SEC. 842. INCREASE IN SIMPLIFIED ACQUISITION THRESHOLD AND IN SMALL BUSINESS SET-ASIDE THRESHOLD.

(a) SIMPLIFIED ACQUISITION THRESHOLD.—

(1) GENERAL THRESHOLD.—Section 134 of title 41, United States Code, is amended by striking "$100,000" and inserting "$500,000".

(2) SPECIAL EMERGENCY PROCUREMENT AUTHORITY DOMESTIC THRESHOLD.—Section 1903(b)(2) of such title is amended by striking "means—" and all that follows in that section and inserting "means $1,000,000; and".

(b) SMALL BUSINESS ACT SET-ASIDE THRESHOLD.—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)), is amended—

(1) in paragraph (1), by striking "$100,000" and inserting "$500,000"; and

(2) in paragraph (3), by striking "$100,000" and inserting "$500,000".

Section-by-Section Analysis

This proposal would increase two thresholds applicable to Federal procurement: the simplified acquisition threshold (SAT) under title 41, United States Code, and the small business set-aside threshold under the Small Business Act.

Additionally this proposal would increase the simplified acquisition threshold under title 41, United States Code, 1903, for contracts or purchases made in the United States in support of contingency operations to $1,000,000. Without the increase, contracts or purchases made in the United States in support of contingency operations would be limited by the FAR 2.101 to $300,000 and would negatively impact the U.S. government ability to support the warfighter in a contingency environment.

In 1994, Congress created the simplified acquisition threshold (SAT) to enable agencies to acquire small dollar acquisitions below the threshold with minimum transaction costs and Government-unique burdens. This proposal would implement a recommendation made in the President's Budget to increase the SAT from its present value of $150,000 to $500,000. This increase would recognize that transactions in this dollar range typically bear the characteristics of small dollar transactions and should therefore be treated as SAT purchases rather than being subject to government-unique compliance requirements that are applied to multi-million dollar acquisitions. The proposal would also amend the Small Business Act to raise the statutory

threshold for small business set-asides to the same $500,000 level given the significant amount of work that can be performed by small businesses in this dollar range.

SAT purchases subject contractors to fewer compliance requirements, including those calling for formal programs, certifications, reporting, and oversight. In addition, SAT purchases allow agencies to transact with interested sources using simplified acquisition procedures, which generally entail shorter solicitations, greater reliance on a contractor's existing product literature, simpler evaluation processes and less detailed documentation. As a result of this relief, contract actions under the SAT often bear a greater similarity to generally accepted commercial practices when compared to larger procurements, which makes it easier and less costly for agencies and contractors to do business.

When the SAT was first created, Congress established the threshold at $100,000. In 2010, the Federal Acquisition Regulatory Council (FAR Council) raised the threshold to $150,000 to reflect inflation, pursuant to authority provided by 41 U.S.C. 1908. While this adjustment has been beneficial, it leaves acquisitions between $150,000 and $500,000 subject to the same compliance requirements as a contract for millions of dollars or more even though these modestly sized acquisitions typically share many of the same characteristics as small dollar acquisitions – namely, the agency has requirements that can be satisfied with commercial products and services. This proposal would raise the threshold to $500,000 so that Defense and civilian agencies could apply a simplified and faster procurement approach to approximately 15,000 procurement transactions than is possible under the existing threshold of $150,000. This increase involves only about 1 percent of Federal contracting dollars (about $4.5 billion in fiscal year (FY) 2013), thus leaving the majority of government spending under the compliance controls intended for large contracts.

Agencies are currently required to set aside purchases under $150,000 for small business participation. Work under this amount is made available to other businesses only when there are not two or more responsible small businesses capable of performing the required work at fair and reasonable prices. This proposal would amend the Small Business Act to raise the statutory set-aside requirement to $500,000 in light of the significant amount of work that currently is performed by small businesses between $150,000 and $500,000 (57 percent in FY 2013) so that these entities may benefit from the simplification made possible by the SAT.

Budgetary Implications: There would be no budgetary impact as a result of these legislative changes because the proposal is only an authorization and would not increase the overall budget requirements of the Department or any other Federal agency.

Changes to Existing Law: This proposal would amend title 41, United States Code, and the Small Business Act as follows:

TITLE 41, UNITED STATES CODE

§ 134. Simplified acquisition threshold

In division B, the term "simplified acquisition threshold" means ~~**$100,000**~~ **$500,000**.

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§ 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.

(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.

SMALL BUSINESS ACT

SEC.15. (a) ***

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(j)(1) Each contract for the purchase of goods and services that has an anticipated value greater than $2,500 but not greater than **~~$100,000~~** **<u>$500,000</u>** shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and are competitive with regard to the quality and delivery of the goods or services being purchased.

(2) In carrying out paragraph (1), a contracting officer shall consider a responsive offer timely received from an eligible small business offeror.

(3) Nothing in paragraph (1) shall be construed as precluding an award of a contract with a value not greater than **~~$100,000~~** **<u>$500,000</u>** under the authority of subsection (a) of section 8, section 2323 of title 10, United States Code, section 712 of the Business Opportunity Development Reform Act of 1988 (Public Law 100–656; 15 U.S.C. 644 note), or section 7102 of the Federal Acquisition Streamlining Act of 1994.

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