

(A) from the Department of Defense to contractors, in a reasonable manner, of timely and comprehensive information regarding planned or expected needs of the Department of Defense for future technology and advanced capability; and

(B) from contractors to the Department of Defense, in a reasonable manner, of information regarding progress by the contractor on the independent research and development programs of the contractor.

(d) LIMITATIONS ON REGULATIONS.—Regulations prescribed under subsection (a) may not include provisions that would infringe on the independence of a contractor to choose which technologies to pursue in its independent research and development program if the chief executive officer of the contractor determines that expenditures will advance the needs of the Department of Defense for future technology and advanced capability as transmitted pursuant to subsection (c)(3)(A).

(e) EFFECTIVE DATE.—The regulations prescribed under subsection (a) shall apply to indirect costs incurred on or after October 1, 2017.

(Added Pub. L. 101-510, div. A, title VIII, § 824(a)(1), Nov. 5, 1990, 104 Stat. 1603; amended Pub. L. 102-25, title VII, § 701(c), Apr. 6, 1991, 105 Stat. 113; Pub. L. 102-190, div. A, title VIII, § 802(a)(1), Dec. 5, 1991, 105 Stat. 1412; Pub. L. 102-484, div. A, title X, § 1052(27), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103-35, title II, § 201(c)(5), May 31, 1993, 107 Stat. 98; Pub. L. 104-106, div. D, title XLIII, § 4321(b)(11), Feb. 10, 1996, 110 Stat. 672; Pub. L. 114-328, div. A, title VIII, § 824(a)(1), Dec. 23, 2016, 130 Stat. 2277.)

AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section related to payments to contractors for independent research and development and bid and proposal costs.

1996—Subsec. (i)(1). Pub. L. 104-106 substituted “2324(l)” for “2324(m)”.

1993—Subsec. (g)(5). Pub. L. 103-35 substituted “section 2506” for “section 2522”.

1992—Subsec. (e)(1). Pub. L. 102-484 substituted “on December 4, 1991” for “on the day before the date of the enactment of the National Defense Authorization Act for Fiscal Years 1992 and 1993”.

1991—Pub. L. 102-190 substituted section catchline for one which read “Independent research and development” and amended text generally, substituting present provisions for provisions authorizing payment of independent research and development or bid and proposal costs, encouraging contractors to engage in research and development activities, and authorizing advance agreements regarding the manner and extent in which the Department of Defense may pay independent research and development costs or bid and proposal costs.

Subsec. (d)(2)(B). Pub. L. 102-25 substituted “subsection (b), including” for “subsection (b) or”.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 2302 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-190, div. A, title VIII, § 802(e), Dec. 5, 1991, 105 Stat. 1414, provided that: “The amendments made by this section [amending this section and section 2330 of this title] shall take effect on October 1, 1992, and

shall apply to independent research and development and bid and proposal costs incurred by a contractor during fiscal years of that contractor that begin on or after that date.”

REGULATIONS

Pub. L. 102-190, div. A, title VIII, § 802(b), Dec. 5, 1991, 105 Stat. 1414, provided that: “The Secretary of Defense shall prescribe proposed regulations to implement the amendment made by subsection (a)(1) [amending this section] not later than April 1, 1992, and shall prescribe final regulations for that purpose not later than June 1, 1992.”

STUDY BY OFFICE OF TECHNOLOGY ASSESSMENT

Pub. L. 102-190, div. A, title VIII, § 802(c), Dec. 5, 1991, 105 Stat. 1414, directed Director of the Office of Technology Assessment to conduct a study to determine effect of regulations prescribed under this section on the achievement of policy stated in former subsec. (g) of this section and submit a report containing results of such study to Committees on Armed Services of Senate and House of Representatives not later than Dec. 1, 1995, prior to repeal by Pub. L. 103-160, div. A, title II, § 266, Nov. 30, 1993, 107 Stat. 1611.

§ 2372a. Bid and proposal costs: allowable costs

(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the payment by the Department of Defense of expenses incurred by contractors for bid and proposal costs. Such regulations shall provide that expenses incurred for bid and proposal costs shall be reported independently from other allowable indirect costs.

(b) COSTS ALLOWABLE AS INDIRECT EXPENSES.—The regulations prescribed under subsection (a) shall provide that bid and proposal costs shall be allowable as indirect expenses on covered contracts, as defined in section 2324(1) of this title, to the extent that those costs are allocable, reasonable, and not otherwise unallowable by law or under the Federal Acquisition Regulation.

(c) GOAL FOR REIMBURSABLE BID AND PROPOSAL COSTS.—The Secretary shall establish a goal each fiscal year limiting the amount of reimbursable bid and proposal costs paid by the Department of Defense to an amount equal to not more than one percent of the total aggregate industry sales to the Department of Defense. To achieve such goal, the Secretary may not limit the payment of allowable bid and proposal costs for the covered year.

