

(i) enter into a contract for property or services using procedures other than competitive procedures on the basis of the lack of advance planning or concerns related to the amount available to the agency for procurement functions; or

(ii) procure property or services from another executive agency unless the other executive agency complies fully with the requirements of this division in its procurement of the property or services.

(B) ADDITIONAL RESTRICTION.—The restriction set out in subparagraph (A)(ii) is in addition to any other restriction provided by law.

(f) PUBLIC AVAILABILITY OF JUSTIFICATION AND APPROVAL REQUIRED FOR USING NONCOMPETITIVE PROCEDURES.—

(1) TIME REQUIREMENT.—

(A) WITHIN 14 DAYS AFTER CONTRACT AWARD.—Except as provided in subparagraph (B), in the case of a procurement permitted by subsection (a), the head of an executive agency shall make publicly available, within 14 days after the award of the contract, the documents containing the justification and approval required by subsection (e)(1) with respect to the procurement.

(B) WITHIN 30 DAYS AFTER CONTRACT AWARD.—In the case of a procurement permitted by subsection (a)(2), subparagraph (A) shall be applied by substituting “30 days” for “14 days”.

(2) AVAILABILITY ON WEBSITES.—The documents referred to in subparagraph (A) of paragraph (1) shall be made available on the website of the agency and through a Government-wide website selected by the Administrator.

(3) EXCEPTION TO AVAILABILITY AND APPROVAL REQUIREMENT.—This subsection does not require the public availability of information that is exempt from public disclosure under section 552(b) of title 5.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3748.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3304(a)	41:253(c), (d)(2).	June 30, 1949, ch. 288, title III, §303(c)-(f), (j), 63 Stat. 395; July 12, 1952, ch. 703, §1(m), 66 Stat. 594; Pub. L. 90-268, §2, Mar. 16, 1968, 82 Stat. 49; Pub. L. 98-369, title VII, §2711(a)(1), July 18, 1984, 98 Stat. 1176; Pub. L. 98-577, title V, §504(a)(2), Oct. 30, 1984, 98 Stat. 3086; Pub. L. 99-145, title IX, §961(a)(2), title XIII, §1304(c)(2), Nov. 8, 1985, 99 Stat. 703, 742; Pub. L. 103-355, title I, §§1053, 1055(a), title VII, §7203(b)(1)(A), Oct. 13, 1994, 108 Stat. 3261, 3265, 3380; Pub. L. 104-106, title XXI, §4102(b), title XLIII, §4321(e)(2), Feb. 10, 1996, 110 Stat. 643, 674; Pub. L. 104-320, §§7(a)(2), 11(c)(2), Oct. 19, 1996, 110 Stat. 3871, 3873; Pub. L. 110-181, div. A, title VIII, §844(a), Jan. 28, 2008, 122 Stat. 239; Pub. L. 110-417, [div. A], title VIII, §862(a), Oct. 14, 2008, 122 Stat. 4546.
3304(b)	41:253(d)(1).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3304(c)	41:253(d)(3).	
3304(d)	41:253(e).	
3304(e)(1)	41:253(f)(1).	
3304(e)(2)	41:253(f)(3).	
3304(e)(3), (4).	41:253(f)(2).	
3304(e)(5)	41:253(f)(4).	
3304(f)	41:253(j).	

In subsection (a)(7), the words “(who may not delegate the authority under this paragraph)” are substituted for 41:253(d)(2) to move the restriction closer to where it applies.

In subsection (e)(1)(B)(i), the words “advocate for competition” are substituted for “competition advocate” for consistency with section 1705 of the revised title.

In subsection (e)(1)(B)(ii), the reference to section 5376 of title 5 is substituted for the reference to grade GS-16 or above under the General Schedule because of section 529 [title I, §101(c)(1)] of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101-509, 104 Stat. 1442, 5 U.S.C. 5376 note).

In subsection (e)(5)(B), the words “and not in lieu of” are omitted as unnecessary.

In subsection (f)(2), the words “referred to in subparagraph (A) of paragraph (1)” are added for clarity.

SENATE REVISION AMENDMENT

In subsec. (e)(1)(B)(ii), “for level IV of the Executive Schedule” substituted for “under section 5376 of title 5” by S. Amdt. 4726 (111th Cong.). See 156 Cong. Rec. S8442, Dec. 2, 2010 (daily ed.).

§ 3305. Simplified procedures for small purchases

(a) AUTHORIZATION.—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.

