

sions in such laws that define (or describe for definitional purposes) the small business concerns set forth in paragraph (2) for purposes of authorizing the participation of such small business concerns as prime contractors or subcontractors in—

“(A) contracts awarded directly by the Federal Government or subcontracts awarded under such contracts; or

“(B) contracts and subcontracts funded, in whole or in part, by Federal financial assistance under grants, cooperative agreements, or other forms of Federal assistance.

“(2) The small business concerns referred to in paragraph (1) are as follows:

“(A) Small business concerns owned and controlled by socially and economically disadvantaged individuals.

“(B) Minority-owned small business concerns.

“(C) Small business concerns owned and controlled by women.

“(D) Woman-owned small business concerns.

“(b) MATTERS TO BE DEVELOPED.—On the basis of the results of the review carried out under subsection (a), the Administrator for Federal Procurement Policy shall develop—

“(1) uniform definitions for the small business concerns referred to in subsection (a)(2);

“(2) uniform agency certification standards and procedures for—

“(A) determinations of whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) under an applicable standard for purposes of contracts and subcontracts referred to in subsection (a)(1); and

“(B) reciprocal recognition by an agency of a decision of another agency regarding whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) for such purposes; and

“(3) such other related recommendations as the Administrator determines appropriate consistent with the review results.

“(c) PROCEDURES AND SCHEDULE.—(1) The Administrator for Federal Procurement Policy shall provide for the participation in the review and activities under subsections (a) and (b) by representatives of—

“(A) the Small Business Administration (including the Office of the Chief Counsel for Advocacy);

“(B) the Minority Business Development Agency of the Department of Commerce;

“(C) the Department of Transportation;

“(D) the Environmental Protection Agency; and

“(E) such other executive departments and agencies as the Administrator considers appropriate.

“(2) In carrying out subsections (a) and (b), the Administrator shall consult with representatives of organizations representing—

“(A) minority-owned business enterprises;

“(B) women-owned business enterprises; and

“(C) other organizations that the Administrator considers appropriate.

“(3) Not later than 60 days after the date of the enactment of this Act [Oct. 13, 1994], the Administrator shall publish in the Federal Register a notice which—

“(A) lists the provisions of law identified in the review carried out under subsection (a);

“(B) describes the matters to be developed on the basis of the results of the review pursuant to subsection (b);

“(C) solicits public comment regarding the matters described in the notice pursuant to subparagraphs (A) and (B) for a period of not less than 60 days; and

“(D) addresses such other matters as the Administrator considers appropriate to ensure the comprehensiveness of the review and activities under subsections (a) and (b).

“(d) REPORT.—Not later than May 1, 1996, the Administrator for Federal Procurement Policy shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of

the review carried out under subsection (a) and the actions taken under subsection (b). The report shall include a discussion of the results of the review, a description of the consultations conducted and public comments received, and the Administrator's recommendations with regard to the matters identified under subsection (b).”

DATA COLLECTION THROUGH FEDERAL PROCUREMENT DATA SYSTEM

Section 10004 of Pub. L. 103-355 provided that:

“(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect from contracts in excess of the simplified acquisition threshold data identifying the following matters:

“(1) Contract awards made pursuant to competitions conducted pursuant to section 2323 of title 10, United States Code, or section 7102 of the Federal Acquisition Streamlining Act of 1994 [Pub. L. 103-355, 15 U.S.C. 644 note].

“(2) Awards to business concerns owned and controlled by women.

“(3) Number of offers received in response to a solicitation.

“(4) Task order contracts.

“(5) Contracts for the acquisition of commercial items.

“(b) DEFINITION.—In this section, the term ‘simplified acquisition threshold’ has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).”

PROFIT METHODOLOGY STUDY

Section 7 of Pub. L. 100-679 provided that:

“(a) IN GENERAL.—The Administrator shall conduct a study to develop a consistent methodology which executive agencies should use for measuring the profits earned by government contractors on procurements, other than procurements where the price is based on adequate price competition or on established catalog or market prices of commercial items sold in substantial quantities to the general public.

“(b) CONTRACTORS’ FINANCIAL DATA.—The methodology developed under subsection (a) shall include adequate procedures for verifying and maintaining the confidentiality of contractors’ financial data.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 408, 417, 421, 422 of this title; title 18 section 4124; title 31 section 6202; title 50 App. section 2154.

