

subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.”

1997—Subsecs. (d) to (g). Pub. L. 105–85 added subsecs. (d) and (e) and redesignated former subsecs. (d) and (e) as (f) and (g), respectively.

1987—Subsecs. (a), (b)(2). Pub. L. 100–224 substituted “50 U.S.C. App.” for “50 U.S.C.” in parenthetical after “Export Administration Act of 1979”.

Subsec. (d)(1). Pub. L. 100–180 inserted par. (1) designation.

EFFECTIVE DATE

Section 101(c) [title X, §951(c)] of Pub. L. 99–500 and Pub. L. 99–591, and section 951(c) of title IX, formerly title IV, of Pub. L. 99–661, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: “Section 2327 of title 10, United States Code (as added by subsection (a)(1)), shall apply to contracts entered into by the Secretary of Defense after the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 18, 1986].”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REPORTS BY DEFENSE CONTRACTORS OF DEALINGS WITH TERRORIST COUNTRIES

Pub. L. 103–160, div. A, title VIII, §843, Nov. 30, 1993, 107 Stat. 1720, as amended by Pub. L. 103–355, title VIII, §8105(j), Oct. 13, 1994, 108 Stat. 3393, directed the Secretary of Defense to require any person with whom the Secretary proposed to enter into a contract for the provision of goods or services in an amount in excess of \$5,000,000, to report to the Secretary each commercial transaction which that person had conducted with the government of any terrorist country during the preceding three years and during the course of the contract, required the Secretary to prescribe regulations and to submit an annual report to Congress setting forth those commercial transactions with terrorist countries that had been included in the reports made during the preceding fiscal year, and provided that section 843 of Pub. L. 103–160 would expire on Sept. 30, 1996.

§ 2328. Release of technical data under Freedom of Information Act: recovery of costs

(a) IN GENERAL.—(1) The Secretary of Defense shall, if required to release technical data under section 552 of title 5 (relating to the Freedom of Information Act), release such technical data to the person requesting the release if the person pays all reasonable costs attributable to search, duplication, and review.

(2) The Secretary of Defense shall prescribe regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees under this section.

(b) CREDITING OF RECEIPTS.—An amount received under this section—

(1) shall be retained by the Department of Defense or the element of the Department of Defense receiving the amount; and

(2) shall be merged with and available for the same purpose and the same time period as

the appropriation from which the costs incurred in complying with requests for technical data were paid.

(c) WAIVER.—The Secretary of Defense shall waive the payment of costs required by subsection (a) which are in an amount greater than the costs that would be required for such a release of information under section 552 of title 5 if—

(1) the request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable such citizen or corporation to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States (except that the Secretary may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, to be refunded upon submission of an offer by the citizen or corporation);

(2) the release of technical data is requested in order to comply with the terms of an international agreement; or

(3) the Secretary determines, in accordance with section 552(a)(4)(A)(iii) of title 5, that such a waiver is in the interests of the United States.

(Added Pub. L. 99–500, §101(c) [title X, §954(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–172, and Pub. L. 99–591, §101(c) [title X, §954(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–172; Pub. L. 99–661, div. A, title IX, formerly title IV, §954(a)(1), Nov. 14, 1986, 100 Stat. 3952, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100–26, §7(a)(7)(A), (B)(i), Apr. 21, 1987, 101 Stat. 278.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical sections.

PRIOR PROVISIONS

A prior section 2328 was renumbered section 2348 of this title.

AMENDMENTS

1987—Pub. L. 100–26, §7(a)(7)(B)(i), substituted “Release of technical data under Freedom of Information Act: recovery of costs” for “Release of technical data” in section catchline.

Subsec. (a)(1). Pub. L. 100–26, §7(a)(7)(A)(i)(I), substituted “such technical data to the person requesting the” for “technical data to a person requesting such a”.

Pub. L. 100–26, §7(a)(7)(A)(i)(II), substituted “search, duplication, and review” for “search and duplication”.

Subsec. (b). Pub. L. 100–26, §7(a)(7)(A)(ii), substituted “Crediting of receipts” for “Disposition of costs” in heading.

