

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
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 Repealed.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.

(2) The advocate for competition of the Defense Logistics Agency shall carry out the responsibilities and functions provided for in subsections (b) and (c) of section 1705 of title 41.

(b) Each advocate for competition of an agency named in section 2303(a) of this title shall be a general or flag officer if a member of the armed forces or a grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule), if a civilian employee and shall be designated to serve for a minimum of two years.

(Added Pub. L. 98-525, title XII, § 1216(a), Oct. 19, 1984, 98 Stat. 2593; amended Pub. L. 100-26, § 7(d)(4), Apr. 21, 1987, 101 Stat. 281; Pub. L. 102-25, title VII, § 701(f)(1), Apr. 6, 1991, 105 Stat. 115; Pub. L. 103-355, title I, § 1031, Oct. 13, 1994, 108 Stat. 3260; Pub. L. 111-350, § 5(b)(17), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 112-239, div. A, title X, § 1076(f)(24), Jan. 2, 2013, 126 Stat. 1953.)

AMENDMENTS

2013—Subsec. (a)(2). Pub. L. 112-239 substituted “subsections (b) and (c) of section 1705” for “section 1705(b) and (c)”.

2011—Subsec. (a)(1). Pub. L. 111-350, § 5(b)(17)(A), substituted “section 1705(a) of title 41” for “section 20(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(a))”.

Subsec. (a)(2). Pub. L. 111-350, § 5(b)(17)(B), substituted “section 1705(b) and (c) of title 41” for “sections 20(b) and 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(b), (c))”.

1994—Subsec. (c). Pub. L. 103-355 struck out subsec. (c) which read as follows: “Each advocate for competition of an agency of the Department of Defense shall transmit to the Secretary of Defense a report describing his activities during the preceding year. The report of each advocate for competition shall be included in the annual report of the Secretary of Defense required by section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419), in the form in which it was submitted to the Secretary.”

1991—Subsec. (c). Pub. L. 102-25 substituted “section 23” for “section 21”.

1987—Subsec. (a)(1). Pub. L. 100-26, § 7(d)(4)(A), inserted “(41 U.S.C. 418(a))” after “Policy Act”.

Subsec. (a)(2). Pub. L. 100-26, § 7(d)(4)(B), inserted “(41 U.S.C. 418(b), (c))” after “Policy Act”.

Subsec. (c). Pub. L. 100-26, § 7(d)(4)(C), inserted “(41 U.S.C. 419)” after “Policy Act”.

EFFECTIVE DATE

Pub. L. 98-525, title XII, § 1216(c)(1), Oct. 19, 1984, 98 Stat. 2599, provided that: “Section 2318 of title 10, United States Code (as added by subsection (a)), shall take effect on April 1, 1985.”

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 2319. Encouragement of new competitors

(a) In this section, the term “qualification requirement” means a requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract.

(b) Except as provided in subsection (c), the head of the agency shall, before establishing a qualification requirement—

(1) prepare a written justification stating the necessity for establishing the qualification requirement and specify why the qualification requirement must be demonstrated before contract award;

(2) specify in writing and make available to a potential offeror upon request all requirements which a prospective offeror, or its product, must satisfy in order to become qualified, such requirements to be limited to those least restrictive to meet the purposes necessitating the establishment of the qualification requirement;

(3) specify an estimate of the costs of testing and evaluation likely to be incurred by a potential offeror in order to become qualified;

(4) ensure that a potential offeror is provided, upon request and on a reimbursable basis, a prompt opportunity to demonstrate its ability to meet the standards specified for qualification using qualified personnel and facilities of the agency concerned or of another agency obtained through interagency agreement, or under contract, or other methods approved by the agency (including use of approved testing and evaluation services not provided under contract to the agency);

(5) if testing and evaluation services are provided under contract to the agency for the purposes of clause (4), provide to the extent possible that such services be provided by a contractor who is not expected to benefit from an absence of additional qualified sources and who shall be required in such contract to adhere to any restriction on technical data asserted by the potential offeror seeking qualification; and

(6) ensure that a potential offeror seeking qualification is promptly informed as to