

Subsec. (d)(2). Pub. L. 111-350, §5(b)(25)(B), substituted “section 103 of title 41” for “section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))”.

1994—Subsecs. (c), (d). Pub. L. 103-355 added subsecs. (c) and (d).

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 2302 of this title.

EFFECTIVE DATE

Section 1234(c) of Pub. L. 98-525 provided that: “Section 2402 of title 10, United States Code (as added by subsection (a)), shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act [Oct. 19, 1984].”

[§ 2403. Repealed. Pub. L. 105-85, div. A, title VIII, § 847(a), Nov. 18, 1997, 111 Stat. 1845]

Section, added Pub. L. 98-525, title XII, §1234(a), Oct. 19, 1984, 98 Stat. 2601; amended Pub. L. 99-433, title I, §110(g)(5), Oct. 1, 1986, 100 Stat. 1004; Pub. L. 100-26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 103-355, title II, §2402, Oct. 13, 1994, 108 Stat. 3324; Pub. L. 104-106, div. A, title XV, §1502(a)(21), Feb. 10, 1996, 110 Stat. 505, related to major weapon systems and contractor guarantees.

[§ 2404. Renumbered § 2922e]

[§ 2405. Repealed. Pub. L. 105-85, div. A, title VIII, § 810(a)(1), Nov. 18, 1997, 111 Stat. 1839]

Section, added Pub. L. 98-525, title XII, §1234(a), Oct. 19, 1984, 98 Stat. 2604; amended Pub. L. 102-484, div. A, title VIII, §813(c), Oct. 23, 1992, 106 Stat. 2453; Pub. L. 103-355, title II, §2302(a), (b), Oct. 13, 1994, 108 Stat. 3321; Pub. L. 104-106, div. D, title XLIII, §4321(b)(14), Feb. 10, 1996, 110 Stat. 673, related to limitation on adjustment of shipbuilding contracts.

EFFECTIVE DATE OF REPEAL

Pub. L. 105-85, div. A, title VIII, §810(b), Nov. 18, 1997, 111 Stat. 1839, provided that:

“(1) Except as provided in paragraph (2), the repeal made by subsection (a) [repealing this section] shall be effective with respect to claims, requests for equitable adjustment, and demands for payment under shipbuilding contracts that have been or are submitted before, on, or after the date of the enactment of this Act [Nov. 18, 1997].

“(2) Section 2405 of title 10, United States Code, as in effect immediately before the date of the enactment of this Act, shall continue to apply to a contractor’s claim, request for equitable adjustment, or demand for payment under a shipbuilding contract that was submitted before such date if—

“(A) a contracting officer denied the claim, request, or demand, and the period for appealing the decision to a court or board under the Contract Disputes Act of 1978 [see 41 U.S.C. 7101 et seq.] expired before such date;

“(B) a court or board of contract appeals considering the claim, request, or demand (including any appeal of a decision of a contracting officer to deny the claim, request, or demand) denied or dismissed the claim, request, or demand (or the appeal), and the action of the court or board became final and unappealable before such date; or

“(C) the contractor released or releases the claim, request, or demand.”

[§ 2406. Repealed. Pub. L. 103-355, title II, § 2201(b)(1), Oct. 13, 1994, 108 Stat. 3318]

Section, added Pub. L. 99-145, title IX, §917(a), Nov. 8, 1985, 99 Stat. 689; amended Pub. L. 99-500, §101(c) [title

X, §943(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-162, and Pub. L. 99-591, §101(c) [title X, §943(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-162; Pub. L. 99-661, div. A, title IX, formerly title IV, §943(a)(1), Nov. 14, 1986, 100 Stat. 3942, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100-180, div. A, title XII, §1231(13), Dec. 4, 1987, 101 Stat. 1160, required contractor under covered contract with an agency to make cost and pricing data available to agency in timely manner.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 2302 of this title.

