and at least one Cabinet-level department that contracts out annually for under \$5,000,000,000 in services.”

REPORTING OF BUNDLED CONTRACT OPPORTUNITIES

Pub. L. 105-135, title IV, § 414, Dec. 2, 1997, 111 Stat. 2619, provided that:

“(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 405(d)(4)(A)) [now 41 U.S.C. 1122(a)(4)(A)] shall be modified to collect data regarding bundling of contract requirements when the contracting officer anticipates that the resulting contract price, including all options, is expected to exceed \$5,000,000. The data shall reflect a determination made by the contracting officer regarding whether a particular solicitation constitutes a contract bundling.

“(b) DEFINITIONS.—In this section, the term ‘bundling of contract requirements’ has the meaning given that term in section 3(o) of the Small Business Act (15 U.S.C. 632(o)) (as added by section 412 of this subtitle).”

RESULTS-ORIENTED ACQUISITION PROCESS

Pub. L. 103-355, title V, § 5052, Oct. 13, 1994, 108 Stat. 3352, provided that:

“(a) DEVELOPMENT OF PROCESS REQUIRED.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal agencies, shall develop results-oriented acquisition process guidelines for implementation by agencies in acquisitions of property and services by the Federal agencies. The process guidelines shall include the identification of quantitative measures and standards for determining the extent to which an acquisition of items other than commercial items by a Federal agency satisfies the needs for which the items are being acquired.

“(b) INAPPLICABILITY OF PROCESS TO DEPARTMENT OF DEFENSE.—The process guidelines developed pursuant to subsection (a) may not be applied to the Department of Defense.”

DATA COLLECTION THROUGH FEDERAL PROCUREMENT DATA SYSTEM

Pub. L. 103-355, title X, § 10004, Oct. 13, 1994, 108 Stat. 3405, as amended by Pub. L. 115-232, div. A, title VIII, § 812(a)(2)(C)(iv), Aug. 13, 2018, 132 Stat. 1847, provided that:

“(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 405(d)(4)(A)) [now 41 U.S.C. 1122(a)(4)(A)] shall be modified to collect from contracts in excess of the simplified acquisition threshold data identifying the following matters:

“(1) Contract awards made pursuant to competitions conducted pursuant to section 7102 of the Federal Acquisition Streamlining Act of 1994 [Pub. L. 103-355, 15 U.S.C. 644 note].

“(2) Awards to business concerns owned and controlled by women.

“(3) Number of offers received in response to a solicitation.

“(4) Task order contracts.

“(5) Contracts for the acquisition of commercial items.

“(b) DEFINITION.—In this section, the term ‘simplified acquisition threshold’ has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 403(11)) [now 41 U.S.C. 134].”

§ 1123. Small business concerns

In formulating the Federal Acquisition Regulation and procedures to ensure compliance with the Regulation, the Administrator, in consultation with the Small Business Administration, shall—

(1) conduct analyses of the impact on small business concerns resulting from revised procurement regulations; and

(2) incorporate into revised procurement regulations simplified bidding, contract performance, and contract administration procedures for small business concerns.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3687.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1123	41:405a (last sentence).	Pub. L. 95-507, title II, § 222 (last sentence), Oct. 24, 1978, 92 Stat. 1771.