

the date that is three years after the date of the enactment of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015 [Dec. 19, 2014].

“(2) CONTINUING EFFECT OF CLAUSES INCLUDED BEFORE SUNSET.—Any clause described by subsection (a)(2) that is included in a contract, grant, or cooperative agreement pursuant to this section before the date specified in paragraph (1) shall remain in effect in accordance with its terms.”

EXEMPTION OF FUNCTIONS

Functions with respect to purchases authorized to be made outside limits of United States or District of Columbia under Foreign Assistance Act of 1961, as amended, as exempt, see Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out as a note under section 2393 of Title 22, Foreign Relations and Intercourse.

FOREIGN CONTRACTORS

Secretaries of Defense, Army, Navy, or Air Force, or their designees, to determine, prior to exercising authority provided in amendment of this section by Pub. L. 89-607 to exempt certain contracts with foreign contractors from requirement of an examination-of-records clause, that all reasonable efforts have been made to include such examination-of-records clause, as required by par. (11) of Part I of Ex. Ord. No. 10789, and that alternate sources of supply are not reasonably available, see par. (11) of Part I of Ex. Ord. No. 10789, Nov. 14, 1958, 23 F.R. 8897, as amended, set out as a note under section 1431 of Title 50, War and National Defense.

§ 2313a. Defense Contract Audit Agency: annual report

(a) REQUIRED REPORT.—The Director of the Defense Contract Audit Agency shall prepare an annual report of the activities of the Agency during the previous fiscal year. The report shall include, at a minimum—

- (1) a description of significant problems, abuses, and deficiencies encountered during the conduct of contractor audits;
- (2) statistical tables showing—
 - (A) the total number of audit reports completed and pending;
 - (B) the priority given to each type of audit;
 - (C) the length of time taken for each type of audit;
 - (D) the total costs of sustained or recovered costs both as a total number and as a percentage of questioned costs; and
 - (E) an assessment of the number and types of audits pending for a period longer than allowed pursuant to guidance of the Defense Contract Audit Agency;

(3) a summary of any recommendations of actions or resources needed to improve the audit process;

(4) a description of outreach actions toward industry to promote more effective use of audit resources; and

(5) any other matters the Director considers appropriate.

(b) SUBMISSION OF ANNUAL REPORT.—Not later than March 30 of each year, the Director shall submit to the congressional defense committees the report required by subsection (a).

(c) PUBLIC AVAILABILITY.—Not later than 60 days after the submission of an annual report to the congressional defense committees under sub-

section (b), the Director shall make the report available on the publicly available website of the Agency or such other publicly available website as the Director considers appropriate.

(Added Pub. L. 112-81, div. A, title VIII, §805(a), Dec. 31, 2011, 125 Stat. 1486; amended Pub. L. 114-92, div. A, title VIII, §893(b), Nov. 25, 2015, 129 Stat. 952.)

AMENDMENTS

2015—Subsec. (a)(2)(D). Pub. L. 114-92, §893(b)(1), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs); and”.

Subsec. (a)(4), (5). Pub. L. 114-92, §893(b)(2)–(4), added par. (4) and redesignated former par. (4) as (5).

§ 2314. Laws inapplicable to agencies named in section 2303 of this title

Sections 6101 and 6304 of title 41 do not apply to the procurement or sale of property or services by the agencies named in section 2303 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 133; Pub. L. 96-513, title V, §511(78), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 103-160, div. A, title VIII, §822(b)(2), Nov. 30, 1993, 107 Stat. 1706; Pub. L. 111-350, §5(b)(16), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 113-291, div. A, title X, §1071(a)(4), Dec. 19, 2014, 128 Stat. 3504.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2314	41:160.	Feb. 19, 1948, ch. 65, §11(b), 62 Stat. 25.

AMENDMENTS

2014—Pub. L. 113-291 substituted “Sections 6101” for “Sections 6101(b)–(d)”.

2011—Pub. L. 111-350 substituted “Sections 6101(b)–(d) and 6304 of title 41” for “Sections 3709 and 3735 of the Revised Statutes (41 U.S.C. 5 and 13)”.

1993—Pub. L. 103-160 inserted “or sale” after “procurement”.

1980—Pub. L. 96-513 substituted “Sections 3709 and 3735 of the Revised Statutes (41 U.S.C. 5 and 13)” for “Sections 5, 6, 6a, and 13 of title 41”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 2315. Law inapplicable to the procurement of automatic data processing equipment and services for certain defense purposes

For purposes of subtitle III of title 40, the term “national security system”, with respect to a telecommunications and information system operated by the Department of Defense, has the meaning given that term by section 3552(b)(6) of title 44.

(Added Pub. L. 97-86, title IX, §908(a)(1), Dec. 1, 1981, 95 Stat. 1117; amended Pub. L. 97-295, §1(25), Oct. 12, 1982, 96 Stat. 1291; Pub. L. 104-106, div. E, title LVI, §5601(c), Feb. 10, 1996, 110 Stat. 699; Pub. L. 104-201, div. A, title X, §1074(b)(4)(B), Sept. 23, 1996, 110 Stat. 2660; Pub. L. 105-85, div. A, title X, §1073(a)(49), Nov. 18, 1997, 111 Stat.