(b) LEASEHOLD INTERESTS IN REAL PROPERTY.—The Administrator of General Services shall prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold. The rental rate under a multiyear lease does not exceed the simplified acquisition threshold if the average annual amount of the rent payable for the period of the lease does not exceed the simplified acquisition threshold.

(c) PROHIBITION ON DIVIDING CONTRACTS.—A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts to use the simplified procedures required by subsection (a).

(d) PROMOTION OF COMPETITION.—In using the simplified procedures, an executive agency shall promote competition to the maximum extent practicable.

(e) COMPLIANCE WITH SPECIAL REQUIREMENTS OF FEDERAL ACQUISITION REGULATION.—An exec-

utive agency shall comply with the Federal Acquisition Regulation provisions referred to in section 1901(e) of this title.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3752.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3305	41:253(g).	June 30, 1949, ch. 288, title III, §303(g), 63 Stat. 395; July 12, 1952, ch. 703, §1(m), 66 Stat. 594; Pub. L. 90-268, §2, Mar. 16, 1968, 82 Stat. 49; Pub. L. 98-369, title VII, §2711(a)(1), July 18, 1984, 98 Stat. 1178; Pub. L. 99-145, title XIII, §1304(c)(3), Nov. 8, 1985, 99 Stat. 742; Pub. L. 101-510, title VIII, §806(c), Nov. 5, 1990, 104 Stat. 1592; Pub. L. 103-355, title I, §1051(2), title IV, §4402(a), Oct. 13, 1994, 108 Stat. 3260, 3348; Pub. L. 104-106, title XLII, §4202(b)(1), Feb. 10, 1996, 110 Stat. 653; Pub. L. 105-85, title VIII, §850(f)(4)(B), Nov. 18, 1997, 111 Stat. 1850.

§ 3306. Planning and solicitation requirements

(a) PLANNING AND SPECIFICATIONS.—

(1) PREPARING FOR PROCUREMENT.—In preparing for the procurement of property or services, an executive agency shall—

(A) specify its needs and solicit bids or proposals in a manner designed to achieve full and open competition for the procurement;

(B) use advance procurement planning and market research; and

(C) develop specifications in the manner necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired.

(2) REQUIREMENTS OF SPECIFICATIONS.—Each solicitation under this division shall include specifications that—

(A) consistent with this division, permit full and open competition; and

(B) include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the executive agency or as authorized by law.

(3) TYPES OF SPECIFICATIONS.—For the purposes of paragraphs (1) and (2), the type of specification included in a solicitation shall depend on the nature of the needs of the executive agency and the market available to satisfy those needs. Subject to those needs, specifications may be stated in terms of—

(A) function, so that a variety of products or services may qualify;

(B) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

(C) design requirements.

(b) CONTENTS OF SOLICITATION.—In addition to the specifications described in subsection (a), each solicitation for sealed bids or competitive proposals (other than for a procurement for commercial items using special simplified procedures or a purchase for an amount not greater than the simplified acquisition threshold) shall at a minimum include—

(1) a statement of—

(A) all significant factors and significant subfactors that the executive agency reasonably expects to consider in evaluating sealed bids (including price) or competitive proposals (including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors); and

(B) the relative importance assigned to each of those factors and subfactors; and

(2)(A) in the case of sealed bids—

(i) a statement that sealed bids will be evaluated without discussions with the bidders; and

(ii) the time and place for the opening of the sealed bids; or

(B) in the case of competitive proposals—

(i) either a statement that the proposals are intended to be evaluated with, and the award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and the award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and

(ii) the time and place for submission of proposals.

(c) EVALUATION FACTORS.—

(1) IN GENERAL.—In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an executive agency shall—

(A) establish clearly the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

(B) include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

(C) disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

(i) significantly more important than cost or price;

(ii) approximately equal in importance to cost or price; or

(iii) significantly less important than cost or price.

(2) RESTRICTION ON IMPLEMENTING REGULATIONS.—Regulations implementing paragraph (1)(C) may not define the terms “significantly more important” and “significantly less important” as specific numeric weights that would be applied uniformly to all solicitations or a class of solicitations.

(d) ADDITIONAL INFORMATION IN SOLICITATION.—This section does not prohibit an executive agency from—

(1) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors on a case-by-case basis; or

(2) stating in a solicitation that award will be made to the offeror that meets the sollicita-