

## Freedom from Government Competition Act

### Section-by Section Analysis

Sec. 1. TITLE - Freedom from Government Competition Act of 2009

Sec. 2. FINDINGS - Congress finds that private enterprise is the strong, efficient base of the U.S. economy; unfair government competition with private enterprise is detrimental and due to lack of sufficient current law, such competition is too high; it is in the public interest to utilize private enterprise

Sec. 3. DEFINITIONS – Defines a Federal agency consistent with existing law

Sec. 4. PROCUREMENT FROM PRIVATE SOURCES – Codifies Federal policy that first appeared in Bureau of the Budget Bulletin 55-4 in 1955 (Eisenhower Admin) that the government should not compete with its citizens, rather it should rely on the private sector for commercially available goods and services; however, inherently governmental activities should be performed by government employees.

Exempts from the above – goods or services required by law to be provided by government; those which require government performance for national defense or homeland security reasons; inherently governmental functions; or where there is no capable private source.

Provides for procurement from the private sector through – divestiture (government gets out of the business and leaves it to the private sector, e.g. privatizes); awards a contract(s) through competitive procurement among private competitors; converts the activity to a Hawaii, Alaska or native American entity, as provided in current law; or agency conducts a public-private competition that demonstrates private performance provides the best value (compared to government employee performance)

Contracted activities – permits an agency to “in-source” (transfer an activity from contractor performance to government employee performance) provided a public-private competition demonstrates that government employee performance provides the best value

Regulations – authorizes OMB Director to promulgate regulations to carry out processes in section 4. Also requires regulations to include a process for compliance with the bill by state and local government recipients of grants and other forms of Federal assistance

Sec. 5. REPORTS – Requires OMB, in consultation with GAO, to conduct annual reviews of agency implementation of the Act and a schedule for transfer of eligible activities within 5 years

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