

S.1587

One Hundred Third Congress
of the
United States of America
AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,
the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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TITLE I--CONTRACT FORMATION

Subtitle A--Competition Statutes

PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out `modifications' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out `regulations modified' and all that follows

through `note)` and inserting in lieu thereof `Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out `or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

`(D) would ensure the continuous availability of a reliable source of supply of such property or service;

`(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

`(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'.

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

`(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'.

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The

scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply

to a task or delivery order contract for the procurement of advisory and assistance ser-

vices (as defined in section 1105(g) of title 31).

“(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

“Sec. 2304b. Task order contracts: advisory and assistance services

“(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

“(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

“(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

“(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

“(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

“(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

“(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

“(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed \$10,000,000 (including all options), the solicitation shall--

“(A) provide for a multiple award authorized under paragraph (1); and

“(B) include a statement that the head of the agency may also elect to award only one

task order contract if the head of the agency determines in writing that only one of the offerers is capable

of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are

unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

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`(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into
the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts
shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts
unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling
that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a
competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

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Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out 'modifications' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out 'regulations modified' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out 'or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

`(D) would ensure the continuous availability of a reliable source of supply of such property or service;

`(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

`(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

`(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCE-

DURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of

paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The

scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply

to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

`(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

`Sec. 2304b. Task order contracts: advisory and assistance services

`(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order

contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

`(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

`(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

`(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerors is capable of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

Sec. 2304c. Task and delivery order contracts: orders

(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts

unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling

that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a

competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out 'modifications' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out 'regulations modified' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out 'or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

(D) would ensure the continuous availability of a reliable source of supply of such property or service;

(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.”

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: “or by an official referred to in clause (ii), (iii), or (iv)”.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

“Sec. 2304a. Task and delivery order contracts: general authority

“(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

“(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

“(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

“(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

“(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

“(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

“(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

“(A) to award a single task or delivery order contract; or

(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

(3) The regulations implementing this subsection shall--

(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

Sec. 2304b. Task order contracts: advisory and assistance services

(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

`(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to

request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more

sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to

exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable

of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are

unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

`(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling

that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out 'modifications' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out 'regulations modified' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out 'or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

(D) would ensure the continuous availability of a reliable source of supply of such property or service;

(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: 'or by an official referred to in clause (ii), (iii), or (iv)'.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

Sec. 2304a. Task and delivery order contracts: general authority

(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

(A) to award a single task or delivery order contract; or

(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

(3) The regulations implementing this subsection shall--

(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority

of

paragraph (1)(B); and

(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

Sec. 2304b. Task order contracts: advisory and assistance services

(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more

sources if the solicitation states that the head of the agency has the option to do so.

(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to

exceed \$10,000,000 (including all options), the solicitation shall--

(A) provide for a multiple award authorized under paragraph (1); and

(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable

of providing the services required at the level of quality required.

(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are

unique or highly specialized, it is not practicable to award more than one contract.

(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

-

(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term `advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a

minimum guarantee.

(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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TITLE I--CONTRACT FORMATION

Subtitle A--Competition Statutes

PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out `modifications' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out `regulations modified' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out `or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

(D) would ensure the continuous availability of a reliable source of supply of such property or service;

(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

Sec. 2304a. Task and delivery order contracts: general authority

(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of

paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The

scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply

to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

`(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

`Sec. 2304b. Task order contracts: advisory and assistance services

`(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as

defined in section 2304d of this title) for procurement of advisory and assistance services.

`(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

`(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or

otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

`(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to

request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more

sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to

exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

`(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term `advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into
the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts
unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling
that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a
competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,
the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

SEC. 2. TABLE OF CONTENTS.

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Sec. 9002. Implementation of FACNET capability in armed services.

Sec. 9003. Implementation of FACNET capability in civilian agencies.

Sec. 9004. GAO determination of eligible agency contracts.

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PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out `modifications' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out `regulations modified' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out `or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

`(D) would ensure the continuous availability of a reliable source of supply of such property or service;

`(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

`(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

`(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured

under the
contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with
subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more
sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of

paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The

scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply

to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

`(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

`Sec. 2304b. Task order contracts: advisory and assistance services

`(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

`(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

`(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

`(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

-

`(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

SEC. 2. TABLE OF CONTENTS.

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Subtitle A--Competition Statutes

PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out 'modifications' and all that follows through 'note' and inserting in lieu thereof 'Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out 'regulations modified' and all that follows through 'note' and inserting in lieu thereof 'Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out 'or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

(D) would ensure the continuous availability of a reliable source of supply of such property or service;

(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

`(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

`(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may

exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

`(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

`Sec. 2304b. Task order contracts: advisory and assistance services

`(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

`(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

`(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifi-

cations, or

otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

`(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to

request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more

sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to

exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable

of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are

unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of

the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

`(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts

unless--

(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling

that need;

(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out 'modifications' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out 'regulations modified' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out 'or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

(D) would ensure the continuous availability of a reliable source of supply of such property or service;

(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES

OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of

paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The

scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply

to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

`(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

`Sec. 2304b. Task order contracts: advisory and assistance services

`(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

`(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

`(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or

otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

`(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to

request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

`(A) the award of a follow-on contract has been delayed by circumstances that were

not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already

issued on a
competitive basis; or

(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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Subtitle A--Competition Statutes

PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out 'modifications' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out 'regulations modified' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out 'or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

(D) would ensure the continuous availability of a reliable source of supply of such property or service;

(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: 'or by an official referred to in clause (ii), (iii), or (iv)'.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of

paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is is-

sued. The

scope, period, or maximum value of the contract may be increased only by modification of the contract.

