

phones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

CHANGE OF NAME

In par. (7), "United States Postal Service" substituted for "Post Office Department" pursuant to Pub. L. 91-375, §§4(a), 6(o), Aug. 12, 1970, 84 Stat. 773, 783, which are set out as notes preceding section 101 of Title 39, Postal Service, and under section 201 of Title 39, respectively, which abolished Post Office Department, transferred its functions to United States Postal Service, and provided that references in other laws to Post Office Department shall be considered a reference to United States Postal Service.

§ 357. Definitions

For the purposes of this chapter—

(a) "Secretary" means Secretary of Labor.

(b) The term "service employee" means any person engaged in the performance of a contract entered into by the United States and not exempted under section 356 of this title, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(c) The term "compensation" means any of the payments or fringe benefits described in section 351 of this title.

(d) The term "United States" when used in a geographical sense shall include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island, but shall not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country.

(Pub. L. 89-286, §8, Oct. 22, 1965, 79 Stat. 1036; Pub. L. 93-57, §1, July 6, 1973, 87 Stat. 140; Pub. L. 94-489, §3, Oct. 13, 1976, 90 Stat. 2358.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsec. (d), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-489 substituted provision defining service employees to include all employees, but excluding bona fide executive, administrative, and professional employees, for provision defining service employees as guards, watchmen, any person engaged in a recognized trade or craft, or in unskilled, semiskilled, or skilled manual labor occupations; and any other employee including a foreman or supervisor in a position having trade, craft, or laboring experience as the paramount requirement.

1973—Subsec. (d). Pub. L. 93-57 defined "United States" to include Canton Island.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2 of Pub. L. 93-57 provided that: "The amendment made hereby [amending this section] shall be effective with respect to all contracts entered into at any time after the date of enactment [July 6, 1973]."

§ 358. Wage and fringe benefit determinations of Secretary

It is the intent of the Congress that determinations of minimum monetary wages and fringe benefits for the various classes of service employees under the provisions of paragraphs (1) and (2) of section 351¹ of this title should be made with respect to all contracts subject to this chapter, as soon as it is administratively feasible to do so. In any event, the Secretary shall make such determinations with respect to at least the following contracts subject to this chapter which are entered into during the applicable fiscal year:

(1) For the fiscal year ending June 30, 1973, all contracts under which more than twenty-five service employees are to be employed.

(2) For the fiscal year ending June 30, 1974, all contracts, under which more than twenty service employees are to be employed.

(3) For the fiscal year ending June 30, 1975, all contracts under which more than fifteen service employees are to be employed.

(4) For the fiscal year ending June 30, 1976, all contracts under which more than ten service employees are to be employed.

(5) On or after July 1, 1976, all contracts under which more than five service employees are to be employed.

(Pub. L. 89-286, §10, as added Pub. L. 92-473, §5, Oct. 9, 1972, 86 Stat. 790; amended Pub. L. 94-273, §29, Apr. 21, 1976, 90 Stat. 380.)

AMENDMENTS

1976—Par. (5). Pub. L. 94-273 substituted "On or after July 1, 1976" for "For the fiscal year ending June 30, 1977, and for each fiscal year thereafter".

CHAPTER 7—OFFICE OF FEDERAL PROCUREMENT POLICY

Sec.	
401, 402.	Repealed.
403.	Definitions.
404.	Establishment of Office of Federal Procurement Policy; appointment of Administrator.
405.	Authority and functions of the Administrator.
405a.	Uniform Federal procurement regulations and procedures.
405b.	Conflict of interest standards for individuals providing consulting services.
405c.	Ethics safeguards related to contractor conflicts of interest.
406.	Administrative powers.
407.	Repealed.
408.	Applicability of existing laws.
409.	Repealed.
410.	Authorization of appropriations.
411.	Delegation of authority by Administrator.
412.	Comptroller General's access to information from Administrator; rule making procedure.

¹ So in original. Probably should be section "351(a)".

- Sec.
- 413. Tests of innovative procurement methods and procedures.
- 414. Chief Acquisition Officers and senior procurement executives.
- 414a. Personnel evaluation.
- 414b. Chief Acquisition Officers Council.
- 415. Repealed.
- 416. Procurement notice.
- 417. Record requirements.
- 417a. Procurement data.
- 417b. Database for Federal agency contract and grant officers and suspension and debarment officials.
- 418. Advocates for competition.
- 418a. Rights in technical data.
- 418b. Publication of proposed regulations.
- 419. Contracting functions performed by Federal personnel.
- 420. Repealed.
- 421. Federal Acquisition Regulatory Council.
- 422. Cost Accounting Standards Board.
- 423. Restrictions on disclosing and obtaining contractor bid or proposal information or source selection information.
- 424. Repealed.
- 425. Contract clauses and certifications.
- 426. Use of electronic commerce in Federal procurement.
- 426a. Repealed.
- 427. Simplified acquisition procedures.
- 428. Procedures applicable to purchases below micro-purchase threshold.
- 428a. Special emergency procurement authority.
- 429. List of laws inapplicable to contracts not greater than simplified acquisition threshold in Federal Acquisition Regulation.
- 430. List of laws inapplicable to procurements of commercial items in Federal Acquisition Regulation.
- 431. Commercially available off-the-shelf item acquisitions: lists of inapplicable laws in Federal Acquisition Regulation.
- 431a. Inflation adjustment of acquisition-related dollar thresholds.
- 432. Value engineering.
- 433. Acquisition workforce.
- 433a. Federal acquisition workforce improvements.
- 434. Modular contracting for information technology.
- 435. Levels of compensation of certain contractor personnel not allowable as costs under certain contracts.
- 436. Protection of constitutional rights of contractors.
- 437. Incentives for efficient performance of services contracts.
- 438. Civilian Board of Contract Appeals.
- 439. Public-private competition required before conversion to contractor performance.
- 440. Contingency Contracting Corps.

