

- (A) the Agency (including the center);
- (B) the Directorate of Science and Technology; or
- (C) institutions that have been designated by the Department as a Center of Excellence for Cyber Defense, or the equivalent.

(Pub. L. 107-296, title VIII, § 846, as added Pub. L. 116-283, div. G, title LVXXXII [LXXXIII], § 8278(a), Jan. 1, 2021, 134 Stat. 4687.)

PART F—FEDERAL EMERGENCY PROCUREMENT
FLEXIBILITY

§ 421. Definition

In this part, the term “executive agency” has the meaning given that term under section 133 of title 41.

(Pub. L. 107-296, title VIII, § 851, Nov. 25, 2002, 116 Stat. 2235.)

Editorial Notes

CODIFICATION

In text, “section 133 of title 41” substituted for “section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1))” on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 422. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack

The authorities provided in this part apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on November 25, 2002.

(Pub. L. 107-296, title VIII, § 852, Nov. 25, 2002, 116 Stat. 2235.)

§ 423. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations

(a) Temporary threshold amounts

For a procurement referred to in section 422 of this title that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

- (1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, \$200,000; or
- (2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, \$300,000.

(b) Simplified acquisition threshold definitions

In this section, the term “simplified acquisition threshold definitions” means the following:

- (1) Section 134 of title 41.
- (2) Section 153 of title 41.

- (3) Section 3015 of title 10.

(c) Small business reserve

For a procurement carried out pursuant to subsection (a), section 644(j) of title 15 shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

(Pub. L. 107-296, title VIII, § 853, Nov. 25, 2002, 116 Stat. 2235; Pub. L. 117-81, div. A, title XVII, § 1702(c)(2), Dec. 27, 2021, 135 Stat. 2155.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b). Pub. L. 117-81 added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

“(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

“(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

“(3) Section 2302(7) of title 10.”

§ 424. Increased micro-purchase threshold for certain procurements

In the administration of section 1902 of title 41 with respect to a procurement referred to in section 422 of this title, the amount specified in subsections (a), (d), and (e) of such section 1902 shall be deemed to be \$7,500.

(Pub. L. 107-296, title VIII, § 854, Nov. 25, 2002, 116 Stat. 2236.)

Editorial Notes

CODIFICATION

In text, “section 1902 of title 41” substituted for “section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428)” and “subsections (a), (d), and (e) of such section 1902” substituted for “subsections (c), (d), and (f) of such section 32” on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§ 425. Application of certain commercial items authorities to certain procurements

(a) Authority

(1) In general

The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 422 of this title without regard to whether the property or services are commercial items.

(2) Commercial item laws

The provisions of law referred to in paragraph (1) are as follows:

- (A) Sections 1901 and 1906 of title 41.
- (B) Section 3205 of title 10.
- (C) Section 3305 of title 41.

(b) Inapplicability of limitation on use of simplified acquisition procedures

(1) In general

The \$5,000,000 limitation provided in section 1901(a)(2) of title 41, section 3205(a)(2) of title 10, and section 3305(a)(2) of title 41 shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB guidance

The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of \$5,000,000 under the authority of this section.

(c) Continuation of authority for simplified purchase procedures

Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

(Pub. L. 107-296, title VIII, § 855, Nov. 25, 2002, 116 Stat. 2236; Pub. L. 117-81, div. A, title XVII, § 1702(c)(3), Dec. 27, 2021, 135 Stat. 2155.)

Editorial Notes

REFERENCES IN TEXT

Section 4202(e) of the Clinger-Cohen Act of 1996, referred to in subsec. (c), is section 4202(e) of Pub. L. 104-106, which is set out as a note under section 2304 of Title 10, Armed Forces.

AMENDMENTS

2021—Subsec. (a)(2). Pub. L. 117-81, § 1702(c)(3)(A), added subpars. (A) to (C) and struck out former subpars. (A) to (C) which read as follows:

“(A) Sections 1901 and 1906 of title 41.

“(B) Section 2304(g) of title 10.

“(C) Section 3305 of title 41.”

Subsec. (b)(1). Pub. L. 117-81, § 1702(c)(3)(B), substituted “provided in section 1901(a)(2) of title 41, section 3205(a)(2) of title 10, and section 3305(a)(2) of title 41 shall not” for “provided in section 1901(a)(2) of title 41, section 2304(g)(1)(B) of title 10, and section 3305(a)(2) of title 41 shall not”.

§ 426. Use of streamlined procedures**(a) Required use**

The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 422 of this title, including authorities and procedures that are provided under the following provisions of law:

(1) Federal Property and Administrative Services Act of 1949

In division C of subtitle I of title 41:

(A) Paragraphs (1), (2), (6), and (7) of subsection (a) of section 3304 of title 41, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (d) of such section).

(B) Section 4106 of title 41, relating to orders under task and delivery order contracts.

(2) Title 10

In part V of subtitle A of title 10:

(A) Paragraphs (1), (2), (6), and (7) of subsection (a) of section 3204, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (d) of such section).

(B) Section 3406, relating to orders under task and delivery order contracts.

(3) Office of Federal Procurement Policy Act

Paragraphs (1)(B), (1)(D), and (2)(A) of section 1708(b) of title 41, relating to inapplicability of a requirement for procurement notice.

(b) Waiver of certain small business threshold requirements

Subclause (II) of section 637(a)(1)(D)(i) of title 15 and clause (ii) of section 657a(b)(2)(A)¹ of title 15 shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 422 of this title.

(Pub. L. 107-296, title VIII, § 856, Nov. 25, 2002, 116 Stat. 2237; Pub. L. 117-81, div. A, title XVII, § 1702(c)(4), Dec. 27, 2021, 135 Stat. 2155.)

Editorial Notes

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(1) heading, is act June 30, 1949, ch. 288, 63 Stat. 377. Title III of the Act was classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of former Title 41, Public Contracts, and was substantially repealed and restated in division C (§ 3101 et seq.) of subtitle I of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Short Title of 1949 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

The Office of Federal Procurement Policy Act, referred to in subsec. (a)(3) heading, is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, which was classified principally to chapter 7 (§ 401 et seq.) of former Title 41, Public Contracts, and was substantially repealed and restated in division B (§ 1101 et seq.) of subtitle I of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

Subsec. (b) of section 657a of title 15, referred to in subsec. (b), was redesignated subsec. (c) of that section by Pub. L. 115-91, div. A, title XVII, § 1701(a)(1), Dec. 12, 2017, 131 Stat. 1795.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117-81 added pars. (1) to (3) and struck out former pars. (1) to (3) which listed provisions in titles 10 and 41 to be followed for procurements.

§ 427. Review and report by Comptroller General**(a) Requirements**

Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this part; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

¹ See References in Text note below.