

“(A) Past contract performance of an offeror is one of the relevant factors that a contracting official of an executive agency should consider in awarding a contract.

“(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be awarded by that official.”

§ 1127. Determining benchmark compensation amount

(a) DEFINITIONS.—In this section:

(1) BENCHMARK COMPENSATION AMOUNT.—The term “benchmark compensation amount”, for a fiscal year, is the median amount of the compensation provided for all senior executives of all benchmark corporations for the most recent year for which data is available at the time the determination under subsection (b) is made.

(2) BENCHMARK CORPORATION.—The term “benchmark corporation”, with respect to a fiscal year, means a publicly-owned United States corporation that has annual sales in excess of \$50,000,000 for the fiscal year.

(3) COMPENSATION.—The term “compensation”, for a fiscal year, means the total amount of wages, salary, bonuses, and deferred compensation for the fiscal year, whether paid, earned, or otherwise accruing, as recorded in an employer’s cost accounting records for the fiscal year.

(4) FISCAL YEAR.—The term “fiscal year” means a fiscal year a contractor establishes for accounting purposes.

(5) PUBLICLY-OWNED UNITED STATES CORPORATION.—The term “publicly-owned United States corporation” means a corporation—

(A) organized under the laws of a State of the United States, the District of Columbia, Puerto Rico, or a possession of the United States; and

(B) whose voting stock is publicly traded.

(6) SENIOR EXECUTIVES.—The term “senior executives”, with respect to a contractor, means the 5 most highly compensated employees in management positions at each home office and each segment of the contractor.

(b) DETERMINING BENCHMARK COMPENSATION AMOUNT.—For purposes of section 4304(a)(16) of this title and section 3744(a)(16) of title 10, the Administrator shall review commercially available surveys of executive compensation and, on the basis of the results of the review, determine a benchmark compensation amount to apply for each fiscal year. In making determinations under this subsection, the Administrator shall consult with the Director of the Defense Contract Audit Agency and other officials of executive agencies as the Administrator considers appropriate.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3689; Pub. L. 117-81, div. A, title XVII, § 1702(h)(1), Dec. 27, 2021, 135 Stat. 2158.)

REPEAL OF SECTION

Pub. L. 113-67, div. A, title VII, § 702(b)(1), (c), Dec. 26, 2013, 127 Stat. 1189, repealed this section applicable only with respect to costs of

compensation incurred under contracts entered into on or after the date that is 180 days after Dec. 26, 2013.

Pub. L. 113-66, div. A, title VIII, § 811(c)(1), (d), Dec. 26, 2013, 127 Stat. 806, repealed this section applicable with respect to costs of compensation incurred under contracts entered into on or after the date that is 180 days after Dec. 26, 2013.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1127(a)(1)	41:435(b).	Pub. L. 93-400, § 39, as added Pub. L. 105-85, title VIII, § 808(c)(1), Nov. 18, 1997, 111 Stat. 1837; Pub. L. 105-261, title VIII, § 804(c)(1), Oct. 17, 1998, 112 Stat. 2083.
1127(a)(2)	41:435(c)(3).	
1127(a)(3)	41:435(c)(1).	
1127(a)(4)	41:435(c)(5).	
1127(a)(5)	41:435(c)(4).	
1127(a)(6)	41:435(c)(2).	
1127(b)	41:435(a).	

Editorial Notes

AMENDMENTS

2021—Subsec. (b). Pub. L. 117-81 substituted “section 3744(a)(16)” for “section 2324(e)(1)(P)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 113-67 applicable only with respect to costs of compensation incurred under contracts entered into on or after the date that is 180 days after Dec. 26, 2013, see section 702(c) of Pub. L. 113-67, set out as an Effective Date of 2013 Amendment note under section 4304 of this title.

Repeal by Pub. L. 113-66 applicable with respect to costs of compensation incurred under contracts entered into on or after the date that is 180 days after Dec. 26, 2013, see section 811(d) of Pub. L. 113-66, set out as an Effective Date of 2013 Amendment note under section 4304 of this title.

EXCLUSIVE APPLICABILITY OF PROVISIONS LIMITING ALLOWABILITY OF COMPENSATION FOR CERTAIN CONTRACTOR PERSONNEL

Pub. L. 105-85, div. A, title VIII, § 808(f), Nov. 18, 1997, 111 Stat. 1838, provided that: “Notwithstanding any other provision of law, no other limitation in law on the allowability of costs of compensation of senior executives under covered contracts shall apply to such costs of compensation incurred after January 1, 1998.”

