SEC. 840. EXTENSION OF SPECIAL EMERGENCY PROCUREMENT AUTHORITY.

Section 1903(a) of title 41, United States Code, is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a semicolon; and

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

"(3) in support of a request from the Secretary of State or the Administrator of the Agency for International Development to facilitate the provision of international disaster assistance pursuant to the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

"(4) in support of an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).".

Section-by-Section Analysis

This proposal would amend section 1903(a) of title 41, United States Code, to expand the permissible uses of the special emergency procurement authorities under section 1903 to include: 1) support of international disaster assistance and 2) support of a national emergency or natural disaster relief efforts in the United States as defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122). Expansion of this authority is necessary to enhance the flexibility of the Department of Defense (DoD) and other agencies to effectively support emergencies both inside and outside the United States.

Section 1903 provides for increased micro-purchase and simplified acquisition thresholds in certain cases. Under current law, these procurement flexibilities are limited to contingency operations and activities related to the defense against or recovery from nuclear, biological, chemical or radiological attack. This proposal would extend the availability of special emergency procurement authorities – such as increased micro-purchase and simplified acquisition thresholds, as those terms are defined in the Stafford Act — when carrying out international disaster assistance and when supporting national emergencies or major disaster relief efforts inside the United States.

Having the ability to use the increased micro-purchase and simplified acquisition thresholds under section 1903 is critical for DoD and other agencies by providing alternative

ways of procuring items when supporting these assistance efforts or specified national emergencies or natural disaster relief efforts inside the United States.

This proposal would not, however, change how or when humanitarian assistance is provided or how or when national emergencies or natural disaster efforts are carried out.

Budgetary Implications: This proposal would amend the applicability of special emergency procurement authorities and there would be no additional budget implications.

Changes to Existing Law: This proposal would make the following changes to section 1903(a) of title 41, United States Code:

§ 1903. Special emergency procurement authority

(a) APPLICABILITY—The authorities provided in subsections (b) and (c) apply with respect to a procurement of property or services by or for an executive agency that the head of the executive agency determines are to be used—

(1) in support of a contingency operation (as defined in section 101 (a) of title 10); ~~or~~

(2) to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack against the United States~~.~~ ;

(3) in support of a request from the Secretary of State or the Administrator of the Agency for International Development to facilitate the provision of international disaster assistance pursuant to the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(4) in support of an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).

(b) INCREASED THRESHOLDS AND LIMITATION.—For a procurement to which this section applies under subsection (a)—

(1) the amount specified in section 1902(a), (d), and (e) of this title shall be deemed to be—

(A) $15,000 in the case of a contract to be awarded and performed, or purchase to be made, in the United States; and

(B) $25,000 in the case of a contract to be awarded and performed, or purchase to be made, outside the United States;

(2) the term "simplified acquisition threshold" means—

(A) $250,000 in the case of a contract to be awarded and performed, or purchase to be made, in the United States; and

(B) $1,000,000 in the case of a contract to be awarded and performed, or purchase to be made, outside the United States; and

(3) the $5,000,000 limitation in sections 1901(a)(2) and 3305(a)(2) of this title and section 2304(g)(1)(B) of title 10 is deemed to be $10,000,000.

(c) AUTHORITY TO TREAT PROPERTY OR SERVICE AS COMMERCIAL ITEM.—

(1) IN GENERAL.—The head of an executive agency carrying out a procurement of property or a service to which this section applies under subsection (a)(2) may treat the property or service as a commercial item for the purpose of carrying out the procurement.

(2) CERTAIN CONTRACTS NOT EXEMPT FROM STANDARDS OR REQUIREMENTS.—A contract in an amount of more than $15,000,000 that is awarded on a sole source basis for an item or service treated as a commercial item under paragraph (1) is not exempt from—

(A) cost accounting standards prescribed under section 1502 of this title; or

(B) cost or pricing data requirements (commonly referred to as truth in negotiating) under chapter 35 of this title and section 2306a of title 10.