

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3721.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1904 .....	41:428a note.	Pub. L. 108-136, title XIV, §1441, Nov. 24, 2003, 117 Stat. 1673.

In subsection (a)(2), the reference to subsection (g) of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160, 10 U.S.C. 2371 note) is changed to subsection (i) because of section 847(c)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136, 117 Stat. 1554), which redesignated subsection (g) as subsection (h), and section 823(2) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163, 119 Stat. 3387), which redesignated subsection (h) as subsection (i).

In subsection (a)(3)(A), the words “paragraph (2)” are substituted for “this paragraph” to correct the cross-reference.

In subsection (a)(4)(A), the words “to use the authority for such project” are omitted as unnecessary.

In subsection (c), the words “Committee on Homeland Security and Governmental Affairs” are substituted for “Committee on Governmental Affairs” on authority of Senate Resolution No. 445 (108th Congress, October 9, 2004). The words “Committee on Oversight and Government Reform” are substituted for “Committee on Government Reform” on authority of Rule X(1)(m) of the Rules of the House of Representatives, adopted by House Resolution No. 6 (110th Congress, January 5, 2007).

#### § 1905. List of laws inapplicable to contracts or subcontracts not greater than simplified acquisition threshold

(a) DEFINITION.—In this section, the term “Council” has the meaning given that term in section 1301 of this title.

(b) INCLUSION IN FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold. A provision of law properly included on the list pursuant to paragraph (2) does not apply to contracts or subcontracts in amounts not greater than the simplified acquisition threshold that are made by an executive agency. This section does not render a provision of law not included on the list inapplicable to contracts and subcontracts in amounts not greater than the simplified acquisition threshold.

(2) LAWS ENACTED AFTER OCTOBER 13, 1994.—A provision of law described in subsection (c) that is enacted after October 13, 1994, shall be included on the list of inapplicable provisions of laws required by paragraph (1) unless the Council makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts or subcontracts in amounts not greater than the simplified acquisition threshold from the applicability of the provision.

(c) COVERED LAW.—A provision of law referred to in subsection (b)(2) is a provision of law that the Council determines sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Fed-

eral Government, except for a provision of law that—

(1) provides for criminal or civil penalties; or

(2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold.

(d) PETITION.—A person may petition the Administrator to take appropriate action when a provision of law described in subsection (c) is not included on the list of inapplicable provisions of law as required by subsection (b) and the Council has not made a written determination pursuant to subsection (b)(2). The Administrator shall revise the Federal Acquisition Regulation to include the provision on the list of inapplicable provisions of law unless the Council makes a determination pursuant to subsection (b)(2) within 60 days after the petition is received.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3722.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1905(a) .....	no source.	Pub. L. 93-400, §33, as added Pub. L. 103-355, title IV, §4101, Oct. 13, 1994, 108 Stat. 3339.
1905(b)-(d) ..	41:429.	

#### § 1906. List of laws inapplicable to procurements of commercial items

(a) DEFINITION.—In this section, the term “Council” has the meaning given that term in section 1301 of this title.

(b) CONTRACTS.—

(1) INCLUSION IN FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercial items. A provision of law properly included on the list pursuant to paragraph (2) does not apply to purchases of commercial items by an executive agency. This section does not render a provision of law not included on the list inapplicable to contracts for the procurement of commercial items.

(2) LAWS ENACTED AFTER OCTOBER 13, 1994.—A provision of law described in subsection (d) that is enacted after October 13, 1994, shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Council makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of commercial items from the applicability of the provision.

(c) SUBCONTRACTS.—

(1) DEFINITION.—In this subsection, the term “subcontract” includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

(2) INCLUSION IN FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to subcontracts under a contract or subcontract for the procurement of commercial items. A provision of law properly

included on the list pursuant to paragraph (3) does not apply to those subcontracts. This section does not render a provision of law not included on the list inapplicable to subcontracts under a contract for the procurement of commercial items.

(3) PROVISIONS TO BE EXCLUDED FROM LIST.—A provision of law described in subsection (d) shall be included on the list of inapplicable provisions of law required by paragraph (2) unless the Council makes a written determination that it would not be in the best interest of the Federal Government to exempt subcontracts under a contract for the procurement of commercial items from the applicability of the provision.

(4) WAIVER NOT AUTHORIZED.—This subsection does not authorize the waiver of the applicability of any provision of law with respect to any subcontract under a contract with a prime contractor reselling or distributing commercial items of another contractor without adding value.

(d) COVERED LAW.—A provision of law referred to in subsections (b)(2) and (c) is a provision of law that the Council determines sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that—

- (1) provides for criminal or civil penalties; or
- (2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercial items.

(e) PETITION.—A person may petition the Administrator to take appropriate action when a provision of law described in subsection (d) is not included on the list of inapplicable provisions of law as required by subsection (b) or (c) and the Council has not made a written determination pursuant to subsection (b)(2) or (c)(3). The Administrator shall revise the Federal Acquisition Regulation to include the provision on the list of inapplicable provisions of law unless the Council makes a determination pursuant to subsection (b)(2) or (c)(3) within 60 days after the petition is received.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3723.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1906(a) .....	no source.	
1906(b)-(e) ..	41:430.	Pub. L. 93-400, §34, as added Pub. L. 103-355, title VIII, §8003(a), Oct. 13, 1994, 108 Stat. 3388.

**§ 1907. List of laws inapplicable to procurements of commercially available off-the-shelf items**

(a) INCLUSION IN FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercially available off-the-shelf items. A provision of law properly included on the list pursuant to paragraph (2) does not apply to contracts for the procure-

ment of commercially available off-the-shelf items. This section does not render a provision of law not included on the list inapplicable to contracts for the procurement of commercially available off-the-shelf items.

(2) LAWS TO BE INCLUDED.—A provision of law described in subsection (b) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Administrator makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of commercially available off-the-shelf items from the applicability of the provision.

(3) OTHER AUTHORITIES OR RESPONSIBILITIES NOT AFFECTED.—This section does not modify, supersede, impair, or restrict authorities or responsibilities under—

- (A) section 15 of the Small Business Act (15 U.S.C. 644); or
- (B) bid protest procedures developed under the authority of—
  - (i) subchapter V of chapter 35 of title 31;
  - (ii) section 2305(e) and (f) of title 10; or
  - (iii) sections 3706 and 3707 of this title.

(b) COVERED LAW.—Except as provided in subsection (a)(3), a provision of law referred to in subsection (a)(1) is a provision of law that the Administrator determines imposes Federal Government-unique policies, procedures, requirements, or restrictions for the procurement of property or services on persons whom the Federal Government has awarded contracts for the procurement of commercially available off-the-shelf items, except for a provision of law that—

- (1) provides for criminal or civil penalties; or
- (2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercially available off-the-shelf items.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3724.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1907 .....	41:431(a), (b).	Pub. L. 93-400, §35(a), (b), as added Pub. L. 104-106, title XLII, §4203(a), Feb. 10, 1996, 110 Stat. 654; Pub. L. 105-85, title X, §1073(g)(2)(C), Nov. 18, 1997, 111 Stat. 1906.

**§ 1908. Inflation adjustment of acquisition-related dollar thresholds**

(a) DEFINITION.—In this section, the term “Council” has the meaning given that term in section 1301 of this title.

(b) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the requirement for adjustment under subsection (c) applies to a dollar threshold that is specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency, as the Council determines.

(2) EXCEPTIONS.—Subsection (c) does not apply to dollar thresholds—