

Year 2009 (Public Law 110-417; 122 Stat. 4553)), to address how the agencies are meeting their human capital requirements to support the timely and effective acquisition of information technology.

“(2) ELEMENTS.—The updates required by paragraph (1) shall be submitted to the Administrator for Federal Procurement Policy and shall address, at a minimum, each Federal agency’s consideration or use of the following procedures:

“(A) Development of an information technology acquisition cadre within the agency or use of memoranda of understanding with other agencies that have such cadres or personnel with experience relevant to the agency’s information technology acquisition needs.

“(B) Development of personnel assigned to information technology acquisitions, including cross-functional training of acquisition information technology and program personnel.

“(C) Use of the specialized career path for information technology program managers as designated by the Office of Personnel Management and plans for strengthening information technology program management.

“(D) Use of direct hire authority.

“(E) Conduct of peer reviews.

“(F) Piloting of innovative approaches to information technology acquisition workforce development, such as industry-government rotations.

“(c) FEDERAL AGENCY DEFINED.—In this section, the term ‘Federal agency’ means each agency listed in section 901(b) of title 31, United States Code.”

§ 1705. Advocates for competition

(a) ESTABLISHMENT AND DESIGNATION.—

(1) ESTABLISHMENT.—Each executive agency has an advocate for competition.

(2) DESIGNATION.—The head of each executive agency shall—

(A) designate for the executive agency and for each procuring activity of the executive agency one officer or employee serving in a position authorized for the executive agency on July 18, 1984 (other than the senior procurement executive designated pursuant to section 1702(c) of this title) to serve as the advocate for competition;

(B) not assign those officers or employees duties or responsibilities that are inconsistent with the duties and responsibilities of the advocates for competition; and

(C) provide those officers or employees with the staff or assistance necessary to carry out the duties and responsibilities of the advocate for competition, such as individuals who are specialists in engineering, technical operations, contract administration, financial management, supply management, and utilization of small and disadvantaged business concerns.

(b) DUTIES AND FUNCTIONS.—The advocate for competition of an executive agency shall—

(1) be responsible for challenging barriers to, and promoting full and open competition in, the procurement of property and services by the executive agency;

(2) review the procurement activities of the executive agency;

(3) identify and report to the senior procurement executive of the executive agency—

(A) opportunities and actions taken to achieve full and open competition in the procurement activities of the executive agency; and

(B) any condition or action which has the effect of unnecessarily restricting competition in the procurement actions of the executive agency;

(4) prepare and transmit to the senior procurement executive an annual report describing—

(A) the advocate’s activities under this section;

(B) new initiatives required to increase competition; and

(C) remaining barriers to full and open competition;

(5) recommend to the senior procurement executive—

(A) goals and the plans for increasing competition on a fiscal year basis; and

(B) a system of personal and organizational accountability for competition, which may include the use of recognition and awards to motivate program managers, contracting officers, and others in authority to promote competition in procurement programs; and

(6) describe other ways in which the executive agency has emphasized competition in programs for procurement training and research.

(c) RESPONSIBILITIES.—The advocate for competition for each procuring activity is responsible for promoting full and open competition, promoting the acquisition of commercial products and commercial services, and challenging barriers to acquisition, including unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3709; Pub. L. 115-232, div. A, title VIII, §836(b)(2), Aug. 13, 2018, 132 Stat. 1861.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1705	41:418.	Pub. L. 93-400, §20, as added Pub. L. 98-369, title VII, §2732(a), July 18, 1984, 98 Stat. 1197; Pub. L. 103-355, title VIII, §8303(a), Oct. 13, 1994, 108 Stat. 3398.

Editorial Notes

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-232 substituted “commercial products and commercial services” for “commercial items”.

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.

