

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.

§ 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(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.

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 exec-