

may deem any item or service to be a commercial item for the purpose of Federal procurement laws.

**(2) Limitation**

The \$5,000,000 limitation provided in section 427(a)(2) of title 41 and section 253(g)(1)(B) of title 41 shall be deemed to be \$7,500,000 for purposes of property or services under the authority of this subsection.

**(3) Certain authority**

Authority under a provision of law referred to in paragraph (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 a procurement described in subsection (a) of this section.

**(e) Report**

Not later than 180 days after the end of fiscal year 2005, the Comptroller General shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on the use of the authorities provided in this section. The report shall contain the following:

(1) An assessment of the extent to which property and services acquired using authorities provided under this section contributed to the capacity of the Federal workforce to facilitate the mission of the Department as described in section 111 of this title.

(2) An assessment of the extent to which prices for property and services acquired using authorities provided under this section reflected the best value.

(3) The number of employees designated by each executive agency under subsection (b)(1) of this section.

(4) An assessment of the extent to which the Department has implemented subsections (b)(2) and (b)(3) of this section to monitor the use of procurement authority by employees designated under subsection (b)(1) of this section.

(5) Any recommendations of the Comptroller General for improving the effectiveness of the implementation of the provisions of this section.

(Pub. L. 107-296, title VIII, § 833, Nov. 25, 2002, 116 Stat. 2225.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (a)(1), is 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of this title.

Section 4202(e) of the Clinger-Cohen Act of 1996, referred to in subsec. (d)(3), 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

Section is comprised of section 833 of Pub. L. 107-296. Subsec. (c)(2) of section 833 of Pub. L. 107-296 amended section 416 of Title 41, Public Contracts.

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by

House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

**§ 394. Unsolicited proposals**

**(a) Regulations required**

Within 1 year of November 25, 2002, the Federal Acquisition Regulation shall be revised to include regulations with regard to unsolicited proposals.

**(b) Content of regulations**

The regulations prescribed under subsection (a) of this section shall require that before initiating a comprehensive evaluation, an agency contact point shall consider, among other factors, that the proposal—

(1) is not submitted in response to a previously published agency requirement; and

(2) contains technical and cost information for evaluation and overall scientific, technical or socioeconomic merit, or cost-related or price-related factors.

(Pub. L. 107-296, title VIII, § 834, Nov. 25, 2002, 116 Stat. 2227.)

**§ 395. Prohibition on contracts with corporate expatriates**

**(a) In general**

The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b) of this section, or any subsidiary of such an entity.

**(b) Inverted domestic corporation**

For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity completes before, on, or after November 25, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.