

Subsecs. (b) to (d). Pub. L. 115-232, §836(b)(6)(A), substituted “commercial products or commercial services” for “commercial items” wherever appearing.

2017—Subsec. (c)(1). Pub. L. 115-91 inserted at end “The term does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

§ 1907. List of laws inapplicable to procurements of commercially available off-the-shelf items

(a) INCLUSION IN FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercially available off-the-shelf items. A provision of law properly included on the list pursuant to paragraph (2) does not apply to contracts for the procurement of commercially available off-the-shelf items. This section does not render a provision of law not included on the list inapplicable to contracts for the procurement of commercially available off-the-shelf items.

(2) LAWS TO BE INCLUDED.—A provision of law described in subsection (b) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Administrator makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of commercially available off-the-shelf items from the applicability of the provision.

(3) OTHER AUTHORITIES OR RESPONSIBILITIES NOT AFFECTED.—This section does not modify, supersede, impair, or restrict authorities or responsibilities under—

(A) section 15 of the Small Business Act (15 U.S.C. 644); or

(B) bid protest procedures developed under the authority of—

- (i) subchapter V of chapter 35 of title 31;
- (ii) section 3308 of title 10; or
- (iii) sections 3706 and 3707 of this title.

(b) COVERED LAW.—Except as provided in subsection (a)(3), a provision of law referred to in subsection (a)(1) is a provision of law that the Administrator determines imposes Federal Government-unique policies, procedures, requirements, or restrictions for the procurement of property or services on persons whom the Federal Government has awarded contracts for the procurement of commercially available off-the-shelf items, except for a provision of law that—

- (1) provides for criminal or civil penalties; or
- (2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercially available off-the-shelf items.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3724; Pub. L. 117-81, div. A, title XVII, §1702(h)(8), Dec. 27, 2021, 135 Stat. 2158.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1907	41:431(a), (b).	Pub. L. 93-400, §35(a), (b), as added Pub. L. 104-106, title XLII, §4203(a), Feb. 10, 1996, 110 Stat. 654; Pub. L. 105-85, title X, §1073(g)(2)(C), Nov. 18, 1997, 111 Stat. 1906.

AMENDMENTS

2021—Subsec. (a)(3)(B)(ii). Pub. L. 117-81 substituted “section 3308” for “section 2305(e) and (f)”.

§ 1908. Inflation adjustment of acquisition-related dollar thresholds

(a) DEFINITION.—In this section, the term “Council” has the meaning given that term in section 1301 of this title.

(b) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the requirement for adjustment under subsection (c) applies to a dollar threshold that is specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency, as the Council determines.

(2) EXCEPTIONS.—Subsection (c) does not apply to dollar thresholds—

(A) in chapters 67 and 83 of this title;

(B) in sections 3141 to 3144, 3146, and 3147 of title 40;

(C) the United States Trade Representative establishes pursuant to title III of the Trade Agreements Act of 1979 (19 U.S.C. 2511 et seq.); or

(D) in sections 3131 through 3134 of title 40, except any modification of any such dollar threshold made by regulation in effect on the date of the enactment of this subparagraph shall remain in effect.

(3) RELATIONSHIP TO OTHER INFLATION ADJUSTMENT AUTHORITIES.—This section supersedes the applicability of other provisions of law that provide for the adjustment of a dollar threshold that is adjustable under this section.

(c) REQUIREMENT FOR PERIODIC ADJUSTMENT.—

(1) BASELINE CONSTANT DOLLAR VALUE.—For purposes of paragraph (2), the baseline constant dollar value for a dollar threshold—

(A) in effect on October 1, 2000, that was first specified in a law that took effect on or before October 1, 2000, is the October 1, 2000, constant dollar value of that dollar threshold; and

(B) specified in a law that takes effect after October 1, 2000, is the constant dollar value of that threshold as of the effective date of that dollar threshold pursuant to that law.

(2) ADJUSTMENT.—On October 1 of each year evenly divisible by 5, the Council shall adjust each acquisition-related dollar threshold provided by law, as described in subsection (b)(1),

to the baseline constant dollar value of that threshold.

(3) EXCLUSIVE MEANS OF ADJUSTMENT.—A dollar threshold adjustable under this section shall be adjusted only as provided in this section.

(d) PUBLICATION.—The Council shall publish a notice of the adjusted dollar thresholds under this section in the Federal Register. The thresholds take effect on the date of publication and shall apply, in the case of the procurement of property or services by contract, to a contract, and any subcontract at any tier under the contract, in effect on that date without regard to the date of award of the contract or subcontract.

(e) CALCULATION.—An adjustment under this section shall be—

(1) calculated on the basis of changes in the Consumer Price Index for all-urban consumers published monthly by the Secretary of Labor; and

(2) rounded, in the case of a dollar threshold that as calculated under paragraph (1) is—

- (A) less than \$10,000, to the nearest \$500;
- (B) not less than \$10,000, but less than \$100,000, to the nearest \$5,000;
- (C) not less than \$100,000, but less than \$1,000,000, to the nearest \$50,000;
- (D) not less than \$1,000,000, but less than \$10,000,000, to the nearest \$500,000;
- (E) not less than \$10,000,000, but less than \$100,000,000, to the nearest \$5,000,000;
- (F) not less than \$100,000,000, but less than \$1,000,000,000, to the nearest \$50,000,000; and
- (G) \$1,000,000,000 or more, to the nearest \$500,000,000.