Subsec. (c)(3). Pub. L. 100–26, §7(a)(7)(A)(iii), substituted “section 552(a)(4)(A)(iii)” for “section 552(a)(4)(A)”.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 12(d)(2) of Pub. L. 100–26 provided that: “The amendment to section 2328 of such title made by section 7(a)(7)(A)(i)(II) shall take effect on the same date and in the same manner as provided in section 1804(b)

of Public Law 99-570 [set out as an Effective Date of 1986 Amendment note under section 552 of Title 5, Government Organization and Employees] for the amendment made by section 1803 of that Public Law to section 552a of title 5, United States Code [probably means amendment by section 1803 of Pub. L. 99-570 to section 552(a) of Title 5].”

EFFECTIVE DATE

Section 101(c) [title X, §954(b)] of Pub. L. 99-500 and Pub. L. 99-591, and section 954(b) of title IX, formerly title IV, of Pub. L. 99-661, renumbered title IX by Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: “The amendments made by this section [enacting this section] shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 18, 1986].”

[§ 2329. Repealed. Pub. L. 103-355, title I, § 1506(a), Oct. 13, 1994, 108 Stat. 3298]

Section, added Pub. L. 100-180, div. A, title VIII, §810(a)(1), Dec. 4, 1987, 101 Stat. 1130; amended Pub. L. 100-456, div. A, title XII, §1233(j), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 103-160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728, related to contract terms and conditions for production special tooling and production special test equipment.

§ 2330. Procurement of contract services: management structure

(a) REQUIREMENT FOR MANAGEMENT STRUCTURE.—The Secretary of Defense shall establish and implement a management structure for the procurement of contract services for the Department of Defense. The management structure shall provide, at a minimum, for the following:

(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall—

(A) develop and maintain (in consultation with the service acquisition executives) policies, procedures, and best practices guidelines addressing the procurement of contract services, including policies, procedures, and best practices guidelines for—

- (i) acquisition planning;
- (ii) solicitation and contract award;
- (iii) requirements development and management;
- (iv) contract tracking and oversight;
- (v) performance evaluation; and
- (vi) risk management;

(B) work with the service acquisition executives and other appropriate officials of the Department of Defense—

(i) to identify the critical skills and competencies needed to carry out the procurement of contract services on behalf of the Department of Defense;

(ii) to develop a comprehensive strategy for recruiting, training, and deploying employees to meet the requirements for such skills and competencies; and

(iii) to ensure that the military departments and Defense Agencies have staff and administrative support that are adequate to effectively perform their duties under this section;

(C) establish contract services acquisition categories, based on dollar thresholds, for the purpose of establishing the level of review, decision authority, and applicable procedures in such categories; and

(D) oversee the implementation of the requirements of this section and the policies, procedures, and best practices guidelines established pursuant to subparagraph (A).

(2) The service acquisition executive of each military department shall be the senior official responsible for the management of acquisition of contract services for or on behalf of the military department.

(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall be the senior official responsible for the management of acquisition of contract services for or on behalf of the Defense Agencies and other components of the Department of Defense outside the military departments.

(b) DUTIES AND RESPONSIBILITIES OF SENIOR OFFICIALS RESPONSIBLE FOR THE MANAGEMENT OF ACQUISITION OF CONTRACT SERVICES.—(1) Except as provided in paragraph (2), the senior officials responsible for the management of acquisition of contract services shall assign responsibility for the review and approval of procurements in each contract services acquisition category established under subsection (a)(1)(C) to specific Department of Defense officials, subject to the direction, supervision, and oversight of such senior officials.

(2) With respect to the acquisition of contract services by a component or command of the Department of Defense the primary mission of which is the acquisition of products and services, such acquisition shall be conducted in accordance with policies, procedures, and best practices guidelines developed and maintained by the Under Secretary of Defense for Acquisition, Technology, and Logistics pursuant to subsection (a)(1), subject to oversight by the senior officials referred to in paragraph (1).

(3) In carrying out paragraph (1), each senior official responsible for the management of acquisition of contract services shall—

(A) implement the requirements of this section and the policies, procedures, and best practices guidelines developed by the Under Secretary of Defense for Acquisition, Technology, and Logistics pursuant to subsection (a)(1)(A);

(B) authorize the procurement of contract services through contracts entered into by agencies outside the Department of Defense in appropriate circumstances, in accordance with the requirements of section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (10 U.S.C. 2304 note), section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (31 U.S.C. 1535 note), and the regulations implementing such sections;

(C) dedicate full-time commodity managers to coordinate the procurement of key categories of services;

(D) ensure that contract services are procured by means of procurement actions that are in the best interests of the Department of Defense and are entered into and managed in compliance with applicable laws, regulations, directives, and requirements;

(E) ensure that competitive procedures and performance-based contracting are used to the