“(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply

to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

“(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

“Sec. 2304b. Task order contracts: advisory and assistance services

“(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as

defined in section 2304d of this title) for procurement of advisory and assistance services.

“(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

“(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or

otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

“(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to

request the solicitation and consider submitting an offer.

“(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

“(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

“(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more

sources if the solicitation states that the head of the agency has the option to do so.

(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to

exceed \$10,000,000 (including all options), the solicitation shall--

(A) provide for a multiple award authorized under paragraph (1); and

(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable

of providing the services required at the level of quality required.

(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are

unique or highly specialized, it is not practicable to award more than one contract.

(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the

contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term `advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

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of the
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PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out `modifications' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out `regulations modified' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out `or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

`(D) would ensure the continuous availability of a reliable source of supply of such property or service;

`(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

`(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

`(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured

under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

`(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administra-

tor of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

`Sec. 2304b. Task order contracts: advisory and assistance services

`(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

`(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

`(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

`(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more

sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to

exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable

of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are

unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

-

`(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into
the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts

unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling

that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a

competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out `modifications' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out `regulations modified' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out `or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

(D) would ensure the continuous availability of a reliable source of supply of such

property or service;

`(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

`(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'.

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

`(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'.

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in

accordance with
subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

`(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

`Sec. 2304b. Task order contracts: advisory and assistance services

`(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

`(2) The head of an agency may enter into a task order contract for procurement of advi-

sory and assistance services only under the authority of this section.

“(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

“(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

“(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

“(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

“(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

“(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed \$10,000,000 (including all options), the solicitation shall--

“(A) provide for a multiple award authorized under paragraph (1); and

“(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerors is capable of providing the services required at the level of quality required.

“(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are unique or highly specialized, it is not practicable to award more than one contract.

“(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

“(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with sub-

section (f) of such

section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

-

`(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts

unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling

that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a

competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out `modifications' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out `regulations modified' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out `or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

(D) would ensure the continuous availability of a reliable source of supply of such property or service;

(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'.

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

`(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

(3) The regulations implementing this subsection shall--

(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of

paragraph (1)(B); and

(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The

scope, period, or maximum value of the contract may be increased only by modification of the contract.

(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply

to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

Sec. 2304b. Task order contracts: advisory and assistance services

(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as

defined in section 2304d of this title) for procurement of advisory and assistance services.

(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or

otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the

proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract entered into by the head of an agency under this section may be extended on a sole-

source basis for a period not exceeding six months if the head of such agency determines that-

(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

Sec. 2304c. Task and delivery order contracts: orders

(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless--

(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly

specialized;

(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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TITLE I--CONTRACT FORMATION

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PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out 'modifications' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out 'regulations modified' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out 'or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

'(D) would ensure the continuous availability of a reliable source of supply of such property or service;

'(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

'(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

'(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: 'or by an official referred to in clause (ii), (iii), or (iv)'.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting

after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of

paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order

contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

`(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

`Sec. 2304b. Task order contracts: advisory and assistance services

`(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

`(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

`(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

`(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation,

award separate task order contracts under this section for the same or similar services to two or more

sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to

exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable

of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are

unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

-

`(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term `advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out `modifications' and all that follows through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out `regulations modified' and all that follows

through `note)' and inserting in lieu thereof `Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out `or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

`(D) would ensure the continuous availability of a reliable source of supply of such property or service;

`(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

`(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'.

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

`(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'.

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The

scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply

to a task or delivery order contract for the procurement of advisory and assistance ser-

vices (as defined in section 1105(g) of title 31).

“(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

“Sec. 2304b. Task order contracts: advisory and assistance services

“(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

“(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

“(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

“(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

“(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

“(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

“(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

“(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed \$10,000,000 (including all options), the solicitation shall--

“(A) provide for a multiple award authorized under paragraph (1); and

“(B) include a statement that the head of the agency may also elect to award only one

task order contract if the head of the agency determines in writing that only one of the offerers is capable

of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are

unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

-

`(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into
the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts
shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts
unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling
that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a
competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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TITLE I--CONTRACT FORMATION

Subtitle A--Competition Statutes

PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out 'modifications' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out 'regulations modified' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out 'or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

`(D) would ensure the continuous availability of a reliable source of supply of such property or service;

`(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

`(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

`(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: `or by an official referred to in clause (ii), (iii), or (iv)'

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

`Sec. 2304a. Task and delivery order contracts: general authority

`(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

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`(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

`(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

`(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

`(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

`(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCE-

DURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

`(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

`(A) to award a single task or delivery order contract; or

`(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

`(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

`(3) The regulations implementing this subsection shall--

`(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of

paragraph (1)(B); and

`(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

`(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The

scope, period, or maximum value of the contract may be increased only by modification of the contract.

