

- Sec.  
2392. Prohibition on use of funds to relieve economic dislocations.
2393. Prohibition against doing business with certain offerors or contractors.
- [2394, 2394a. Renumbered.]
2395. Availability of appropriations for procurement of technical military equipment and supplies.
2396. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, public utility services, and pay and supplies of armed forces of friendly foreign countries.
- [2397 to 2398a. Repealed or Renumbered.]
2399. Operational test and evaluation of defense acquisition programs.
2400. Low-rate initial production of new systems.
2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles.
- 2401a. Lease of vehicles, equipment, vessels, and aircraft.
2402. Prohibition of contractors limiting subcontractor sales directly to the United States.
- [2403 to 2407. Repealed or Renumbered.]
2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.
2409. Contractor employees: protection from reprisal for disclosure of certain information.
- [2409a. Repealed.]
2410. Requests for equitable adjustment or other relief: certification.
- 2410a. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property.
- 2410b. Contractor inventory accounting systems: standards.
- [2410c. Renumbered.]
- 2410d. Subcontracting plans: credit for certain purchases.
- [2410e. Repealed.]
- 2410f. Debarment of persons convicted of fraudulent use of "Made in America" labels.
- 2410g. Advance notification of contract performance outside the United States.
- [2410h. Renumbered.]
- 2410i. Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel.
- 2410j. Displaced contractor employees: assistance to obtain certification and employment as teachers or employment as teachers' aides.
- 2410k. Defense contractors: listing of suitable employment openings with local employment service office.
- 2410l. Contracts for advisory and assistance services: cost comparison studies.
- 2410m. Retention of amounts collected from contractor during the pendency of contract dispute.
- 2410n. Products of Federal Prison Industries: procedural requirements.
- 2410o. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.
- 2410p. Contracts: limitations on lead system integrators.
- 2410q. Multiyear contracts: purchase of electricity from renewable energy sources.

## AMENDMENTS

2013—Pub. L. 112-239, div. A, title XVI, §1671(c)(1), Jan. 2, 2013, 126 Stat. 2084, struck out item 2382 "Consolidation of contract requirements: policy and restrictions".

2008—Pub. L. 110-181, div. A, title VIII, §828(b), title X, §1063(a)(11), Jan. 28, 2008, 122 Stat. 229, 322, inserted period at end of item 2410p and added item 2410q.

2006—Pub. L. 109-364, div. A, title VIII, §807(a)(2), div. B, title XXVIII, §2851(c)(2), Oct. 17, 2006, 120 Stat. 2315, 2495, added item 2410p and struck out items 2388 "Liquid fuels and natural gas: contracts for storage, handling, or distribution", 2394 "Contracts for energy or fuel for military installations", 2394a "Procurement of energy systems using renewable forms of energy", 2398 "Procurement of gasohol as motor vehicle fuel", 2398a "Procurement of fuel derived from coal, oil shale, and tar sands", 2404 "Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority", and 2410c "Preference for energy efficient electric equipment".

Pub. L. 109-163, div. A, title VIII, §815(d)(2), Jan. 6, 2006, 119 Stat. 3382, substituted "Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles" for "Requirement for authorization by law of certain contracts relating to vessels and aircraft" in item 2401.

2005—Pub. L. 109-58, title III, §369(q)(2), Aug. 8, 2005, 119 Stat. 733, added item 2398a.

2004—Pub. L. 108-375, div. A, title VIII, §804(a)(2), Oct. 28, 2004, 118 Stat. 2008, added item 2383.

2003—Pub. L. 108-136, div. A, title VIII, §801(a)(2), title X, §1005(b)(2), Nov. 24, 2003, 117 Stat. 1540, 1585, added item 2382 and substituted "Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property" for "Severable service contracts for periods crossing fiscal years" in item 2410a.

2002—Pub. L. 107-314, div. A, title VIII, §826(b), title X, §1062(a)(10)(B), Dec. 2, 2002, 116 Stat. 2617, 2650, transferred item 2410h "Acquisition fellowship program" to subchapter IV of chapter 87 as item 1747 and added item 2410o.

2001—Pub. L. 107-107, div. A, title VIII, §§811(a)(2), 834(a)(2), Dec. 28, 2001, 115 Stat. 1181, 1191, added items 2389 and 2410n.

1999—Pub. L. 106-65, div. A, title VIII, §803(b)(2), Oct. 5, 1999, 113 Stat. 704, substituted "Acquisition of certain fuel sources" for "Acquisition of petroleum and natural gas" in item 2404.

1997—Pub. L. 105-85, div. A, title VIII, §§801(b), 810(a)(2), 831(b), 847(b)(1), title X, §1014(b)(2), Nov. 18, 1997, 111 Stat. 1831, 1839, 1842, 1845, 1875, inserted "public utility services," after "tuition," in item 2396, struck out items 2403 "Major weapon systems: contractor guarantees" and 2405 "Limitation on adjustment of shipbuilding contracts", substituted "Severable service contracts for periods crossing fiscal years" for "Appropriated funds: availability for certain contracts for 12 months" in item 2410a, and added item 2410m.