1903; Pub. L. 107-217, §3(b)(5), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 109-364, div. A, title IX, §906(c), Oct. 17, 2006, 120 Stat. 2354; Pub. L. 113-283, §2(e)(5)(C), Dec. 18, 2014, 128 Stat. 3087; Pub. L. 114-92, div. A, title X, §1081(a)(7), Nov. 25, 2015, 129 Stat. 1001.)

AMENDMENTS

2015—Pub. L. 114-92 substituted “section 3552(b)(6)” for “section 3552(b)(5)”.

2014—Pub. L. 113-283 substituted “section 3552(b)(5)” for “section 3542(b)(2)”.

2006—Pub. L. 109-364 amended text generally. Prior to amendment, section consisted of subsecs. (a) and (b) defining “national security systems” as meaning telecommunications and information systems operated by the Department of Defense, the functions, operation or use of which involves intelligence or cryptologic activities, command and control of military forces, or equipment that is an integral part of a weapons system or is critical to military or intelligence missions but is not equipment or services to be used for routine administrative and business applications.

2002—Subsec. (a). Pub. L. 107-217 substituted “subtitle III of title 40” for “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)” in introductory provisions.

1997—Subsec. (a). Pub. L. 105-85 substituted “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)” for “the Information Technology Management Reform Act of 1996”.

1996—Subsec. (a). Pub. L. 104-106, as amended by Pub. L. 104-201, substituted “For the purposes of the Information Technology Management Reform Act of 1996, the term ‘national security systems’ means those telecommunications and information systems operated by the Department of Defense, the functions, operation or use of which” for “Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is not applicable to the procurement by the Department of Defense of automatic data processing equipment or services if the function, operation, or use of the equipment or services”.

1982—Subsec. (a). Pub. L. 97-295 substituted “(40 U.S.C. 759)” for “(40 U.S.C. 795)”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

EFFECTIVE DATE

Pub. L. 97-86, title IX, §908(b), Dec. 1, 1981, 95 Stat. 1118, provided that: “Section 2315 of title 10, United States Code, as added by subsection (a), does not apply to a contract made before the date of the enactment of this Act [Dec. 1, 1981].”

LIMITATION REGARDING TELECOMMUNICATIONS REQUIREMENTS

Pub. L. 103-337, div. A, title X, §1075, Oct. 5, 1994, 108 Stat. 2861, provided that:

“(a) LIMITATION.—No funds available to the Department of Defense or any other Executive agency may be expended to provide for meeting Department of Defense telecommunications requirements through the telecommunications procurement known as ‘FTS-2000’ or through any other Government-wide telecommunications procurement until—

“(1) the Secretary of Defense submits to the Congress a report containing—

“(A) a certification by the Secretary that the FTS-2000 procurement or the other telecommunications procurement will provide assured, secure telecommunications support (including associated telecommunications services) for Department of Defense activities; and

“(B) a description of how the procurement will be implemented and managed to meet defense infor-

mation infrastructure requirements, including requirements to support deployed forces and intelligence activities; and

“(2) 30 days elapse after the date on which such report is received by the committees.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘defense telecommunications requirements’ means requirements for telecommunications equipment and services that, if procured by the Department of Defense, would be exempt from the requirements of section 111 of the Federal Property and Administrative Services Act of 1949 ([former] 40 U.S.C. 759) pursuant to section 2315 of title 10, United States Code.

“(2) The term ‘Executive agency’ has the meaning given such term in section 105 of title 5, United States Code.

“(3) The term ‘procurement’ has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 403) [see 41 U.S.C. 111].

“(c) EFFECT ON OTHER LAW.—Nothing in this section may be construed as modifying or superseding, or as intended to impair or restrict authorities or responsibilities under—

“(1) section 111 of the Federal Property and Administrative Services Act of 1949 ([former] 40 U.S.C. 759); or

“(2) section 620 of Public Law 103-123 [107 Stat. 1264].”

§ 2316. Disclosure of identity of contractor

The Secretary of Defense may disclose the identity or location of a person awarded a contract by the Department of Defense to any individual, including a Member of Congress, only after the Secretary makes a public announcement identifying the contractor. When the identity of a contractor is to be made public, the Secretary shall announce publicly that the contract has been awarded and the identity of the contractor.

(Added Pub. L. 97-295, §1(26)(A), Oct. 12, 1982, 96 Stat. 1291.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 1: 2316, 10:2304 (note), Oct. 7, 1970, Pub. L. 91-441, §507, 84 Stat. 913.

The words “company, or corporation” are omitted as included in “person” because of section 1:1. The words “On and after the date of enactment of this Act” are omitted as executed. The word “contractor” is substituted for “person, company, or corporation to whom such contract has been awarded” and “person, company, or corporation to whom any defense contract has been awarded” to eliminate unnecessary words. The words “and the identity of the contractor” are substituted for “and to whom it was awarded” for clarity.

[§ 2317. Repealed. Pub. L. 103-160, div. A, title VIII, § 821(a)(2), Nov. 30, 1993, 107 Stat. 1704]

Section, added Pub. L. 98-525, title XII, §1215, Oct. 19, 1984, 98 Stat. 2592, related to encouragement of competition and cost savings.

§ 2318. Advocates for competition

(a)(1) In addition to the advocates for competition established or designated pursuant to section 1705(a) of title 41, the Secretary of Defense shall designate an officer or employee of the Defense Logistics Agency to serve as the advocate for competition of the agency.