§ 1706. Personnel evaluation

The head of each executive agency subject to division C shall ensure, with respect to the em-

ployees of that agency whose primary duties and responsibilities pertain to the award of contracts subject to the provisions of the Small Business and Federal Procurement Competition Enhancement Act of 1984 (Public Law 98-577, 98 Stat. 3066), that the performance appraisal system applicable to those employees affords appropriate recognition to, among other factors, efforts to—

(1) increase competition and achieve cost savings through the elimination of procedures that unnecessarily inhibit full and open competition;

(2) further the purposes of the Small Business and Federal Procurement Competition Enhancement Act of 1984 (Public Law 98-577, 98 Stat. 3066) and the Defense Procurement Reform Act of 1984 (Public Law 98-525, title XII, 98 Stat. 2588); and

(3) further other objectives and purposes of the Federal acquisition system authorized by law.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3710.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1706	41:414a.	Pub. L. 98-577, title V, §502, Oct. 30, 1984, 98 Stat. 3085.

Editorial Notes

REFERENCES IN TEXT

The Small Business and Federal Procurement Competition Enhancement Act of 1984, referred to in text, is Pub. L. 98-577, Oct. 30, 1984, 98 Stat. 3066. For complete classification of this Act to the Code, see Short Title of 1984 Act note set out under section 101 of this title and Tables.

The Defense Procurement Reform Act of 1984, referred to in par. (2), is Pub. L. 98-525, title XII, Oct. 19, 1984, 98 Stat. 2588. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 2302 of Title 10, Armed Forces, and Tables.

§ 1707. Publication of proposed regulations

(a) COVERED POLICIES, REGULATIONS, PROCEDURES, AND FORMS.—

(1) REQUIRED COMMENT PERIOD.—Except as provided in subsection (d), a procurement policy, regulation, procedure, or form (including an amendment or modification thereto) may not take effect until 60 days after it is published for public comment in the Federal Register pursuant to subsection (b) if it—

(A) relates to the expenditure of appropriated funds; and

(B)(i) has a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form; or

(ii) has a significant cost or administrative impact on contractors or offerors.

(2) EXCEPTION.—A policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but the effective date may not be less than 30 days after the publication date.

(b) PUBLICATION IN FEDERAL REGISTER AND COMMENT PERIOD.—Subject to subsection (c), the

head of the agency shall have published in the Federal Register a notice of the proposed procurement policy, regulation, procedure, or form and provide for a public comment period for receiving and considering the views of all interested parties on the proposal. The length of the comment period may not be less than 30 days.

(c) CONTENTS OF NOTICE.—Notice of a proposed procurement policy, regulation, procedure, or form prepared for publication in the Federal Register shall include—

(1) the text of the proposal or, if it is impracticable to publish the full text of the proposal, a summary of the proposal and a statement specifying the name, address, and telephone number of the officer or employee of the executive agency from whom the full text may be obtained; and

(2) a request for interested parties to submit comments on the proposal and the name and address of the officer or employee of the Federal Government designated to receive the comments.

(d) WAIVER.—The requirements of subsections (a) and (b) may be waived by the officer authorized to issue a procurement policy, regulation, procedure, or form if urgent and compelling circumstances make compliance with the requirements impracticable.

(e) EFFECTIVENESS OF POLICY, REGULATION, PROCEDURE, OR FORM.—

(1) TEMPORARY BASIS.—A procurement policy, regulation, procedure, or form for which the requirements of subsections (a) and (b) are waived under subsection (d) is effective on a temporary basis if—

(A) a notice of the policy, regulation, procedure, or form is published in the Federal Register and includes a statement that the policy, regulation, procedure, or form is temporary; and

(B) provision is made for a public comment period of 30 days beginning on the date on which the notice is published.

(2) FINAL POLICY, REGULATION, PROCEDURE, OR FORM.—After considering the comments received, the head of the agency waiving the requirements of subsections (a) and (b) under subsection (d) may issue the final procurement policy, regulation, procedure, or form.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3710.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1707	41:418b.	Pub. L. 93-400, §22, as added Pub. L. 98-577, title III, §302(a), Oct. 30, 1984, 98 Stat. 3076; Pub. L. 103-355, title V, §5092, Oct. 13, 1994, 108 Stat. 3362, as amended Pub. L. 104-106, title XLIII, §4321(a)(9), Feb. 10, 1996, 110 Stat. 671.

In subsection (a)(2), the words “Notwithstanding the preceding sentence” are omitted as unnecessary.

§ 1708. Procurement notice

(a) NOTICE REQUIREMENT.—Except as provided in subsection (b)—

(1) an executive agency intending to solicit bids or proposals for a contract for property or