§ 405a. Uniform Federal procurement regulations and procedures

The Administrator of the Office of Federal Procurement Policy is authorized and directed, pursuant to the authority conferred by Public Law 93-400 [41 U.S.C. 401 et seq.] and subject to the procedures set forth in such Public Law, to promulgate a single, simplified, uniform Federal procurement regulation and to establish procedures for insuring compliance with such provisions by all Federal agencies. In formulating such regulations and procedures the Administrator of the Office of Federal Procurement Policy shall, in consultation with the Small Business Administration, conduct analyses of the impact on small business concerns resulting from revised procurement regulations, and incorporate into revised procurement regulations simplified bidding, contract performance, and contract administration procedures for small business concerns.

(Pub. L. 95-507, title II, §222, Oct. 24, 1978, 92 Stat. 1771.)

REFERENCES IN TEXT

Public Law 93-400, referred to in text, is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, known as the Office of Federal Procurement Policy Act, which is classified principally to this chapter (§401 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Office of Federal Procurement Policy Act which comprises this chapter.

SUPERSEDITION OF INCONSISTENT STATUTORY PROVISIONS

Pub. L. 96-83, §11, Oct. 10, 1979, 93 Stat. 652, provided that: "The provisions of the Act [Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, see Short Title note set out under section 401 of this title] as amended by this Act [see Short Title of 1979 Amendment note set out under section 401 of this title] shall supersede the provisions of section 222 of the Act of October 24, 1978, entitled 'An Act to amend the Small Business Act and the Small Business Investment Act of 1958' (41 U.S.C. 405a) to the extent they are inconsistent therewith."

DEFINITIONS

The definitions in section 637c of Title 15, Commerce and Trade, apply to this section.

§ 405b. Conflict of interest standards for individuals providing consulting services

(a) Issuance of policy and regulations

Not later than 90 days after October 1, 1988, the Administrator of the Office of Federal Procurement Policy shall issue a policy, and not later than 180 days thereafter Government-wide regulations shall be issued under the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) which set forth—

- (1) conflict of interest standards for persons who provide consulting services described in subsection (b) of this section; and
- (2) procedures, including such registration, certification, and enforcement requirements as may be appropriate, to promote compliance with such standards.

(b) Services subject to regulations

The regulations required by subsection (a) of this section shall apply to the following types of consulting services:

- (1) advisory and assistance services provided to the Government to the extent necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States;
- (2) services related to support of the preparation or submission of bids and proposals for Federal contracts to the extent that inclusion of such services in such regulations is necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States; and
- (3) such other services related to Federal contracts as may be specified in the regulations prescribed under subsection (a) of this section to the extent necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States.

(c) Report to Congress by Comptroller General on effectiveness of regulations

The Comptroller General shall report to Congress not later than one year after October 1, 1988, his assessment of the effectiveness of the regulations prescribed under this section.

(d) Intelligence activities exemption; annual report by Director of Central Intelligence

Intelligence activities as defined in section 3.4(e) of Executive order 12333 or a comparable definitional section in any successor order may be exempt from the regulations required by subsection (a) of this section: *Provided*, That the Director of Central Intelligence shall report to the Intelligence and Appropriations Committees of the Congress no later than January 1, 1990, and annually thereafter delineating those activities and organizations which have been exempted from the regulations required by subsection (a) of this section in accordance with the provisions of this subsection.

(e) Adverse effect determination by President prior to issuance of regulations; report to Congressional committees; voiding of regulations requirement

The President shall, before issuance of the regulations required by subsection (a) of this section, determine if the promulgation of such regulations would have a significantly adverse effect on the accomplishment of the mission of the Department of Defense or other Federal Government agencies: *Provided*, That if the President determines that the regulations required by subsection (a) of this section would have such an adverse effect, the President shall so report to the appropriate committees of the Senate and the House of Representatives, stating in full the reasons for such a determination: *Provided further*, That in the event of submission of a report to the committees containing an adverse effect determination, the requirement for the regulations prescribed by subsection (a) of this section shall be null and void.

(Pub. L. 100-463, title VIII, §8141, Oct. 1, 1988, 102 Stat. 2270-47.)

REFERENCES IN TEXT

The Office of Federal Procurement Policy Act, referred to in subsec. (a), is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to this chapter (§401 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title.

Executive order 12333, referred to in subsec. (d), is set out as a note under section 401 of Title 50, War and National Defense.

CODIFICATION

Section was enacted as part of the Department of Defense Appropriations Act, 1989, and not as part of the Office of Federal Procurement Policy Act which comprises this chapter.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under subsec. (d) of this section is listed on page 156), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.