1996—Pub. L. 104-106, div. A, title VIII, §§803(b), 807(a)(2), div. D, title XLIII, §4304(c)(1), Feb. 10, 1996, 110 Stat. 390, 392, 664, struck out items 2383 "Procurement of critical aircraft and ship spare parts: quality control", 2397 "Employees or former employees of defense contractors: reports", 2397a "Requirements relating to private employment contacts between certain Department of Defense procurement officials and defense contractors", 2397b "Certain former Department of Defense procurement officials: limitations on employment by contractors", and 2397c "Defense contractors: requirements concerning former Department of Defense officials" and substituted "Lease of vehicles, equipment, vessels, and aircraft" for "Lease of vessels, aircraft, and vehicles" in item 2401a.

1994—Pub. L. 103-355, title II, §§2102(b), 2201(b)(2), 2301(c), title III, §3065(a)(2), title VI, §6005(b)(2), Oct. 13, 1994, 108 Stat. 3309, 3318, 3321, 3337, 3365, added item 2401a, struck out items 2382 "Contract profit controls during emergency periods", 2406 "Availability of cost and pricing records", 2409a "Communicating with Government officials: defense contractor requirement to prohibit retaliatory personnel actions", and 2410e "Contract claims: certification regulations", and substituted in item 2410 "Requests for equitable adjustment or other relief: certification" for "Contract claims: certification".

Pub. L. 103-337, div. A, title III, §363(a)(2), Oct. 5, 1994, 108 Stat. 2734, added item 2410f.

1993—Pub. L. 103-160, div. A, title VIII, §828(a)(3), (c)(3), (4), Nov. 30, 1993, 107 Stat. 1713, 1714, substituted “Liquid fuels and natural gas: contracts for storage, handling, or distribution” for “Liquid fuels: contracts for storage, handling, and distribution” in item 2388, struck out item 2389 “Contracts for the procurement of milk: price adjustments; purchases from the Commodity Credit Corporation”, and inserted “and natural gas” and “; acquisition by exchange; sales authority” in item 2404.

Pub. L. 103-35, title II, §202(a)(18)(B), May 31, 1993, 107 Stat. 102, made technical amendment to directory language of Pub. L. 102-484, §4470(a)(2). See 1992 Amendment note below.

Pub. L. 103-35, title II, §201(b)(1)(B), May 31, 1993, 107 Stat. 97, renumbered item 2410c relating to displaced contractor employees as item 2410j and item 2410d relating to defense contractors as item 2410k.

1992—Pub. L. 102-484, div. D, title XLIV, §4470(a)(2), Oct. 23, 1992, 106 Stat. 2753, as amended by Pub. L. 103-35, title II, §202(a)(18)(B), May 31, 1993, 107 Stat. 102, added item 2410d relating to defense contractors.

Pub. L. 102-484, div. D, title XLIV, §4443(b), Oct. 23, 1992, 106 Stat. 2735, 2753, added item 2410c relating to displaced contractor employees.

Pub. L. 102-484, div. A, title III, §384(a)(1)(B), title VIII, §§808(b)(2), 813(a)(2), 834(a)(2), 840(a)(2), 841(b), title XIII, §1332(b), Oct. 23, 1992, 106 Stat. 2393, 2450, 2453, 2461, 2467, 2468, 2555, added items 2410c to 2410i.

1990—Pub. L. 101-510, div. A, title VIII, §837(a)(2), title XIV, §1484(i)(8), Nov. 5, 1990, 104 Stat. 1619, 1718, struck out item 2407 “Acquisition of defense equipment under cooperative projects” and added item 2409a.

1989—Pub. L. 101-189, div. A, title VIII, §§802(a)(2), 803(b), title IX, §933(e), title XVI, §1622(b)(2), Nov. 29, 1989, 103 Stat. 1486, 1488, 1538, 1604, added items 2390, 2399, and 2400 and struck out item 2401a “Procurement of communications support and related supplies and services”.

1988—Pub. L. 100-456, div. A, title VIII, §§805(a)(2), 834(a)(2), Sept. 29, 1988, 102 Stat. 2010, 2025, added items 2383 and 2410b.

Pub. L. 100-370, §§1(h)(3), 3(b)(2), July 19, 1988, 102 Stat. 848, 855, in item 2389 substituted “milk: price adjustments; purchases from the Commodity Credit Corporation” for “milk; price adjustment”, struck out items 2399 “Limitation on availability of appropriations to reimburse a contractor for cost of commercial insurance”, and 2400 “Miscellaneous procurement limitations”, and added items 2410 and 2410a.

