

§ 2312. Contingency Contracting Corps

(a) **DEFINITION.**—In this section, the term “Corps” means the Contingency Contracting Corps established in subsection (b).

(b) **ESTABLISHMENT.**—The Administrator of General Services, pursuant to policies established by the Office of Management and Budget, and in consultation with the Secretary of Defense and the Secretary of Homeland Security, shall establish a Government-wide Contingency Contracting Corps.

(c) **FUNCTION.**—The members of the Corps shall be available for deployment in responding to an emergency or major disaster, or a contingency operation, both within or outside the continental United States.

(d) **APPLICABILITY.**—The authorities provided in this section apply with respect 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—

(1) in support of a contingency operation as defined in section 101(a)(13) of title 10; or

(2) to respond to an emergency or major disaster as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(e) **MEMBERSHIP.**—Membership in the Corps shall be voluntary and open to all Federal employees and members of the Armed Forces who are members of the Federal acquisition workforce.

(f) **EDUCATION AND TRAINING.**—The Administrator of General Services may, in consultation with the Director of the Federal Acquisition Institute and the Chief Acquisition Officers Council, establish educational and training requirements for members of the Corps. Education and training carried out pursuant to the requirements shall be paid for from funds available in the acquisition workforce training fund established pursuant to section 1703(i) of this title.

(g) **SALARY.**—The salary for a member of the Corps shall be paid—

(1) in the case of a member of the Armed Forces, out of funds available to the Armed Force concerned; and

(2) in the case of a Federal employee, out of funds available to the employing agency.

(h) **AUTHORITY TO DEPLOY THE CORPS.**—

(1) **DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.**—The Director of the Office of Management and Budget shall have the authority, upon request by an executive agency, to determine when members of the Corps shall be deployed, with the concurrence of the head of the agency or agencies employing the members to be deployed.

(2) **SECRETARY OF DEFENSE.**—Nothing in this section shall preclude the Secretary of Defense or the Secretary’s designee from deploying members of the Armed Forces or civilian personnel of the Department of Defense in support of a contingency operation as defined in section 101(a)(13) of title 10.

(i) **ANNUAL REPORT.**—

(1) **IN GENERAL.**—The Administrator of General Services shall provide to the Committee on Homeland Security and Governmental Af-

fairs and the Committee on Armed Services of the Senate and the Committee on Oversight and Government Reform and the Committee on Armed Services of the House of Representatives an annual report on the status of the Corps as of September 30 of each fiscal year.

(2) **CONTENT.**—Each report under paragraph (1) shall include the number of members of the Corps, the total cost of operating the program, the number of deployments of members of the program, and the performance of members of the program in deployment.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3739.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2312 (except sub-section (a)).	41:440.	Pub. L. 93-400, §44, as added Pub. L. 110-417, [div. A], title VIII, §870(a), Oct. 14, 2008, 122 Stat. 4554.
2312(a)	no source.	

§ 2313. Database for Federal agency contract and grant officers and suspension and debarment officials

(a) **IN GENERAL.**—Subject to the authority, direction, and control of the Director of the Office of Management and Budget, the Administrator of General Services shall establish and maintain a database of information regarding the integrity and performance of certain persons awarded Federal agency contracts and grants for use by Federal agency officials having authority over contracts and grants.

(b) **PERSONS COVERED.**—The database shall cover the following:

(1) Any person awarded a Federal agency contract or grant in excess of \$500,000, if any information described in subsection (c) exists with respect to the person.

(2) Any person awarded such other category or categories of Federal agency contract as the Federal Acquisition Regulation may provide, if any information described in subsection (c) exists with respect to the person.

(c) **INFORMATION INCLUDED.**—With respect to a covered person, the database shall include information (in the form of a brief description) for the most recent 5-year period regarding the following:

(1) Each civil or criminal proceeding, or any administrative proceeding, in connection with the award or performance of a contract or grant with the Federal Government with respect to the person during the period to the extent that the proceeding results in the following dispositions:

(A) In a criminal proceeding, a conviction.

(B) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(C) In an administrative proceeding, a finding of fault and liability that results in—

(i) the payment of a monetary fine or penalty of \$5,000 or more; or

(ii) the payment of a reimbursement, restitution, or damages in excess of \$100,000.

(D) To the maximum extent practicable and consistent with applicable laws and regulations, in a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the person if the proceeding could have led to any of the outcomes specified in subparagraph (A), (B), or (C).

(2) Each Federal contract and grant awarded to the person that was terminated in the period due to default.

(3) Each Federal suspension and debarment of the person.

(4) Each Federal administrative agreement entered into by the person and the Federal Government in the period to resolve a suspension or debarment proceeding.

(5) Each final finding by a Federal official in the period that the person has been determined not to be a responsible source under paragraph (3) or (4) of section 113 of this title.

