

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3720; Pub. L. 114-328, div. A, title II, §217(b), Dec. 23, 2016, 130 Stat. 2051; Pub. L. 115-91, div. A, title VIII, §806(a), Dec. 12, 2017, 131 Stat. 1456; Pub. L. 115-232, div. A, title VIII, §§812(a)(2)(C)(ix), 821(b), Aug. 13, 2018, 132 Stat. 1847, 1853.)

ADJUSTMENT OF MICRO-PURCHASE THRESHOLD

For adjustment of dollar threshold pursuant to section 1908 of this title, see definition of micro-purchase threshold in Federal Acquisition Regulation 2.101.

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 1902 | 41:428. | Pub. L. 93-400, §32, as added Pub. L. 103-355, title IV, §4301(a), Oct. 13, 1994, 108 Stat. 3346; Pub. L. 104-106, title XLIII, §§4304(b)(4), (c)(3), 4311, Feb. 10, 1996, 110 Stat. 664, 671. |

SENATE REVISION AMENDMENT

In subsecs. (a), (d), and (e), “\$3,000” substituted for “\$2,500” by S. Amdt. 4726 (111th Cong.). See 156 Cong. Rec. 18682 (2010).

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-232, §821(b), struck out “sections 2338 and 2339 of title 10 and” after “Except as provided in”.

Subsec. (b)(1). Pub. L. 115-232, §812(a)(2)(C)(ix), struck out “, section 2323 of title 10,” after “(15 U.S.C. 637(a))”.

2017—Subsec. (a)(1). Pub. L. 115-91 substituted “\$10,000” for “\$3,000”.

2016—Subsec. (a). Pub. L. 114-328, §217(b)(1), designated existing provisions as par. (1), substituted “Except as provided in sections 2338 and 2339 of title 10 and paragraph (2) of this subsection, for purposes” for “For purposes” and added par. (2).

Subsecs. (d), (e). Pub. L. 114-328, §217(b)(2), substituted “with a price not greater than the micro-purchase threshold” for “not greater than \$3,000”.

Statutory Notes and Related Subsidiaries

CONVENIENCE CHECKS

Pub. L. 115-91, div. A, title VIII, §806(b), Dec. 12, 2017, 131 Stat. 1456, provided that: “A convenience check may not be used for an amount in excess of one half of the micro-purchase threshold under section 1902(a) of title 41, United States Code, or a lower amount established by the head of the agency.”

MICRO-PURCHASE THRESHOLD FOR PROCUREMENT SOLICITATIONS BY RESEARCH INSTITUTIONS

Pub. L. 114-329, div. A, title II, §207, Jan. 6, 2017, 130 Stat. 3001, provided that:

“(a) MICRO-PURCHASE THRESHOLD.—The micro-purchase threshold for procurement activities administered under sections 6303 through 6305 of title 31, United States Code, awarded by the Foundation, the National Aeronautics and Space Administration, or the National Institute of Standards and Technology to institutions of higher education, or related or affiliated nonprofit entities, or to nonprofit research organizations or independent research institutes is—

“(1) \$10,000 (as adjusted periodically to account for inflation); or

“(2) such higher threshold as determined appropriate by the head of the relevant executive agency and consistent with audit findings under chapter 75 of

title 31, United States Code, internal institutional risk assessment, or State law.

“(b) UNIFORM GUIDANCE.—The Uniform Guidance shall be revised to conform with the requirements of this section. For purposes of the preceding sentence, the term ‘Uniform Guidance’ means the uniform administrative requirements, cost principles, and audit requirements for Federal awards contained in part 200 of title 2 of the Code of Federal Regulations.”

[For definitions of terms used in section 207 of Pub. L. 114-329, set out above, see section 2 of Pub. L. 114-329, set out as a note under section 1862s of Title 42, The Public Health and Welfare.]

MICRO-PURCHASE GUIDELINES

Pub. L. 111-240, title I, §1332, Sept. 27, 2010, 124 Stat. 2541, provided that: “Not later than 1 year after the date of enactment of this Act [Sept. 27, 2010], the Director of the Office of Management and Budget, in coordination with the Administrator of General Services, shall issue guidelines regarding the analysis of purchase card expenditures to identify opportunities for achieving and accurately measuring fair participation of small business concerns in purchases in an amount not in excess of the micro-purchase threshold, as defined in section 32 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 428) [now 41 U.S.C. 1902] (in this section referred to as ‘micro-purchases’), consistent with the national policy on small business participation in Federal procurements set forth in sections 2(a) and 15(g) of the Small Business Act (15 U.S.C. 631(a) and 644(g)), and dissemination of best practices for participation of small business concerns in micro-purchases.”

[For definition of “small business concern” as used in section 1332 of Pub. L. 111-240, set out above, see section 1001 of Pub. L. 111-240, set out as a note under section 632 of Title 15, Commerce and Trade.]

§ 1903. Special emergency procurement authority

(a) APPLICABILITY.—The authorities provided in subsections (b) and (c) apply with respect to a procurement of property or services by or for an executive agency that the head of the executive agency determines are to be used—

(1) in support of a contingency operation (as defined in section 101(a) of title 10);

(2) to facilitate the defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack against the United States;

(3) in support of a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate the provision of international disaster assistance pursuant to chapter 9 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2292 et seq.); or

(4) in support of an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).

