

tribal governments, and from other sources designated by the Administrator.

**(2) Enrollment priorities and selection criteria**

The Administrator shall establish policies governing student enrollment priorities and selection criteria that are consistent with the mission of the Program.

**(3) Diversity**

The Administrator shall take reasonable steps to ensure that the student body represents racial, gender, and ethnic diversity.

**(d) Service commitment**

**(1) In general**

Before any employee selected for the Program may be assigned to participate in the program, the employee shall agree in writing—

(A) to continue in the service of the agency sponsoring the employee during the 2-year period beginning on the date on which the employee completes the program, unless the employee is involuntarily separated from the service of that agency for reasons other than a reduction in force; and

(B) to pay to the Government the amount of the additional expenses incurred by the Government in connection with the employee's education if the employee is voluntarily separated from the service to the agency before the end of the period described in subparagraph (A).

**(2) Payment of expenses**

**(A) Exemption**

An employee who leaves the service of the sponsoring agency to enter into the service of another agency in any branch of the Government shall not be required to make a payment under paragraph (1)(B), unless the head of the agency that sponsored the education of the employee notifies that employee before the date on which the employee enters the service of the other agency that payment is required under that paragraph.

**(B) Amount of payment**

If an employee is required to make a payment under paragraph (1)(B), the agency that sponsored the education of the employee shall determine the amount of the payment, except that such amount may not exceed the pro rata share of the expenses incurred for the time remaining in the 2-year period.

**(3) Recovery of payment**

If an employee who is required to make a payment under this subsection does not make the payment, a sum equal to the amount of the expenses incurred by the Government for the education of that employee is recoverable by the Government from the employee or his estate by—

(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; or

(B) such other method as is provided by law<sup>1</sup> for the recovery of amounts owing to the Government.

(Pub. L. 107-296, title VIII, §845, as added Pub. L. 109-295, title VI, §623(a), Oct. 4, 2006, 120 Stat. 1418.)

CHANGE OF NAME

The reference to the “Administrator” in text probably means the Administrator of the Federal Emergency Management Agency. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of this title.

**§ 416. Use of protective equipment or measures by employees**

None of the funds made available in this or any other Act for fiscal year 2013 and thereafter may be used to propose or effect a disciplinary or adverse action, with respect to any Department of Homeland Security employee who engages regularly with the public in the performance of his or her official duties solely because that employee elects to utilize protective equipment or measures, including but not limited to surgical masks, N95 respirators, gloves, or hand-sanitizers, where use of such equipment or measures is in accord with Department of Homeland Security policy, and Centers for Disease Control and Prevention and Office of Personnel Management guidance.

(Pub. L. 113-6, div. D, title V, §540, Mar. 26, 2013, 127 Stat. 373.)

REFERENCES IN TEXT

This Act, referred to in text, means div. D of Pub. L. 113-6, Mar. 26, 2013, 127 Stat. 342, known as the Department of Homeland Security Appropriations Act, 2013. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Department of Homeland Security Appropriations Act, 2013, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

PART F—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

**§ 421. Definition**

In this part, the term “executive agency” has the meaning given that term under section 133 of title 41.

(Pub. L. 107-296, title VIII, §851, Nov. 25, 2002, 116 Stat. 2235.)

CODIFICATION

In text, “section 133 of title 41” substituted for “section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1))” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

<sup>1</sup> So in original. Probably should be “law”.

**§ 422. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack**

The authorities provided in this part apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on November 25, 2002.

(Pub. L. 107–296, title VIII, § 852, Nov. 25, 2002, 116 Stat. 2235.)

**§ 423. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations**

**(a) Temporary threshold amounts**

For a procurement referred to in section 422 of this title that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

- (1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, \$200,000; or
- (2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, \$300,000.

**(b) Simplified acquisition threshold definitions**

In this section, the term “simplified acquisition threshold definitions” means the following:

- (1) Section 134 of title 41.
- (2) Section 153 of title 41.
- (3) Section 2302(7) of title 10.

**(c) Small business reserve**

For a procurement carried out pursuant to subsection (a), section 644(j) of title 15 shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

(Pub. L. 107–296, title VIII, § 853, Nov. 25, 2002, 116 Stat. 2235.)

CODIFICATION

In subsec. (b)(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. (b)(2), “Section 153 of title 41” substituted for “Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d))” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

**§ 424. Increased micro-purchase threshold for certain procurements**

In the administration of section 1902 of title 41 with respect to a procurement referred to in section 422 of this title, the amount specified in subsections (a), (d), and (e) of such section 1902 shall be deemed to be \$7,500.

(Pub. L. 107–296, title VIII, §854, Nov. 25, 2002, 116 Stat. 2236.)

CODIFICATION

In text, “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.

**§ 425. Application of certain commercial items authorities to certain procurements**

**(a) Authority**

**(1) In general**

The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 422 of this title without regard to whether the property or services are commercial items.

**(2) Commercial item laws**

The provisions of law referred to in paragraph (1) are as follows:

- (A) Sections 1901 and 1906 of title 41.
- (B) Section 2304(g) of title 10.
- (C) Section 3305 of title 41.

**(b) Inapplicability of limitation on use of simplified acquisition procedures**

**(1) In general**

The \$5,000,000 limitation provided in section 1901(a)(2) of title 41, section 2304(g)(1)(B) of title 10, and section 3305(a)(2) of title 41 shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

**(2) OMB guidance**

The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of \$5,000,000 under the authority of this section.

**(c) Continuation of authority for simplified purchase procedures**

Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

(Pub. L. 107–296, title VIII, §855, Nov. 25, 2002, 116 Stat. 2236.)

REFERENCES IN TEXT

Section 4202(e) of the Clinger-Cohen Act of 1996, referred to in subsec. (c), 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. (a)(2)(A), “Sections 1901 and 1906 of title 41” substituted for “Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430)” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.