(6) Other information that shall be provided for purposes of this section in the Federal Acquisition Regulation.

(7) To the maximum extent practicable, information similar to the information covered by paragraphs (1) to (4) in connection with the award or performance of a contract or grant with a State government.

(d) REQUIREMENTS RELATING TO DATABASE INFORMATION.—

(1) DIRECT INPUT AND UPDATE.—The Administrator of General Services shall design and maintain the database in a manner that allows the appropriate Federal agency officials to directly input and update information in the database relating to actions that the officials have taken with regard to contractors or grant recipients.

(2) TIMELINESS AND ACCURACY.—The Administrator of General Services shall develop policies to require—

(A) the timely and accurate input of information into the database;

(B) the timely notification of any covered person when information relevant to the person is entered into the database; and

(C) opportunities for any covered person to submit comments pertaining to information about the person for inclusion in the database.

(e) USE OF DATABASE.—

(1) AVAILABILITY TO GOVERNMENT OFFICIALS.—The Administrator of General Services shall ensure that the information in the database is available to appropriate acquisition officials of Federal agencies, other government officials as the Administrator of General Services determines appropriate, and, on request, the Chairman and Ranking Member of the committees of Congress having jurisdiction.

(2) REVIEW AND ASSESSMENT OF DATA.—

(A) IN GENERAL.—Before awarding a contract or grant in excess of the simplified acquisition threshold under section 134 of this title, the Federal agency official responsible for awarding the contract or grant shall review the database and consider all information in the database with regard to any offer

or proposal, and in the case of a contract, shall consider other past performance information available with respect to the offeror in making any responsibility determination or past performance evaluation for the offeror.

(B) DOCUMENTATION IN CONTRACT FILE.—The contract file for each contract of a Federal agency in excess of the simplified acquisition threshold shall document the manner in which the material in the database was considered in any responsibility determination or past performance evaluation.

(f) DISCLOSURE IN APPLICATIONS.—The Federal Acquisition Regulation shall require that persons with Federal agency contracts and grants valued in total greater than \$10,000,000 shall—

(1) submit to the Administrator of General Services, in a manner determined appropriate by the Administrator of General Services, the information subject to inclusion in the database as listed in subsection (c) current as of the date of submittal of the information under this subsection; and

(2) update the information submitted under paragraph (1) on a semiannual basis.

(g) RULEMAKING.—The Administrator of General Services shall prescribe regulations that may be necessary to carry out this section.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3740; Pub. L. 111-212, title III, § 3010, July 29, 2010, 124 Stat. 2340; Pub. L. 111-383, div. A, title VIII, § 834(d), Jan. 7, 2011, 124 Stat. 4279.)

AMENDMENTS NOT SHOWN IN TEXT

This section was derived from section 417b of former Title 41, Public Contracts, which was amended by Pub. L. 111-212, title III, § 3010, July 29, 2010, 124 Stat. 2340, and Pub. L. 111-383, div. A, title VIII, § 834(d), Jan. 7, 2011, 124 Stat. 4279, prior to being repealed and reenacted as this section by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For applicability of those amendments to this section, see section 6(a) of Pub. L. 111-350, set out as a Transitional and Savings Provisions note preceding section 101 of this title. Section 417b of former Title 41 was amended by adding at the end of subsec. (e)(1) the following: “In addition, the Administrator shall post all such information, excluding past performance reviews, on a publicly available Internet website.” and by adding at the end of subsec. (c)(1) the following new subparagraph:

“(E) In an administrative proceeding, a final determination of contractor fault by the Secretary of Defense pursuant to section 823(d) of the National Defense Authorization Act for Fiscal Year 2010 (10 U.S.C. 2302 note).”

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
2313	41:417b.	Pub. L. 110-417, [div. A], title VIII, § 872, Oct. 14, 2008, 122 Stat. 4555.

In subsection (a), the words “not later than one year after the date of the enactment of this Act” are omitted because of section 6(f) of the bill.

In subsection (c)(7), the word “practicable” is substituted for “practical” to correct an error in the law.

In subsection (f), the words “Not later than one year after the date of the enactment of this Act” are omitted because of section 6(f) of the bill. The words “shall require” are substituted for “shall be amended to require” to reflect the permanence of the provision.

In subsection (f)(2), the words “the information submitted under paragraph (1)” are substituted for “such information” for clarity.

DEADLINE FOR ESTABLISHING DATABASE

Pub. L. 111-350, §6(f)(3), Jan. 4, 2011, 124 Stat. 3855, provided that: “The requirement in section 2313(a) of title 41, United States Code, to establish a database shall be done not later than one year after October 14, 2008.”