(d) PANEL.—(1) If the Department of Defense exceeds the goal established under subsection (c) for a fiscal year, within 180 days after exceeding the goal, the Secretary shall establish an advisory panel. The panel shall be supported by the Defense Acquisition University and the National Defense University, including administrative support.

(2) The panel shall be composed of nine individuals who are recognized experts in acquisition and procurement policy appointed by the Secretary. In making such appointments, the Secretary shall ensure that the members of the panel reflect diverse experiences in the public and private sector.

(3) The panel shall review laws, regulations, and practices that contribute to the expenses incurred by contractors for bids and proposals in the fiscal year concerned and recommend changes to such laws, regulations, and practices

that may reduce expenses incurred by contractors for bids and proposals.

(4)(A) Not later than six months after the establishment of the panel, the panel shall submit to the Secretary and the congressional defense committees an interim report on the findings of the panel.

(B) Not later than one year after the establishment of the panel, the panel shall submit to the Secretary and the congressional defense committees a final report on the findings of the panel.

(5) The panel shall terminate on the day the panel submits the final report under paragraph (4)(B).

(6) The Secretary of Defense may use amounts available in the Department of Defense Acquisition Workforce Development Fund established under section 1705 of this title to support the activities of the panel established under this subsection.

(e) **EFFECTIVE DATE.**—The regulations prescribed under subsection (a) shall apply to indirect costs incurred on or after October 1, 2017.

(Added Pub. L. 114–328, div. A, title VIII, § 824(b)(1), Dec. 23, 2016, 130 Stat. 2278.)

§ 2373. Procurement for experimental purposes

(a) **AUTHORITY.**—The Secretary of Defense and the Secretaries of the military departments may each buy ordnance, signal, chemical activity, transportation, energy, medical, space-flight, and aeronautical supplies, including parts and accessories, and designs thereof, that the Secretary of Defense or the Secretary concerned considers necessary for experimental or test purposes in the development of the best supplies that are needed for the national defense.

(b) **PROCEDURES.**—Purchases under this section may be made inside or outside the United States and by contract or otherwise. Chapter 137 of this title applies only when such purchases are made in quantities greater than necessary for experimentation, technical evaluation, assessment of operational utility, or safety or to provide a residual operational capability.

(Added Pub. L. 103–160, div. A, title VIII, § 822(c)(1), Nov. 30, 1993, 107 Stat. 1706; amended Pub. L. 103–337, div. A, title X, § 1070(g), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 104–106, div. A, title VIII, § 812, Feb. 10, 1996, 110 Stat. 395; Pub. L. 114–92, div. A, title VIII, § 814, Nov. 25, 2015, 129 Stat. 893.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4504 and 9504 of this title, prior to repeal by Pub. L. 103–160, § 822(c)(2).

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–92, § 814(a), inserted “transportation, energy, medical, space-flight,” before “and aeronautical supplies”.

Subsec. (b). Pub. L. 114–92, § 814(b), substituted “only when such purchases are made in quantities greater than necessary for experimentation, technical evaluation, assessment of operational utility, or safety or to provide a residual operational capability” for “only when such purchases are made in quantity”.

1996—Subsec. (b). Pub. L. 104–106 inserted “only” after “applies” in second sentence.

1994—Subsec. (a). Pub. L. 103–337 substituted “chemical activity, and aeronautical supplies,” for “and chemical activity supplies.”

§ 2374. Merit-based award of grants for research and development

(a) It is the policy of Congress that an agency named in section 2303(a) of this title should not be required by legislation to award a new grant for research, development, test, or evaluation to a non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be awarded through merit-based selection procedures.

(b) A provision of law may not be construed as requiring a new grant to be awarded to a specified non-Federal Government entity unless that provision of law—

(1) specifically refers to this subsection;

(2) specifically identifies the particular non-Federal Government entity involved; and

(3) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in subsection (a).

(c) For purposes of this section, a grant is a new grant unless the work provided for in the grant is a continuation of the work performed by the specified entity under a preceding grant.

(d) This section shall not apply with respect to any grant that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an agency named in section 2303(a) of this title and to report on such matters to the Congress or any agency of the Federal Government.

(Added Pub. L. 103–355, title VII, § 7203(a)(2), Oct. 13, 1994, 108 Stat. 3380.)

EFFECTIVE DATE

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

§ 2374a. Prizes for advanced technology achievements

(a) **AUTHORITY.**—The Secretary of Defense, acting through the Assistant Secretary of Defense for Research and Engineering and the service acquisition executive for each military department, may carry out programs to award cash prizes in recognition of outstanding achievements in basic, advanced, and applied research, technology development, and prototype development that have the potential for application to the performance of the military missions of the Department of Defense.

(b) **COMPETITION REQUIREMENTS.**—Each program under subsection (a) shall use a competitive process for the selection of recipients of cash prizes. The process shall include the widely-advertised solicitation of submissions of research results, technology developments, and prototypes.

(c) **LIMITATIONS.**—(1) No prize competition may result in the award of a cash prize of more than \$10,000,000.