

(c) CONGRESSIONAL NOTIFICATION.—

(1) REPORT.—Before commencing a public-private competition under subsection (a), the head of an executive agency shall submit to Congress a report containing the following:

(A) The function for which the public-private competition is to be conducted.

(B) The location at which the function is performed by agency civilian employees.

(C) The number of agency civilian employee positions potentially affected.

(D) The anticipated length and cost of the public-private competition, and a specific identification of the budgetary line item from which funds will be used to cover the cost of the public-private competition.

(E) A certification that a proposed performance of the function by a contractor is not a result of a decision by an official of an executive agency to impose predetermined constraints or limitations on agency civilian employees in terms of man years, end strengths, full-time equivalent positions, or maximum number of employees.

(2) EXAMINATION OF POTENTIAL ECONOMIC EFFECT.—The report required under paragraph (1) shall include an examination of the potential economic effect of performance of the function by a contractor on—

(A) agency civilian employees who would be affected by such a conversion in performance; and

(B) the local community and the Federal Government, if more than 50 agency civilian employees perform the function.

(3) OBJECTIONS TO PUBLIC-PRIVATE COMPETITION.—

(A) GROUNDS.—A representative individual or entity at a facility where a public-private competition is conducted may submit to the head of the executive agency an objection to the public-private competition on the grounds that—

(i) the report required by paragraph (1) has not been submitted; or

(ii) the certification required by paragraph (1)(E) was not included in the report required by paragraph (1).

(B) DEADLINES.—The objection shall be in writing and shall be submitted within 90 days after the following date:

(i) In the case of a failure to submit the report when required, the date on which the representative individual or an official of the representative entity authorized to pose the objection first knew or should have known of that failure.

(ii) In the case of a failure to include the certification in a submitted report, the date on which the report was submitted to Congress.

(C) REPORT AND CERTIFICATION REQUIRED BEFORE SOLICITATION OR AWARD OF CONTRACT.—If the head of the executive agency determines that the report required by paragraph (1) was not submitted or that the required certification was not included in the submitted report, the function for which the public-private competition was conducted

for which the objection was submitted may not be the subject of a solicitation of offers for, or award of, a contract until, respectively, the report is submitted or a report containing the certification in full compliance with the certification requirement is submitted.

(d) EXEMPTION FOR THE PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY DISABLED PEOPLE.—This section shall not apply to a commercial or industrial type function of an executive agency that is—

(1) included on the procurement list established pursuant to section 8503 of this title; or

(2) planned to be changed to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely disabled people in accordance with chapter 85 of this title.

(e) INAPPLICABILITY DURING WAR OR EMERGENCY.—The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3715.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1710 .....	41:439.	Pub. L. 93-400, §43, as added Pub. L. 110-181, title III, §327(a), Jan. 28, 2008, 122 Stat. 63.

In the heading for subsection (d) and in subsection (d)(2), the words “disabled people” are substituted for “handicapped persons” for consistency with chapter 85 of the revised title.

§ 1711. Value engineering

Each executive agency shall establish and maintain cost-effective procedures and processes for analyzing the functions of a program, project, system, product, item of equipment, building, facility, service, or supply of the agency. The analysis shall be—

(1) performed by qualified agency or contractor personnel; and

(2) directed at improving performance, reliability, quality, safety, and life cycle costs.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3718.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1711 .....	41:432.	Pub. L. 93-400, §36, as added Pub. L. 104-106, title XLIII, §4306(a), Feb. 10, 1996, 110 Stat. 665.

§ 1712. Record requirements

(a) MAINTAINING RECORDS ON COMPUTER.—Each executive agency shall establish and maintain for 5 years a computer file, by fiscal year, containing unclassified records of all procurements greater than the simplified acquisition threshold in that fiscal year.

(b) CONTENTS.—The record established under subsection (a) shall include, with respect to each procurement carried out using—

- (1) competitive procedures—
  - (A) the date of contract award;
  - (B) information identifying the source to whom the contract was awarded;
  - (C) the property or services the Federal Government obtains under the procurement; and
  - (D) the total cost of the procurement; or
- (2) procedures other than competitive procedures—
  - (A) the information described in paragraph (1);
  - (B) the reason under section 3304(a) of this title or section 2304(c) of title 10 for using the procedures; and
  - (C) the identity of the organization or activity that conducted the procurement.

