

formation that a contractor or a person has violated section 2102, 2103, or 2104 of this title shall consider taking one or more of the following actions, as appropriate:

(A) Canceling the Federal agency procurement, if a contract has not yet been awarded.

(B) Rescinding a contract with respect to which—

(i) the contractor or someone acting for the contractor has been convicted for an offense punishable under subsection (a); or

(ii) the head of the agency that awarded the contract has determined, based on a preponderance of the evidence, that the contractor or a person acting for the contractor has engaged in conduct constituting the offense.

(C) Initiating a suspension or debarment proceeding for the protection of the Federal Government in accordance with procedures in the Federal Acquisition Regulation.

(D) Initiating an adverse personnel action, pursuant to the procedures in chapter 75 of title 5 or other applicable law or regulation.

(2) AMOUNT GOVERNMENT ENTITLED TO RECOVER.—When a Federal agency rescinds a contract pursuant to paragraph (1)(B), the Federal Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(3) PRESENT RESPONSIBILITY AFFECTED BY CONDUCT.—For purposes of a suspension or debarment proceeding initiated pursuant to paragraph (1)(C), engaging in conduct constituting an offense under section 2102, 2103, or 2104 of this title affects the present responsibility of a Federal Government contractor or subcontractor.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3730.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2105(a)	41:423(e)(1).	Pub. L. 93–400, § 27(e), as added Pub. L. 100–679, § 6(a), Nov. 17, 1988, 102 Stat. 4063; Pub. L. 101–189, title VIII, § 814(a)–(d)(1), Nov. 29, 1989, 103 Stat. 1495; Pub. L. 101–510, title XIV, § 1484(d)(6), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 102–25, title VII, § 705(d), Apr. 6, 1991, 105 Stat. 121; Pub. L. 103–355, title VIII, § 8301(e), Oct. 13, 1994, 108 Stat. 3397; Pub. L. 104–106, title XLIII, § 4304(a), Feb. 10, 1996, 110 Stat. 661.
2105(b)	41:423(e)(2).	
2105(c)	41:423(e)(3).	

In subsection (a), the word “violates” is substituted for “engages in conduct constituting a violation of” to eliminate unnecessary words.

In subsection (b), the words “liable to the Federal Government for” are substituted for “subject to” for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(1), the words “has violated” are substituted for “has engaged in conduct constituting a violation of” to eliminate unnecessary words.

§ 2106. Reporting information believed to constitute evidence of offense

A person may not file a protest against the award or proposed award of a Federal agency procurement contract alleging a violation of section 2102, 2103, or 2104 of this title, and the Comptroller General may not consider that allegation in deciding a protest, unless the person, no later than 14 days after the person first discovered the possible violation, reported to the Federal agency responsible for the procurement the information that the person believed constitutes evidence of the offense.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3731.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2106	41:423(g).	Pub. L. 93–400, § 27(g), as added Pub. L. 100–679, § 6(a), Nov. 17, 1988, 102 Stat. 4063; Pub. L. 101–189, title VIII, § 814(a)–(d)(1), Nov. 29, 1989, 103 Stat. 1495; Pub. L. 101–510, title XIV, § 1484(d)(6), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 102–25, title VII, § 705(d), Apr. 6, 1991, 105 Stat. 121; Pub. L. 103–355, title VIII, § 8301(e), Oct. 13, 1994, 108 Stat. 3397; Pub. L. 104–106, title XLIII, § 4304(a), Feb. 10, 1996, 110 Stat. 663.

§ 2107. Savings provisions

This chapter does not—

(1) restrict the disclosure of information to, or its receipt by, a person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

(2) restrict a contractor from disclosing its own bid or proposal information or the recipient from receiving that information;

(3) restrict the disclosure or receipt of information relating to a Federal agency procurement after it has been canceled by the Federal agency before contract award unless the Federal agency plans to resume the procurement;

(4) prohibit individual meetings between a Federal agency official and an offeror or potential offeror for, or a recipient of, a contract or subcontract under a Federal agency procurement, provided that unauthorized disclosure or receipt of contractor bid or proposal information or source selection information does not occur;

(5) authorize the withholding of information from, nor restrict its receipt by, Congress, a committee or subcommittee of Congress, the Comptroller General, a Federal agency, or an inspector general of a Federal agency;

