

authorities provided under this section reflected the best value.

(3) The number of employees designated by each executive agency under subsection (b)(1) of this section.

(4) An assessment of the extent to which the Department has implemented subsections (b)(2) and (b)(3) of this section to monitor the use of procurement authority by employees designated under subsection (b)(1) of this section.

(5) Any recommendations of the Comptroller General for improving the effectiveness of the implementation of the provisions of this section.

(Pub. L. 107–296, title VIII, § 833, Nov. 25, 2002, 116 Stat. 2225.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (a)(1), is 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of this title.

Section 4202(e) of the Clinger-Cohen Act of 1996, referred to in subsec. (d)(3), is section 4202(e) of Pub. L. 104–106, which is set out as a note under section 2304 of Title 10, Armed Forces.

CODIFICATION

In subsec. (b)(1), “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.

In subsec. (b)(2)(A), “section 1902(d) of title 41” substituted for “section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c))” on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (c)(1), “section 134 of title 41” substituted for “section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))” on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (d)(2), “section 1901(a)(2) of title 41” substituted for “section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2))” and “section 3305(a)(2) of title 41” substituted for “section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B))” on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section is comprised of section 833 of Pub. L. 107–296. Subsec. (c)(2) of section 833 of Pub. L. 107–296 amended section 416 of former Title 41, Public Contracts.

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

§ 394. Unsolicited proposals

(a) Regulations required

Within 1 year of November 25, 2002, the Federal Acquisition Regulation shall be revised to include regulations with regard to unsolicited proposals.

(b) Content of regulations

The regulations prescribed under subsection (a) of this section shall require that before initiating a comprehensive evaluation, an agency contact point shall consider, among other factors, that the proposal—

(1) is not submitted in response to a previously published agency requirement; and

(2) contains technical and cost information for evaluation and overall scientific, technical or socioeconomic merit, or cost-related or price-related factors.

(Pub. L. 107–296, title VIII, § 834, Nov. 25, 2002, 116 Stat. 2227.)

§ 395. Prohibition on contracts with corporate expatriates

(a) In general

The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b) of this section, or any subsidiary of such an entity.

(b) Inverted domestic corporation

For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity completes before, on, or after November 25, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) Definitions and special rules

(1) Rules for application of subsection (b)

In applying subsection (b) of this section for purposes of subsection (a) of this section, the following rules shall apply:

(A) Certain stock disregarded

There shall not be taken into account in determining ownership for purposes of subsection (b)(2) of this section—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or