DEFINITIONS FOR PURPOSES OF SECTION 808 OF PUB. L. 105-85

Pub. L. 105-85, div. A, title VIII, § 808(g), Nov. 18, 1997, 111 Stat. 1838, as amended by Pub. L. 105-261, div. A, title VIII, § 804(c)(2), Oct. 17, 1998, 112 Stat. 2083, provided that: “In this section [see Tables for classification]:

“(1) The term ‘covered contract’ has the meaning given such term in section 2324(l) of title 10, United States Code [see 10 U.S.C. 3741], and section 306(l) of the Federal Property and Administrative Services Act of 1949 (former) 41 U.S.C. 256(l)) [see 41 U.S.C. 4301].

“(2) The terms ‘compensation’ and ‘senior executives’ have the meanings given such terms in section 2324(l) of title 10, United States Code [see 10 U.S.C. 3741 as to ‘compensation’ and former 10 U.S.C. 2324(l)(5) as to ‘senior executives’], and section 306(m) of the Federal Property and Administrative Services Act of 1949 [see 41 U.S.C. 4301].”

§ 1128. Maintaining necessary capability with respect to acquisition of architectural and engineering services

The Administrator, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Personnel Management, shall develop and implement a plan to ensure that the Federal Government maintains the necessary capability with respect to the acquisition of architectural and engineering services to—

- (1) ensure that Federal Government employees have the expertise to determine agency requirements for those services;
- (2) establish priorities and programs, including acquisition plans;
- (3) establish professional standards;
- (4) develop scopes of work; and
- (5) award and administer contracts for those services.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3690.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1128	41:433 note.	Pub. L. 108-136, title XIV, §1414, Nov. 24, 2003, 117 Stat. 1666.

§ 1129. Center of excellence in contracting for services

The Administrator shall maintain a center of excellence in contracting for services. The center shall assist the acquisition community by identifying, and serving as a clearinghouse for, best practices in contracting for services in the public and private sectors.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3690.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1129	41:405 note.	Pub. L. 108-136, title XIV, §1431(b), Nov. 24, 2003, 117 Stat. 1671.

The words “Not later than 180 days after the date of the enactment of this Act” are omitted, and the word “maintain” is substituted for “establish”, to eliminate obsolete words.

§ 1130. Effect of division on other law

This division does not impair or affect the authorities or responsibilities relating to the procurement of real property conferred by division C of this subtitle and chapters 1 to 11 of title 40.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3690.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1130	41:405(h)(1).	Pub. L. 93-400, §6(h)(1), 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. 104-106, title LVI, §5607(d), Feb. 10, 1996, 110 Stat. 702.

§ 1131. Annual report

The Administrator annually shall submit to Congress an assessment of the progress made in executive agencies in implementing the policy regarding major acquisitions that is stated in section 3103(a) of this title. The Administrator shall use data from existing management systems in making the assessment.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3690.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1131	41:405(k).	Pub. L. 93-400, §6(k), as added Pub. L. 103-355, title V, §5051(b), Oct. 13, 1994, 108 Stat. 3351; Pub. L. 105-85, title VIII, §851(b), Nov. 18, 1997, 111 Stat. 1851.

CHAPTER 12—FEDERAL ACQUISITION INSTITUTE

Sec.

1201. Federal Acquisition Institute.

§ 1201. Federal Acquisition Institute

(a) IN GENERAL.—There is established a Federal Acquisition Institute (FAI) in order to—

- (1) foster and promote the development of a professional acquisition workforce Government-wide;
- (2) promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to acquisition by the executive agencies;
- (3) collect data and analyze acquisition workforce data from the Office of Personnel Management, the heads of executive agencies, and, through periodic surveys, from individual employees;
- (4) periodically analyze acquisition career fields to identify critical competencies, duties, tasks, and related academic prerequisites, skills, and knowledge;
- (5) coordinate and assist agencies in identifying and recruiting highly qualified candidates for acquisition fields;
- (6) develop instructional materials for acquisition personnel in coordination with private and public acquisition colleges and training facilities;
- (7) evaluate the effectiveness of training and career development programs for acquisition personnel;
- (8) promote the establishment and utilization of academic programs by colleges and universities in acquisition fields;
- (9) facilitate, to the extent requested by agencies, interagency intern and training programs;
- (10) collaborate with other civilian agency acquisition training programs to leverage training supporting all members of the civilian agency acquisition workforce;
- (11) assist civilian agencies with their acquisition and capital planning efforts; and
- (12) perform other career management or research functions as directed by the Administrator.