(6) authorize the withholding of information from, nor restrict its receipt by, the Comptroller General in the course of a protest against the award or proposed award of a Federal agency procurement contract; or

(7) limit the applicability of a requirement, sanction, contract penalty, or remedy established under another law or regulation.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3731.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
2107	41:423(h).	Pub. L. 93-400, §27(h), as added Pub. L. 100-679, §6(a), Nov. 17, 1988, 102 Stat. 4063; Pub. L. 101-189, title VIII, §814(a)-(d)(1), Nov. 29, 1989, 103 Stat. 1495; Pub. L. 101-510, title XIV, §1484(l)(6), Nov. 5, 1990, 104 Stat. 1720; Pub. L. 102-25, title VII, §705(i), Apr. 6, 1991, 105 Stat. 121; Pub. L. 103-355, title VIII, §8301(e), Oct. 13, 1994, 108 Stat. 3397; Pub. L. 104-106, title XLIII, §4304(a), Feb. 10, 1996, 110 Stat. 663.

CHAPTER 23—MISCELLANEOUS

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§ 2301. Use of electronic commerce in Federal procurement

(a) DEFINITION.—For the purposes of this section, the term “electronic commerce” means electronic techniques for accomplishing business transactions, including electronic mail or messaging, World Wide Web technology, electronic bulletin boards, purchase cards, electronic funds transfers, and electronic data interchange.

(b) ESTABLISHMENT, MAINTENANCE, AND USE OF ELECTRONIC COMMERCE PROCEDURES AND PROCESSES.—The head of each executive agency, after consulting with the Administrator, shall establish, maintain, and use, to the maximum extent that is practicable and cost-effective, procedures and processes that employ electronic commerce in the conduct and administration of the procurement system of the agency.

(c) APPLICABLE STANDARDS.—In conducting electronic commerce, the head of an executive agency shall apply nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information.

(d) REQUIREMENTS OF SYSTEMS, TECHNOLOGIES, PROCEDURES, AND PROCESSES.—The head of each executive agency shall ensure that systems, technologies, procedures, and processes established pursuant to this section—

- (1) are implemented with uniformity throughout the agency, to the extent practicable;

- (2) are implemented only after granting due consideration to the use or partial use, as appropriate, of existing electronic commerce and electronic data interchange systems and infrastructures such as the Federal acquisition computer network architecture known as FACNET;

- (3) facilitate access to Federal Government procurement opportunities, including opportunities for small business concerns, socially and economically disadvantaged small business concerns, and business concerns owned predominantly by women; and

- (4) ensure that any notice of agency requirements or agency solicitation for contract opportunities is provided in a form that allows convenient and universal user access through a single, Government-wide point of entry.

(e) IMPLEMENTATION.—In carrying out the requirements of this section, the Administrator shall—

- (1) issue policies to promote, to the maximum extent practicable, uniform implementation of this section by executive agencies, with due regard for differences in program requirements among agencies that may require departures from uniform procedures and processes in appropriate cases, when warranted because of the agency mission;

- (2) ensure that the head of each executive agency complies with the requirements of subsection (d); and

- (3) consult with the heads of appropriate Federal agencies with applicable technical and functional expertise, including the Office of Information and Regulatory Affairs, the National Institute of Standards and Technology, the General Services Administration, and the Department of Defense.

(f) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—In this section, the term “executive agency” does not include the Department of Defense.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3732; Pub. L. 114-328, div. A, title VIII, §833(b)(5)(A)(ii), Dec. 23, 2016, 130 Stat. 2285.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
2301(a)	41:426(f).	Pub. L. 93-400, §30, as added Pub. L. 103-355, title IX, §9001(a), Oct. 13, 1994, 108 Stat. 3399; Pub. L. 105-85, title VIII, §850(a), Nov. 18, 1997, 111 Stat. 1847; Pub. L. 106-398, §1 [div. A], title VIII, §810(d), Oct. 30, 2000, 114 Stat. 1654A-210.
2301(b)	41:426(a).	
2301(c)	41:426(b).	
2301(d)	41:426(c).	
2301(e)	41:426(d).	

In this section, the text of 41:426(e) is omitted as obsolete because the last report was to be submitted not later than March 1, 2004.

In subsection (c), the word “executive” is added for clarity and for consistency in the revised section.

In subsection (e)(2), the words “with respect to the agency systems, technologies, procedures, and processes established pursuant to this section” are omitted as unnecessary.