

are waived under paragraph (1) shall be effective on a temporary basis if—

(A) a notice of such procurement policy, regulation, procedure, or form is published in the Federal Register and includes a statement that the procurement policy, regulation, procedure, or form is temporary; and

(B) provision is made for a public comment period of 30 days beginning on the date on which the notice is published.

(3) After considering the comments received, the head of the agency waiving the requirements of subsections (a) and (b) of this section under paragraph (1) may issue the final procurement policy, regulation, procedure, or form.

(Pub. L. 93-400, § 22, as added Pub. L. 98-577, title III, § 302(a), Oct. 30, 1984, 98 Stat. 3076; amended Pub. L. 103-355, title V, § 5092, Oct. 13, 1994, 108 Stat. 3362; Pub. L. 104-106, div. D, title XLIII, § 4321(a)(9), Feb. 10, 1996, 110 Stat. 671.)

AMENDMENTS

1996—Subsec. (d)(3). Pub. L. 104-106 made technical correction to directory language of Pub. L. 103-355, § 5092(b). See 1994 Amendment note below.

1994—Subsec. (a). Pub. L. 103-355, § 5092(a), substituted “60 days” for “30 days” and inserted at end “Notwithstanding the preceding sentence, such a policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but in no event may that effective date be less than 30 days after the publication date.”

Subsec. (d). Pub. L. 103-355, § 5092(b), as amended by Pub. L. 104-106, designated second sentence of subsec. (d)(2) as subsec. (d)(3).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 4321(a) of Pub. L. 104-106 provided that the amendment made by that section is effective as of Oct. 13, 1994, and as if included in Pub. L. 103-355 as enacted.

EFFECTIVE DATE

Section 302(b) of Pub. L. 98-577 provided that: “The procedures required by the amendment made by subsection (a) [enacting this section] shall apply with respect to procurement policies, regulations, procedures, or forms that an agency issues in final form on or after the date which is 30 days after the date of enactment of this Act [Oct. 30, 1984].”

§ 419. Contracting functions performed by Federal personnel

(a) Limitation on payment for advisory and assistance services

(1) No person who is not a person described in subsection (b) of this section may be paid by an executive agency for services to conduct evaluations or analyses of any aspect of a proposal submitted for an acquisition unless personnel described in subsection (b) of this section with adequate training and capabilities to perform such evaluations and analyses are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

(2) In the administration of this subsection, the head of each executive agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

(A) a sufficient number of personnel described in subsection (b) of this section within the agency or another Federal agency are readily available to perform a particular evaluation or analysis for the head of the executive agency making the determination; and

(B) the readily available personnel have the training and capabilities necessary to perform the evaluation or analysis.

(b) Covered personnel

For purposes of subsection (a) of this section, the personnel described in this subsection are as follows:

(1) An employee, as defined in section 2105 of title 5.

(2) A member of the Armed Forces of the United States.

(3) A person assigned to a Federal agency pursuant to subchapter VI of chapter 33 of title 5.

(c) Rule of construction

Nothing in this section is intended to affect the relationship between the Federal Government and a federally funded research and development center.

(Pub. L. 93-400, § 23, as added Pub. L. 103-355, title VI, § 6002(a), Oct. 13, 1994, 108 Stat. 3363.)

PRIOR PROVISIONS

A prior section 419, Pub. L. 93-400, § 23, formerly § 21, as added Pub. L. 98-369, div. B, title VII, § 2732(a), July 18, 1984, 98 Stat. 1198; renumbered § 23, Pub. L. 98-577, title III, § 301(a), Oct. 30, 1984, 98 Stat. 3074, related to annual report to be submitted to Congress by agency heads concerning actions taken to increase competition for contracts and reduce number and dollar value of noncompetitive contracts, prior to repeal by Pub. L. 103-355, title I, § 1092.

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of this title.

REQUIREMENT FOR GUIDANCE AND REGULATIONS

Section 6002(b) of Pub. L. 103-355 provided that: “The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

“(1) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

“(2) provide guidance and promulgate regulations regarding—

“(A) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

“(B) the manner in which personnel with expertise may be shared with agencies needing expertise for such acquisitions.”

§ 420. Repealed. Pub. L. 103-355, title II, § 2191, Oct. 13, 1994, 108 Stat. 3315

Section, Pub. L. 93-400, § 24, as added Pub. L. 99-234, title II, § 201, Jan. 2, 1986, 99 Stat. 1759; amended Pub. L. 100-679, § 12, Nov. 17, 1988, 102 Stat. 4070, related to limits on allowable travel expenses of Government contractors.