(f) PETITION FOR INCLUSION OF OMITTED THRESHOLD.—

(1) PETITION SUBMITTED TO ADMINISTRATOR.—A person may request adjustment of a dollar threshold adjustable under this section that is not included in a notice of adjustment published under subsection (d) by submitting a petition for adjustment to the Administrator.

(2) ACTIONS OF ADMINISTRATOR.—On receipt of a petition for adjustment of a dollar threshold under paragraph (1), the Administrator—

(A) shall determine, in writing, whether the dollar threshold is required to be adjusted under this section; and

(B) on determining that it should be adjusted, shall publish in the Federal Register a revised notice of the adjustment dollar thresholds under this section that includes the adjustment of the dollar threshold covered by the petition.

(3) EFFECTIVE DATE OF ADJUSTMENT BY PETITION.—The adjustment of a dollar threshold pursuant to a petition under this subsection takes effect on the date the revised notice adding the adjustment under paragraph (2)(B) is published.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3725; Pub. L. 114-92, div. A, title VIII, § 817, Nov. 25, 2015, 129 Stat. 897; Pub. L. 115-91, div. A, title VIII, § 821, Dec. 12, 2017, 131 Stat. 1464; Pub. L. 117-58, div. G, title IX, § 70922(f), Nov. 15, 2021, 135 Stat. 1305; Pub. L. 117-81, div. A, title VIII, § 861, Dec. 27, 2021, 135 Stat. 1851.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1908(a)	no source.	
1908(b)(1)	41:431a(c).	Pub. L. 93-400, § 35A, as added Pub. L. 108-375, title VIII, § 807(a)(1), Oct. 28, 2004, 118 Stat. 2010.
1908(b)(2)	41:431a(d).	
1908(b)(3)	41:431a note.	Pub. L. 108-375, title VIII, § 807(c)(1), Oct. 28, 2004, 118 Stat. 2011.
1908(c)(1), (2).	41:431a(a).	
1908(c)(3)	41:431a note.	Pub. L. 108-375, title VIII, § 807(c)(2), Oct. 28, 2004, 118 Stat. 2011.
1908(d)	41:431a(b).	
1908(e)	41:431a(e).	
1908(f)	41:431a(f).	

In subsection (c)(3), the words “After the date of the enactment of this Act” are omitted as obsolete.

In subsection (e)(1), the words “Secretary of Labor” are substituted for “Department of Labor” because of 29:551.

Editorial Notes

REFERENCES IN TEXT

The Trade Agreements Act of 1979, referred to in subsec. (b)(2)(C), is Pub. L. 96-39, July 26, 1979, 93 Stat. 144. Title III of the Act is classified generally to subchapter I (§ 2511 et seq.) of chapter 13 of Title 19, Customs Duties. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of Title 19 and Tables.

The date of the enactment of this subparagraph, referred to in subsec. (b)(2)(D), is the date of enactment of Pub. L. 117-81, which was approved Dec. 27, 2021.

AMENDMENTS

2021—Subsec. (b)(2)(A). Pub. L. 117-58 substituted “chapters 67 and 83” for “chapter 67”.

Subsec. (b)(2)(D). Pub. L. 117-81, § 861(a), added subpar. (D).

Subsec. (d). Pub. L. 117-81, § 861(b), struck out second period at end.

2017—Subsec. (d). Pub. L. 115-91 inserted before period at end “and shall apply, in the case of the procurement of property or services by contract, to a contract, and any subcontract at any tier under the contract, in effect on that date without regard to the date of award of the contract or subcontract.”

2015—Subsec. (e)(2). Pub. L. 114-92, § 817(1), substituted “as calculated under paragraph (1)” for “on the day before the adjustment” in introductory provisions.

Subsec. (e)(2)(D) to (G). Pub. L. 114-92, § 817(2), (3), added subpars. (D) to (G) and struck out former subpar. (D) which read as follows: “\$1,000,000 or more, to the nearest \$500,000.”

Statutory Notes and Related Subsidiaries

ADJUSTMENT FOR INFLATION OF RIGHT-HAND DRIVE PASSENGER SEDANS

Pub. L. 112-81, div. A, title VIII, § 814(b), Dec. 31, 2011, 125 Stat. 1491, provided that: “The Department of Defense representative to the Federal Acquisition Regulatory Council established under section 1302 of title 41, United States Code, shall ensure that the threshold established in section 2253 of title 10, United States Code, for the acquisition of right-hand drive passenger sedans is included on the list of dollar thresholds that are subject to adjustment for inflation in accordance with the requirements of section 1908 of title 41, United States Code, and is adjusted pursuant to such provision, as appropriate.”

§ 1909. Management of purchase cards

(a) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that