

1702(c) of title 41 as the senior procurement executive for a Federal agency.

(b) Policy

The head of each Federal agency shall ensure that the decisions made by the Federal agency regarding consolidation of contract requirements of the Federal agency are made with a view to providing small business concerns with appropriate opportunities to participate as prime contractors and subcontractors in the procurements of the Federal agency.

(c) Limitation on use of acquisition strategies involving consolidation

(1) In general

Subject to paragraph (4), the head of a Federal agency may not carry out an acquisition strategy that includes a consolidation of contract requirements of the Federal agency with a total value of more than \$2,000,000, unless the senior procurement executive or Chief Acquisition Officer for the Federal agency, before carrying out the acquisition strategy—

(A) conducts market research;

(B) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements;

(C) makes a written determination that the consolidation of contract requirements is necessary and justified;

(D) identifies any negative impact by the acquisition strategy on contracting with small business concerns; and

(E) certifies to the head of the Federal agency that steps will be taken to include small business concerns in the acquisition strategy.

(2) Determination that consolidation is necessary and justified

(A) In general

A senior procurement executive or Chief Acquisition Officer may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for the purposes of paragraph (1)(C) if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under paragraph (1)(B).

(B) Savings in administrative or personnel costs

For purposes of subparagraph (A), savings in administrative or personnel costs alone do not constitute a sufficient justification for a consolidation of contract requirements in a procurement unless the expected total amount of the cost savings, as determined by the senior procurement executive or Chief Acquisition Officer, is expected to be substantial in relation to the total cost of the procurement.

(3) Benefits to be considered

The benefits considered for the purposes of paragraphs (1) and (2) may include cost and, regardless of whether quantifiable in dollar amounts—

(A) quality;

(B) acquisition cycle;

(C) terms and conditions; and

(D) any other benefit.

(4) Department of Defense

(A) In general

The Department of Defense and each military department shall comply with this section until after the date described in subparagraph (C).

(B) Rule

After the date described in subparagraph (C), contracting by the Department of Defense or a military department shall be conducted in accordance with section 2382 of title 10.

(C) Date

The date described in this subparagraph is the date on which the Administrator determines the Department of Defense or a military department is in compliance with the Government-wide contracting goals under section 644 of this title.

(Pub. L. 85-536, §2[44], as added Pub. L. 111-240, title I, §1313(a)(2), Sept. 27, 2010, 124 Stat. 2538.)

CODIFICATION

In subsec. (a)(1), “section 1702(a) of title 41” substituted for “section 16(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(a))” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a)(3), “section 1702(c) of title 41” substituted for “section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c))” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

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