SEC. 812. PERMANENT AUTHORITY FOR USE OF SIMPLIFIED ACQUISITION PROCEDURES FOR CERTAIN COMMERCIAL ITEMS.

Section 4202 of the Clinger-Cohen Act of 1996 (division D of Public Law 104–106; 10 U.S.C. 2304 note) is amended by striking subsection (e).

Section-by-Section Analysis

This proposal would amend section 4202 of the National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106; 10 U.S.C. 2304 note), as most recently amended by section 816 of the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84; 123 Stat.2408), by repealing the termination date in subsection (e). Section 4202 provides authority to issue solicitations for purchases of commercial items in excess of the simplified acquisition threshold pursuant to the special simplified procedures. Section 4202 established this authority for an initial period of three years. Congress has extended this authority seven times, most recently by section 816 of the NDAA 2010 (P. L. 111-84; 123 Stat.2408). The most recent extension expired on January 1, 2012, since the authority was not extended in the NDAA for Fiscal Year (FY) 2012.

This proposal would reinstate the expired authority on a permanent basis. The use of this authority has been extremely beneficial to the Department and will continue to be so given the current budgetary implications for resources. This authority, which provides flexibility to streamline acquisition processes for certain commercial items, allows contracting activities to better utilize their limited resources and provides an essential tool for acquisitions in support of contingency contracting operations in both Outside the Continental United States (OCONUS) and Continental United States (CONUS). The ability to use this authority has been critical in support of Afghan operations, as it enables faster delivery of much needed supplies and equipments to the Warfighter. For example, the U.S. Army Contracting Command Rock Island Contracting Center which provides reach-back support to theater used this authority to execute several contract requirements in direct support of the CENTCOM theater of operations in FY11. Without this authority, the procurement lead time would have doubled. This could have potentially led to mission failure in OCONUS contingency operations, particularly those in the CENTCOM theater of operations. The Army has also used this authority to support contingency contracting operations in over 100 locations in Southwest Asia. In addition, this authority is extremely beneficial in responding to domestic crises such as Katrina, Midwest flooding and recent tornado issues.

Budget Implications: None. This proposal simply requests reinstatement of the authority to use simplified acquisition procedures for certain commercial items on a permanent basis. The proposal only addresses procurement processes and not amounts appropriated for procurement of items or services.

Changes to Existing Law: The proposed provision would amend section 4202 of the Clinger-Cohen Act of 1996 (division D of Public Law 104-106; 10 U.S.C. 2304 note) by striking subsection (e), as follows:

SEC. 4202. APPLICATION OF SIMPLIFIED PROCEDURES TO CERTAIN COMMERCIAL ITEMS.

(a) * * *

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[(e) EFFECTIVE DATE.—The authority to issue solicitations for purchases of commercial items in excess of the simplified acquisition threshold pursuant to the special simplified procedures authorized by section 2304(g)(1) of title 10, United States Code, section 303(g)(1) of the Federal Property and Administrative Services Act of 1949, and section 31(a) of the Office of Federal Procurement Policy Act, as amended by this section, shall expire January 1, 2012. Contracts may be awarded pursuant to solicitations that have been issued before such authority expires, notwithstanding the expiration of such authority.**]**