[§ 2407. Renumbered § 2350b]

NATO COOPERATIVE LOGISTIC SUPPORT AGREEMENTS

Section 1102 of Pub. L. 99-661, div. A, title XI, §1102, Nov. 14, 1986, 100 Stat. 3961, which authorized Secretary of Defense to enter Weapon System Partnership Agreements with one or more governments of other member countries of NATO, was repealed by Pub. L. 101-189, div. A, title IX, §931(d)(2), Nov. 29, 1989, 103 Stat. 1535. See section 2350d of this title.

NATO COOPERATIVE RESEARCH AND DEVELOPMENT

Section 1103 of Pub. L. 99-145, title XI, §1103, Nov. 8, 1985, 99 Stat. 712, which urged and requested member nations of NATO to cooperate in research and development of defense equipment and munitions and in the production of defense equipment, was repealed by Pub. L. 101-189, div. A, title IX, §931(d)(1), Nov. 29, 1989, 103 Stat. 1535. See section 2350a of this title.

AUTHORITY OF SECRETARY OF DEFENSE IN CONNECTION WITH NATO AWACS PROGRAM

Pub. L. 97-86, title I, §103, Dec. 1, 1981, 95 Stat. 1100, as amended by Pub. L. 97-252, title I, §106, Sept. 8, 1982, 96 Stat. 720; Pub. L. 98-94, title I, §105, Sept. 24, 1983, 97 Stat. 620; Pub. L. 98-525, title I, §106, Oct. 19, 1984, 98 Stat. 2503; Pub. L. 99-145, title I, §106(b), Nov. 8, 1985, 99 Stat. 596; Pub. L. 99-661, title I, §106, Nov. 14, 1986, 100 Stat. 3827; Pub. L. 100-180, title I, §109, Dec. 4, 1987, 101 Stat. 1036, which set forth authority of Secretary of Defense in connection with NATO AWACS Program, was repealed by Pub. L. 101-189, div. A, title IX, §932(b), Nov. 29, 1989, 103 Stat. 1537. See section 2350e of this title. Similar provisions were contained in the following prior authorization acts:

Pub. L. 96-342, title I, §103, Sept. 8, 1980, 94 Stat. 1078.

Pub. L. 96-107, title I, §104, Nov. 9, 1979, 93 Stat. 804.

§ 2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors

(a) PROHIBITION.—(1) An individual who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from each of the following:

(A) Working in a management or supervisory capacity on any defense contract or any first tier subcontract of a defense contract.

(B) Serving on the board of directors of any defense contractor or any subcontractor awarded a contract directly by a defense contractor.

(C) Serving as a consultant to any defense contractor or any subcontractor awarded a contract directly by a defense contractor.

(D) Being involved in any other way, as determined under regulations prescribed by the Secretary of Defense, with a defense contract or first tier subcontract of a defense contract.

(2) Except as provided in paragraph (3), the prohibition in paragraph (1) shall apply for a period, as determined by the Secretary of Defense, of not less than five years after the date of the conviction.

(3) The prohibition in paragraph (1) may apply with respect to an individual for a period of less than five years if the Secretary determines that the five-year period should be waived in the interests of national security.

(4) The prohibition in paragraph (1) does not apply with respect to the following:

(A) A contract referred to in subparagraph (A), (B), (C), or (D) of such paragraph that is not greater than the simplified acquisition threshold (as defined in section 134 of title 41).

(B) A contract referred to in such subparagraph that is for the acquisition of commercial items (as defined in section 103 of title 41).

(C) A subcontract referred to in such subparagraph that is under a contract described in subparagraph (A) or (B).

(b) **CRIMINAL PENALTY.**—A defense contractor or subcontractor shall be subject to a criminal penalty of not more than \$500,000 if such contractor or subcontractor is convicted of knowingly—

(1) employing a person under a prohibition under subsection (a); or

(2) allowing such a person to serve on the board of directors of such contractor or subcontractor.

(c) **SINGLE POINT OF CONTACT FOR INFORMATION.**—(1) The Attorney General shall ensure that a single point of contact is established to enable a defense contractor or subcontractor to promptly obtain information regarding whether a person that the contractor or subcontractor proposes to use for an activity covered by paragraph (1) of subsection (a) is under a prohibition under that subsection.