1987—Pub. L. 100-180, div. A, title I, §124(b)(2), Dec. 4, 1987, 101 Stat. 1043, substituted “Miscellaneous procurement limitations” for “Limitation on procurement of buses” in item 2400.

1986—Pub. L. 99-661, div. A, title XI, §1103(b)(2)(B), Nov. 14, 1986, 100 Stat. 3963, struck out “North Atlantic Treaty Organization” before “cooperative projects” in item 2407.

Pub. L. 99-500, §101(c) [title X, §§931(a)(2), 941(a)(2), 942(a)(2), 943(a)(2)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-160, 1783-162, 1783-164, and Pub. L. 99-591, §101(c) [title X, §§931(a)(2), 941(a)(2), 942(a)(2), 943(a)(2)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-160, 3341-162, 3341-164; Pub. L. 99-661, div. A, title IX, formerly title IV, §§931(a)(2), 941(a)(2), 942(a)(2), 943(a)(2), Nov. 14, 1986, 100 Stat. 3939, 3941-3943, 3963, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273, amended analysis identically, substituting “Availability of cost and pricing records” for “Cost and price management” in item 2406 and adding items 2397b, 2397c, 2408, and 2409.

1985—Pub. L. 99-145, title IX, §§917(b), 923(a)(2), title XI, §1102(b)(2), Nov. 8, 1985, 99 Stat. 690, 697, 712, added items 2397a, 2406, and 2407.

1984—Pub. L. 98-525, title X, §1005(b), title XII, §1235(1), (2), Oct. 19, 1984, 98 Stat. 2579, 2604, substituted in item 2384 “identification of supplier and sources” for “marking with name of contractor” and added items 2401a, 2384a, and 2402 to 2405.

1983—Pub. L. 98-94, title XII, §1202(a)(2), 1259(b), Sept. 24, 1983, 97 Stat. 681, 703, struck out item 2390

“Suggestions for improving procurement policies”, and added item 2401.

1982—Pub. L. 97-321, title VIII, §801(a)(2), Oct. 15, 1982, 96 Stat. 1570, added item 2394a.

Pub. L. 97-295, §1(29)(B), Oct. 12, 1982, 96 Stat. 1294, struck out item 2394 “Availability of appropriations for procurement of technical military equipment and supplies and the construction of military public works”, added item 2395 “Availability of appropriations for procurement of technical military equipment and supplies”, redesignated former item 2395 as 2396, and added items 2397, 2398, 2399, and 2400.

Pub. L. 97-258, §2(b)(4)(A), Sept. 13, 1982, 96 Stat. 1052, added items 2394 and 2395.

Pub. L. 97-214, §6(a)(2), July 12, 1982, 96 Stat. 172, added item 2394.

1981—Pub. L. 97-86, title IX, §§911(a)(2), 912(a)(2), 913(a)(2), 914(b), Dec. 1, 1981, 95 Stat. 1122, 1123, 1125, substituted “Contract profit controls during emergency periods” for “Aircraft: contract requirements” in item 2382 and added items 2391, 2392, and 2393.

1980—Pub. L. 96-513, title V, §511(79), Dec. 12, 1980, 94 Stat. 2927, struck out item 2383 “Emergency purchases: war material abroad”.

1977—Pub. L. 95-79, title VIII, §815(b), July 30, 1977, 91 Stat. 338, added item 2390.

1966—Pub. L. 89-696, §1(2), Oct. 19, 1966, 80 Stat. 1057, added item 2389.

1958—Pub. L. 85-861, §1(47), Sept. 2, 1958, 72 Stat. 1458, added items 2387 and 2388.

### § 2381. Contracts: regulations for bids

(a) The Secretary of Defense may—

(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and

(2) require that a bid be accompanied by a written guaranty, signed by one or more responsible persons, undertaking that the bidder, if his bid is accepted, will, within the time prescribed by the Secretary or other officer authorized to make the contract, make a contract and furnish a bond with good and sufficient sureties for the performance of the contract.

(b) If a bidder, after being notified of the acceptance of his bid, fails within the time prescribed under subsection (a)(2) to enter into a contract and furnish the prescribed bond, the Secretary concerned or other authorized officer shall—

(1) contract with another person; and

(2) charge against the defaulting bidder and his guarantors the difference between the amount specified by the bidder in his bid and the amount for which a contract is made with the other person, this difference being immediately recoverable by the United States for the use of the military department concerned in an action against the bidder and his guarantors, jointly or severally.

(c) Proceedings under this section are subject to regulations under section 121 of title 40, unless exempted therefrom under section 501(a)(2) of title 40.

(Aug. 10, 1956, ch. 1041, 70A Stat. 136; Pub. L. 98-525, title XIV, §1405(35), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 103-355, title I, §1507, Oct. 13, 1994, 108 Stat. 3298; Pub. L. 107-217, §3(b)(6), Aug. 21, 2002, 116 Stat. 1295.)