DEADLINE FOR AMENDING FEDERAL ACQUISITION REGULATION

Pub. L. 111-350, §6(f)(4), Jan. 4, 2011, 124 Stat. 3855, provided that: “The Federal Acquisition Regulation shall be amended to meet the requirements of sections 2313(f), 3302(b) and (d), 4710(b), and 4711(b) of title 41, United States Code, not later than one year after October 14, 2008.”

DIVISION C—PROCUREMENT

CHAPTER 31—GENERAL

Sec.	
3101.	Applicability.
3102.	Delegation and assignment of powers, functions, and responsibilities.
3103.	Acquisition programs.
3104.	Small business concerns.
3105.	New contracts and grants and merit-based selection procedures.
3106.	Erection, repair, or furnishing of public buildings and improvements not authorized, and certain contracts not permitted, by this division.

§ 3101. Applicability

(a) IN GENERAL.—An executive agency shall make purchases and contracts for property and services in accordance with this division and implementing regulations of the Administrator of General Services.

(b) SIMPLIFIED ACQUISITION THRESHOLD AND PROCEDURES.—

(1) SIMPLIFIED ACQUISITION THRESHOLD.—

(A) DEFINITION.—For purposes of an acquisition by an executive agency, the simplified acquisition threshold is as specified in section 134 of this title.

(B) INAPPLICABLE LAWS.—A law properly listed in the Federal Acquisition Regulation pursuant to section 1905 of this title does not apply to or with respect to a contract or sub-contract that is not greater than the simplified acquisition threshold.

(2) SIMPLIFIED ACQUISITION PROCEDURES.—Simplified acquisition procedures contained in the Federal Acquisition Regulation pursuant to section 1901 of this title apply in executive agencies as provided in section 1901.

(c) EXCEPTIONS.—

(1) IN GENERAL.—This division does not apply—

(A) to the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration; or

(B) except as provided in paragraph (2), when this division is made inapplicable pursuant to law.

(2) APPLICABILITY OF CERTAIN LAWS RELATED TO ADVERTISING, OPENING OF BIDS, AND LENGTH OF CONTRACT.—Sections 6101, 6103, and 6304 of this title do not apply to the procurement of property or services made by an executive agency pursuant to this division. However, when this division is made inapplicable by any law, sections 6101 and 6103 of this title apply in the absence of authority conferred by statute to procure without advertising or without regard to section 6101 of this title. A law that authorizes an executive agency (other than an executive agency exempted from this division by this subsection) to procure property or services without advertising or without regard to section 6101 of this title is deemed to authorize the procurement pursuant to the provisions of this division relating to procedures other than sealed-bid procedures.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3742.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3101(a)	41:252(a) (words before 1st semicolon).	June 30, 1949, ch. 288, title III, §302(a), 63 Stat. 393; July 12, 1952, ch. 703, §1(m), 66 Stat. 594; Pub. L. 85-800, §1, Aug. 28, 1958, 72 Stat. 966; Pub. L. 89-343, §1, Nov. 8, 1965, 79 Stat. 1303.
3101(b)(1)	41:252a.	June 30, 1949, ch. 288, title III, §302A, as added Pub. L. 103-355, title IV, §4003, 4103(a), Oct. 13, 1994, 108 Stat. 3338, 3341.
3101(b)(2)	41:252b.	June 30, 1949, ch. 288, title III, §302B, as added Pub. L. 103-355, title IV, §4203(b), Oct. 13, 1994, 108 Stat. 3346.
3101(c)(1)	41:252(a) (words after 1st semicolon and before “but when”).	
3101(c)(2)	41:252(a) (words after “other law”). 41:260.	June 30, 1949, ch. 288, title III, §310, 63 Stat. 397; July 12, 1952, ch. 703, §1(m), (n), 66 Stat. 594; Pub. L. 85-800, §6, Aug. 28, 1958, 72 Stat. 967; Pub. L. 89-343, §5, Nov. 8, 1965, 79 Stat. 1303; Pub. L. 98-369, div. B, title VII, §2714(a)(6), July 18, 1984, 98 Stat. 1185.

In subsection (c)(1)(B), the words “except as provided in paragraph (2)” are added for clarity. The words “section 113(e) of title 40 or any other” are omitted as unnecessary.

EX. ORD. NO. 13005. EMPOWERMENT CONTRACTING

Ex. Ord. No. 13005, May 21, 1996, 61 F.R. 26069, provided:

In order to promote economy and efficiency in Federal procurement, it is necessary to secure broad-based competition for Federal contracts. This broad competition is best achieved where there is an expansive pool of potential contractors capable of producing quality goods and services at competitive prices. A great and largely untapped opportunity for expanding the pool of such contractors can be found in this Nation's economically distressed communities.

Fostering growth of Federal contractors in economically distressed communities and ensuring that those contractors become viable businesses for the long term will promote economy and efficiency in Federal procurement and help to empower those communities. Fostering growth of long-term viable contractors will be promoted by offering appropriate incentives to qualified businesses.