(2) The procedure for obtaining such information shall be specified in regulations prescribed by the Secretary of Defense under subsection (a).

(Added Pub. L. 99-500, §101(c) [title X, §941(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-161, and Pub. L. 99-591, §101(c) [title X, §941(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-161; Pub. L. 99-661, div. A, title IX, formerly title IV, §941(a)(1), Nov. 14, 1986, 100 Stat. 3941, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100-456, div. A, title VIII, §831(a), Sept. 29, 1988, 102 Stat. 2023; Pub. L. 101-510, div. A, title VIII, §812, Nov. 5, 1990, 104 Stat. 1596; Pub. L. 102-484, div. A, title VIII, §815(a), Oct. 23, 1992, 106 Stat. 2454; Pub. L. 103-355, title IV, §4102(g), title VIII, §8105(h), Oct. 13, 1994, 108 Stat. 3340, 3393; Pub. L. 104-106, div. A, title X, §1062(e), Feb. 10, 1996, 110 Stat. 444; Pub. L. 111-350, §5(b)(26), Jan. 4, 2011, 124 Stat. 3844.)

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.

AMENDMENTS

2011—Subsec. (a)(4)(A). Pub. L. 111-350, §5(b)(26)(A), substituted “section 134 of title 41” for “section 4(11)

of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))”.

Subsec. (a)(4)(B). Pub. L. 111-350, §5(b)(26)(B), substituted “section 103 of title 41” for “section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))”.

1996—Subsec. (a)(3). Pub. L. 104-106 struck out at end “If the five-year period is waived, the Secretary shall submit to Congress a report stating the reasons for the waiver.”

1994—Subsec. (a)(4). Pub. L. 103-355, §4102(g), added introductory provisions and subpar. (A).

Subsec. (a)(4)(B). Pub. L. 103-355, §8105(h)(1), added subpar. (B).

Subsec. (a)(4)(C). Pub. L. 103-355, §8105(h)(2), inserted “or (B)” before period at end.

Pub. L. 103-355, §4102(g), added subpar. (C).

1992—Subsec. (c). Pub. L. 102-484 added subsec. (c).

1990—Subsec. (a)(1)(A). Pub. L. 101-510, §812(a)(1), inserted before period at end “or any first tier subcontract of a defense contract”.

Subsec. (a)(1)(B). Pub. L. 101-510, §812(a)(2), inserted before period at end “or any subcontractor awarded a contract directly by a defense contractor”.

Subsec. (a)(1)(C). Pub. L. 101-510, §812(a)(3), inserted before period at end “or any subcontractor awarded a contract directly by a defense contractor”.

Subsec. (a)(1)(D). Pub. L. 101-510, §812(a)(4), inserted before period at end “or first tier subcontract of a defense contract”.

Subsec. (b). Pub. L. 101-510, §812(b), inserted “or subcontractor” after “contractor” wherever appearing.

1988—Subsec. (a). Pub. L. 100-456 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “A person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one year from the date of the conviction.”

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 2302 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 831(b) of Pub. L. 100-456 provided that: “Section 2408(a) of title 10, United States Code, as amended by subsection (a), shall apply with respect to individuals convicted after the date of the enactment of this Act [Sept. 29, 1988].”

EFFECTIVE DATE

Section 101(c) [title X, §941(c)] of Pub. L. 99-500 and Pub. L. 99-591, and section 941(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 2408 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to employment or service on a board of directors after the date of the enactment of this Act [Oct. 18, 1986].”

DEADLINE FOR SINGLE POINT OF CONTACT

Pub. L. 102-484, div. A, title VIII, §815(b), Oct. 23, 1992, 106 Stat. 2454, directed that the single point of contact required by subsec. (c) of this section be established not later than 120 days after Oct. 23, 1992.

§ 2409. Contractor employees: protection from reprisal for disclosure of certain information

(a) **PROHIBITION OF REPRISALS.**—An employee of a contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress, a representative of a committee of Congress, an In-