`(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply

to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

`(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

`Sec. 2304b. Task order contracts: advisory and assistance services

`(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order

contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

`(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

`(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

`(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerors is capable of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

Sec. 2304c. Task and delivery order contracts: orders

(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts

unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling

that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a

competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

SEC. 2. TABLE OF CONTENTS.

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TITLE I--CONTRACT FORMATION

Subtitle A--Competition Statutes

PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out 'modifications' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out 'regulations modified' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out 'or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

(D) would ensure the continuous availability of a reliable source of supply of such property or service;

(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.”

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: “or by an official referred to in clause (ii), (iii), or (iv)”.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

“Sec. 2304a. Task and delivery order contracts: general authority

“(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

“(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

“(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

“(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

“(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

“(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

“(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

“(A) to award a single task or delivery order contract; or

(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

(3) The regulations implementing this subsection shall--

(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

Sec. 2304b. Task order contracts: advisory and assistance services

(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

`(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to

request the solicitation and consider submitting an offer.

`(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

`(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

`(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more

sources if the solicitation states that the head of the agency has the option to do so.

`(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to

exceed \$10,000,000 (including all options), the solicitation shall--

`(A) provide for a multiple award authorized under paragraph (1); and

`(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable

of providing the services required at the level of quality required.

`(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are

unique or highly specialized, it is not practicable to award more than one contract.

`(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

`(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

`(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

`(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

`(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

`(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling

that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

`(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

S.1587

One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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Subtitle A--Competition Statutes

PART I--ARMED SERVICES ACQUISITIONS

Subpart A--Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended--

(1) in subsection (a)(1)(A), by striking out 'modifications' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'; and

(2) in subsection (g)(1), by striking out 'regulations modified' and all that follows through 'note)' and inserting in lieu thereof 'Federal Acquisition Regulation'.

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES- Section 2304(b)(1) of such title is amended--

(1) by striking out 'or' at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

(D) would ensure the continuous availability of a reliable source of supply of such property or service;

(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.'

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS- Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.'

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: 'or by an official referred to in clause (ii), (iii), or (iv)'.

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY- (1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

Sec. 2304a. Task and delivery order contracts: general authority

(a) AUTHORITY TO AWARD- Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract

(as defined in section 2304d of this title) for procurement of services or property.

(b) SOLICITATION- The solicitation for a task or delivery order contract shall include the following:

(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES- The head of an agency may use procedures other than competitive procedures to enter into a task

or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with

subsection (f) of such section.

(d) SINGLE AND MULTIPLE CONTRACT AWARDS- (1) The head of an agency may exercise the authority provided in this section--

(A) to award a single task or delivery order contract; or

(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

(3) The regulations implementing this subsection shall--

(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority

of

paragraph (1)(B); and

(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

(e) CONTRACT MODIFICATIONS- A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The

scope, period, or maximum value of the contract may be increased only by modification of the contract.

(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES- Except as otherwise specifically provided in section 2304b of this title, this section does not apply

to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY- Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of

General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

Sec. 2304b. Task order contracts: advisory and assistance services

(a) AUTHORITY TO AWARD- (1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

(b) LIMITATION ON CONTRACT PERIOD- The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or

otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

(c) CONTENT OF NOTICE- The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e))

shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to

request the solicitation and consider submitting an offer.

(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT- (1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

(e) MULTIPLE AWARDS- (1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more

sources if the solicitation states that the head of the agency has the option to do so.

(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to

exceed \$10,000,000 (including all options), the solicitation shall--

(A) provide for a multiple award authorized under paragraph (1); and

(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable

of providing the services required at the level of quality required.

(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are

unique or highly specialized, it is not practicable to award more than one contract.

(f) CONTRACT MODIFICATIONS- (1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or

maximum value of the contract may be increased only by modification of the contract.

(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such

section, competitive procedures shall be used for making such a modification.

(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act

(15 U.S.C. 637(e)).

(g) CONTRACT EXTENSIONS- (1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract

entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that-

-

(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

`(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

`(h) INAPPLICABILITY TO CERTAIN CONTRACTS- This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance

services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

`(i) ADVISORY AND ASSISTANCE SERVICES DEFINED- In this section, the term `advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

`Sec. 2304c. Task and delivery order contracts: orders

`(a) ISSUANCE OF ORDERS- The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

`(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

`(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

`(b) MULTIPLE AWARD CONTRACTS- When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts

shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless--

`(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

`(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

`(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

`(4) it is necessary to place the order with a particular contractor in order to satisfy a

minimum guarantee.

(c) STATEMENT OF WORK- A task or delivery order shall include a statement of work that clearly specifies all t--S.1587--

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One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Federal Acquisition Streamlining Act of 1994'.

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