

data required to be submitted by this chapter, an executive agency shall have the authority provided by section 4706(b)(2) of this title.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3770.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 3508, 41:254b(g), June 30, 1949, ch. 288, title III, §304A(g), as added Pub. L. 103-355, title I, §1251(a)(2), Oct. 13, 1994, 108 Stat. 3283.

§ 3509. Notification of violations of Federal criminal law or overpayments

(a) DEFINITION.—In this section, the term “covered contract” means any contract in an amount greater than \$5,000,000 and more than 120 days in duration.

(b) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall include, pursuant to FAR Case 2007-006 (as published at 72 Fed. Reg. 64019, November 14, 2007) or any follow-on FAR case, provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial products or commercial services.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3770; Pub. L. 115-232, div. A, title VIII, §836(b)(14), Aug. 13, 2018, 132 Stat. 1864.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 3509, 41:251 note, Pub. L. 110-252, title VI, §§6102, 6103, June 30, 2008, 122 Stat. 2386, 2387.

In subsection (b), the words “shall include” are substituted for “shall be amended” and “to include” to reflect the permanence of the provision. The words “within 180 days after the date of the enactment of this Act” are omitted as obsolete.

Editorial Notes

AMENDMENTS

2018—Subsec. (b). Pub. L. 115-232 substituted “commercial products or 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.

CHAPTER 37—AWARDING OF CONTRACTS

Table with 2 columns: Sec., Description. Rows: 3701. Basis of award and rejection. 3702. Sealed bids. 3703. Competitive proposals. 3704. Post-award debriefings. 3705. Pre-award debriefings. 3706. Encouragement of alternative dispute resolution.

Table with 2 columns: Sec., Description. Rows: 3707. Antitrust violations. 3708. Protests.

§ 3701. Basis of award and rejection

(a) AWARD.—An executive agency shall evaluate sealed bids and competitive proposals, and award a contract, based solely on the factors specified in the solicitation.

(b) REJECTION.—All sealed bids or competitive proposals received in response to a solicitation may be rejected if the agency head determines that rejection is in the public interest.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3770.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 3701(a), 41:253b(a), June 30, 1949, ch. 288, title III, §303B(a), (b), as added Pub. L. 98-369, title VII, §2711(a)(2), July 18, 1984, 98 Stat. 1179; Pub. L. 103-355, title I, §1061(c)(1), Oct. 13, 1994, 108 Stat. 3267. Row 2: 3701(b), 41:253b(b).

Statutory Notes and Related Subsidiaries

USE OF LOWEST PRICE TECHNICALLY ACCEPTABLE SOURCE SELECTION PROCESS

Pub. L. 115-232, div. A, title VIII, §880, Aug. 13, 2018, 132 Stat. 1909, as amended by Pub. L. 116-92, div. A, title VIII, §806(a)(2), Dec. 20, 2019, 133 Stat. 1485; Pub. L. 118-159, div. A, title VIII, §822, Dec. 23, 2024, 138 Stat. 1983, provided that:

“(a) STATEMENT OF POLICY.—It shall be the policy of the United States Government to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the Government the benefits of cost and technical tradeoffs in the source selection process.

“(b) REVISION OF FEDERAL ACQUISITION REGULATION.—Not later than 120 days after the date of the enactment of this Act [Aug. 13, 2018], the Federal Acquisition Regulation shall be revised to require that, for solicitations issued on or after the date that is 120 days after the date of the enactment of this Act, lowest price technically acceptable source selection criteria are used only in situations in which—

“(1) an executive agency is able to comprehensively and clearly describe the minimum requirements expressed in terms of performance objectives, measures, and standards that will be used to determine acceptability of offers;

“(2) the executive agency would realize no, or minimal, value from a contract proposal exceeding the minimum technical or performance requirements set forth in the request for proposal;

“(3) the proposed technical approaches will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror’s proposal versus a competing proposal;

“(4) the executive agency has a high degree of confidence that a review of technical proposals of offerors other than the lowest bidder would not result in the identification of factors that could provide value or benefit to the executive agency;

“(5) the contracting officer has included a justification for the use of a lowest price technically acceptable evaluation methodology in the contract file; and

“(6) the executive agency has determined that the lowest price reflects full life-cycle costs, including for operations and support.

“(c) AVOIDANCE OF USE OF LOWEST PRICE TECHNICALLY ACCEPTABLE SOURCE SELECTION CRITERIA IN CERTAIN PROCUREMENTS.—To the maximum extent practicable, the use of lowest price technically acceptable source