(b) INCREASED THRESHOLDS AND LIMITATION.—For a procurement to which this section applies under subsection (a)—

(1) the amount specified in section 1902(a), (d), and (e) of this title shall be deemed to be—

(A) \$15,000 in the case of a contract to be awarded and performed, or purchase to be made, in the United States; and

(B) \$25,000 in the case of a contract to be awarded and performed, or purchase to be made, outside the United States;

(2) the term “simplified acquisition threshold” means—

(A) \$750,000 in the case of a contract to be awarded and performed, or purchase to be made, in the United States; and

(B) \$1,500,000 in the case of a contract to be awarded and performed, or purchase to be made, outside the United States; and

(3) the \$5,000,000 limitation in sections 1901(a)(2) and 3305(a)(2) of this title and section 3205(a)(2) of title 10 is deemed to be \$10,000,000.

(c) **AUTHORITY TO TREAT PROPERTY OR SERVICE AS COMMERCIAL PRODUCT OR COMMERCIAL SERVICE.**—

(1) **IN GENERAL.**—The head of an executive agency carrying out a procurement of property or a service to which this section applies under subsection (a)(2) may treat the property or service as a commercial product or a commercial service for the purpose of carrying out the procurement.

(2) **CERTAIN CONTRACTS NOT EXEMPT FROM STANDARDS OR REQUIREMENTS.**—A contract in an amount of more than \$15,000,000 that is awarded on a sole source basis for a product or service treated as a commercial product or a commercial service under paragraph (1) is not exempt from—

(A) cost accounting standards prescribed under section 1502 of this title; or

(B) cost or pricing data requirements (commonly referred to as truth in negotiating) under chapter 35 of this title and chapter 271 of title 10.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3721; Pub. L. 114-92, div. A, title VIII, § 816, Nov. 25, 2015, 129 Stat. 897; Pub. L. 114-328, div. A, title VIII, § 816, title XVI, § 1641, Dec. 23, 2016, 130 Stat. 2272, 2600; Pub. L. 115-232, div. A, title VIII, § 836(b)(5), Aug. 13, 2018, 132 Stat. 1861; Pub. L. 117-81, div. A, title XVII, § 1702(h)(7), Dec. 27, 2021, 135 Stat. 2158.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 1903(a) | 41:428a(a), (e). | Pub. L. 93-400, § 32A, as added Pub. L. 108-136, title XIV, § 1443(a)(1), Nov. 24, 2003, 117 Stat. 1675; Pub. L. 108-375, title VIII, § 822, Oct. 28, 2004, 118 Stat. 2016. |
| 1903(b) | 41:428a(b), (c). | |
| 1903(c) | 41:428a(d). | |

Editorial Notes

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(3), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424. Chapter 9 of part I of the Act is classified generally to part IX [§ 2292 et seq.] of subchapter I of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

AMENDMENTS

2021—Subsec. (b)(3). Pub. L. 117-81, § 1702(h)(7)(A), substituted “section 3205(a)(2)” for “section 2304(g)(1)(B)”.

Subsec. (c)(2)(B). Pub. L. 117-81, § 1701(h)(7)(B), substituted “chapter 271” for “section 2306a”.

2018—Subsec. (c). Pub. L. 115-232, § 836(b)(5)(A), substituted “Commercial Product or Commercial Service” for “Commercial Item” in heading.

Subsec. (c)(1). Pub. L. 115-232, § 836(b)(5)(B), substituted “as a commercial product or a commercial service” for “as a commercial item”.

Subsec. (c)(2). Pub. L. 115-232, § 836(b)(5)(C), substituted “for a product or service treated as a commercial product or a commercial service” for “for an item or service treated as a commercial item” in introductory provisions.

2016—Subsec. (a)(2). Pub. L. 114-328, § 1641, inserted “cyber,” before “nuclear,”.

Subsec. (a)(3), (4). Pub. L. 114-328, § 816, added pars. (3) and (4).

2015—Subsec. (b)(2)(A). Pub. L. 114-92, § 816(1), substituted “\$750,000” for “\$250,000”.

Subsec. (b)(2)(B). Pub. L. 114-92, § 816(2), substituted “\$1,500,000” for “\$1,000,000”.

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.

§ 1904. Certain transactions for defense against attack

(a) **AUTHORITY.**—

(1) **IN GENERAL.**—The head of an executive agency that engages in basic research, applied research, advanced research, and development projects that are necessary to the responsibilities of the executive agency in the field of research and development and have the potential to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack may exercise the same authority (subject to the same restrictions and conditions) with respect to the research and projects as the Secretary of Defense may exercise under section 2371¹ of title 10, except for subsections (b) and (f) of section 2371.

(2) **PROTOTYPE PROJECTS.**—The head of an executive agency, under the authority of paragraph (1), may carry out prototype projects that meet the requirements of paragraph (1) in accordance with the requirements and conditions provided for carrying out prototype projects under section 845¹ of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160, 10 U.S.C. 2371 note), including that, to the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under section 845(a) of that Act and that the period of authority to carry out projects under section 845(a) of that Act terminates as provided in section 845(i) of that Act.

(3) **APPLICATION OF REQUIREMENTS AND CONDITIONS.**—In applying the requirements and conditions of section 845 of that Act under this subsection—

(A) section 845(c) of that Act shall apply with respect to prototype projects carried out under paragraph (2); and

(B) the Director of the Office of Management and Budget shall perform the functions of the Secretary of Defense under section 845(d) of that Act.

¹ See References in Text note below.