

stituted “asserting the restriction” for “, as appropriate,” in subpar. (B).

Subsec. (h)(2). Pub. L. 100-26, §7(a)(5)(E)(v), substituted “the use or release restriction” for “the restriction on the right of the United States to use such technical data” in introductory provisions.

Subsec. (i). Pub. L. 100-180, §1231(6)(B), inserted “or subcontractor” in introductory provisions.

Pub. L. 100-26, §7(a)(5)(F), added subsec. (i).

1986—Subsecs. (a), (b). Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 amended generally subsecs. (a) and (b) identically. Prior to amendment, subsecs. (a) and (b) read as follows:

“(a) A contract for supplies or services entered into by the Department of Defense which provides for the delivery of technical data shall provide that—

“(1) a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data; and

“(2) the contracting officer may review the validity of any restriction asserted by the contractor or by a subcontractor under the contract on the right of the United States to use technical data furnished to the United States under the contract if the contracting officer determines that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time.

“(b) If after such review the contracting officer determines that a challenge to the asserted restriction is warranted, the contracting officer shall provide written notice to the contractor or subcontractor asserting the restriction. Such notice shall—

“(1) state the grounds for challenging the asserted restriction; and

“(2) require a response within 60 days justifying the current validity of the asserted restriction.”

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 1987 AMENDMENT

Pub. L. 100-26, §12(d)(1), Apr. 21, 1987, 101 Stat. 289, provided that: “The amendments to section 2321 of title 10, United States Code, made by section 7(a)(5) shall apply to contracts for which solicitations are issued after the end of the 210-day period beginning on October 18, 1986.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 applicable to contracts for which solicitations are issued after end of 210-day period beginning Oct. 18, 1986, see section 101(c) of Pub. L. 99-500 and Pub. L. 99-591, and section 953(e) of Pub. L. 99-661, set out as a note under section 2320 of this title.

EFFECTIVE DATE

Section applicable with respect to solicitations issued after the end of the one-year period beginning Oct. 19, 1984, see section 1216(c)(2) of Pub. L. 98-525, set out as a note under section 2319 of this title.

[§ 2322. Repealed. Pub. L. 102-484, div. A, title X, § 1052(25)(A), Oct. 23, 1992, 106 Stat. 2500]

Section, added Pub. L. 98-525, title XII, §1216(a), Oct. 19, 1984, 98 Stat. 2598; amended Pub. L. 100-26, §7(a)(6), Apr. 21, 1987, 101 Stat. 278; Pub. L. 100-180, div. A, title XII, §1231(7), Dec. 4, 1987, 101 Stat. 1160, limited small business set-asides under the Foreign Military Sales Program and provided that the section expired Jan. 17, 1987.

Another section 2322 of this title was contained in chapter 138 and was renumbered section 2342 of this title.

§ 2323. Contract goal for small disadvantaged businesses and certain institutions of higher education

(a) GOAL.—(1) Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration in each fiscal year for the total combined amount obligated for contracts and subcontracts entered into with—

(A) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals, and qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act);

(B) historically Black colleges and universities, including any nonprofit research institution that was an integral part of such a college or university before November 14, 1986;

(C) minority institutions (as defined in section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k));

(D) Hispanic-serving institutions (as defined in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a))); and

(E) Native Hawaiian-serving institutions and Alaska Native-serving institutions (as defined in section 317 of the Higher Education Act of 1965).

(2) The head of the agency shall establish a specific goal within the overall 5 percent goal for the award of prime contracts and subcontracts to historically Black colleges and universities, Hispanic-serving institutions, Native Hawaiian-serving institutions and Alaska Native-serving institutions, and minority institutions in order to increase the participation of such colleges and universities and institutions in the program provided for by this section.

(3) The Federal Acquisition Regulation shall provide procedures or guidelines for contracting officers to set goals which agency prime contractors that are required to submit subcontracting plans under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)) in furtherance of the agency’s program to meet the 5 percent goal specified in paragraph (1) should meet in awarding subcontracts, including subcontracts to minority-owned media, to entities described in that paragraph.

(b) AMOUNT.—(1) With respect to the Department of Defense, the requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

(A) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

(B) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.