§§ 401, 402. Repealed. Pub. L. 104-106, div. D, title XLIII, § 4305(a)(2), Feb. 10, 1996, 110 Stat. 665

Section 401, Pub. L. 93-400, §2, Aug. 30, 1974, 88 Stat. 796; Pub. L. 96-83, §2, Oct. 10, 1979, 93 Stat. 648; Pub. L. 98-191, §3, Dec. 1, 1983, 97 Stat. 1325; Pub. L. 100-679, §2(a), Nov. 17, 1988, 102 Stat. 4055; Pub. L. 103-355, title I, §1091(a), Oct. 13, 1994, 108 Stat. 3272, stated policy of United States Government relating to procurement of property and services.

Section 402, Pub. L. 93-400, §3, Aug. 30, 1974, 88 Stat. 796; Pub. L. 100-679, §2(b), Nov. 17, 1988, 102 Stat. 4055, stated findings of Congress and purpose of this chapter.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 4401 of Pub. L. 104-106, set out as an Effective Date of 1996 Amendment note under section 251 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 12 of Pub. L. 96-83 provided that: "Except to the extent otherwise provided therein, the amendments made by this Act [see Short Title of 1979 Amendment note below] shall take effect on October 1, 1979."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title XIV, §1401, Nov. 24, 2003, 117 Stat. 1663, provided that: "This title [enacting sections 414b, 428a, and 437 of this title, amending sections 403, 414, 433, and 436 of this title, section 2855 of Title 10, Armed Forces, and section 1115 of Title 31, Money and Finance, enacting provisions set out as notes under sections 253, 253a, 405, 428a, and 433 of this title and section 1103 of Title 40, Public Buildings, Property, and Works, amending provisions set out as notes under section 264 of this title, section 2304 of Title 10, and section 501 of Title 31, and repealing provisions set out as a note under section 2302 of Title 10] may be cited as the 'Services Acquisition Reform Act of 2003'."

SHORT TITLE OF 1988 AMENDMENT

Section 1 of Pub. L. 100-679 provided that: "This Act [enacting sections 421 to 424 of this title, amending this section, sections 402, 403, 405, 410, and 420 of this title, sections 5312 to 5315, 8331, 8401, 8701, and 8901 of Title 5, Government Organization and Employees, and section 541 of former Title 40, Public Buildings, Property, and Works, repealing section 2168 of Title 50, Appendix, War and National Defense, and enacting provisions set out as notes under sections 405 and 423 of this title and section 5312 of Title 5] may be cited as the 'Office of Federal Procurement Policy Act Amendments of 1988'."

SHORT TITLE OF 1983 AMENDMENT

Section 1 of Pub. L. 98-191 provided: "That this Act [enacting sections 413 to 415 of this title, amending this section, sections 5, 6a-1, 252, 403, 405, 407, 409, 410, and 411 of this title, section 831h of Title 16, Conservation, and sections 474, 481, and 487 of former Title 40, Public Buildings, Property, and Works] may be cited as the 'Office of Federal Procurement Policy Act Amendments of 1983'."

SHORT TITLE OF 1979 AMENDMENT

Section 1(a) of Pub. L. 96-83 provided that: "This Act [amending this section, sections 403, 405, 407, and 409 to 412 of this title, and sections 474, 481, and 487 of former Title 40, Public Buildings, Property and Works, and enacting provisions set out as notes under this section and section 405a of this title] may be cited as the 'Office of Federal Procurement Policy Act Amendments of 1979'."

SHORT TITLE

Section 1(a) of Pub. L. 93-400, as amended by Pub. L. 103-355, title X, §10005(a)(1), Oct. 13, 1994, 108 Stat. 3406, provided that: "This Act [enacting this chapter and amending section 5315 of Title 5, Government Organization and Employees, and sections 474, 481, and 487 of former Title 40, Public Buildings, Property, and Works] may be cited as the 'Office of Federal Procurement Policy Act'."

STYLISTIC CONSISTENCY

Section 10005(b)(1) of Pub. L. 103-355 provided that: "The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section [108 Stat. 3406]."

REQUIREMENTS FOR USE OF APPROPRIATIONS BY EXECUTIVE AGENCIES FOR SERVICES BY CONTRACT

Pub. L. 102-394, title V, §502, Oct. 6, 1992, 106 Stat. 1825, provided that: "No part of any appropriation contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Relat-