(c) SEPARATE RECORD CATEGORY FOR PROCUREMENTS RESULTING IN ONE BID OR PROPOSAL.—Information included in a record pursuant to subsection (b)(1) that relates to procurements resulting in the submission of a bid or proposal by only one responsible source shall be separately categorized from the information relating to other procurements included in the record. The record of that information shall be designated “noncompetitive procurements using competitive procedures”.

(d) TRANSMISSION AND DATA ENTRY OF INFORMATION.—The head of each executive agency shall—

- (1) ensure the accuracy of the information included in the record established and maintained by the agency under subsection (a); and
- (2) transmit in a timely manner such information to the General Services Administration for entry into the Federal Procurement Data System referred to in section 1122(a)(4) of this title, or any successor system.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3718.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1712 .....	41:417.	Pub. L. 93–400, § 19, as added Pub. L. 98–369, title VII, § 2732(a), July 18, 1984, 98 Stat. 1197; Pub. L. 103–355, title IV, § 4403, Oct. 13, 1994, 108 Stat. 3349; Pub. L. 110–417, title VIII, § 874(b), Oct. 14, 2008, 122 Stat. 4558.

§ 1713. Procurement data

- (a) DEFINITIONS.—In this section:
- (1) QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—The term “qualified HUBZone small business concern” has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(p)).
  - (2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term “small business concern owned and controlled by socially and economically disadvantaged individuals” has the meaning given that term in section 8(d) of the Small Business Act (15 U.S.C. 637(d)).
  - (3) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY WOMEN.—The term “small business concern owned and controlled by women” has

the meaning given that term in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and section 204 of the Women’s Business Ownership Act of 1988 (Public Law 100–533, 102 Stat. 2692).

(b) REPORTING.—Each Federal agency shall report to the Office of Federal Procurement Policy the number of qualified HUBZone small business concerns, the number of small businesses owned and controlled by women, and the number of small business concerns owned and controlled by socially and economically disadvantaged individuals, by gender, that are first time recipients of contracts from the agency. The Office shall take appropriate action to ascertain, for each fiscal year, the number of those small businesses that have newly entered the Federal market.

(Pub. L. 111–350, § 3, Jan. 4, 2011, 124 Stat. 3719.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1713(a) .....	41:417a(b).	Pub. L. 100–533, title V, § 502, Oct. 25, 1988, 102 Stat. 2697; Pub. L. 105–135, title VI, § 604(f)(2), Dec. 2, 1997, 111 Stat. 2634.
1713(b) .....	41:417a(a).	

In subsection (b), the words “socially and economically disadvantaged individuals” are substituted for “socially and economically disadvantaged businesses” for consistency with the term set out in subsection (a).

REFERENCES IN TEXT

Section 204 of the Women’s Business Ownership Act of 1988, referred to in subsec. (a)(3), is section 204 of Pub. L. 100–533, which is set out as a note under section 637 of Title 15, Commerce and Trade.

CHAPTER 19—SIMPLIFIED ACQUISITION PROCEDURES

- Sec.
- 1901. Simplified acquisition procedures.
- 1902. Procedures applicable to purchases below micro-purchase threshold.
- 1903. Special emergency procurement authority.
- 1904. Certain transactions for defense against attack.
- 1905. List of laws inapplicable to contracts or subcontracts not greater than simplified acquisition threshold.
- 1906. List of laws inapplicable to procurements of commercial items.
- 1907. List of laws inapplicable to procurements of commercially available off-the-shelf items.
- 1908. Inflation adjustment of acquisition-related dollar thresholds.

§ 1901. Simplified acquisition procedures

(a) WHEN PROCEDURES ARE TO BE USED.—To promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for purchases of property and services for amounts—

- (1) not greater than the simplified acquisition threshold; and
- (2) greater than the simplified acquisition threshold but not greater than \$5,000,000 for which the contracting officer reasonably expects, based on the nature of the property or services sought and on market research, that offers will include only commercial items.