

AMENDMENTS

2017—Subsec. (a)(1). Pub. L. 115-10 substituted “Procedural Requirements 7120.5E, dated August 14, 2012” for “Procedural Requirements 7120.5c, dated March 22, 2005”.

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

CHAPTER 303—CONTRACTING AND PROCUREMENT

Sec.

- 30301. Guaranteed customer base.
- 30302. Quality assurance personnel.
- 30303. Tracking and data relay satellite services.
- 30304. Award of contracts to small businesses and disadvantaged individuals.
- 30305. Outreach program.
- 30306. Small business contracting.
- 30307. Requirement for independent cost analysis.
- 30308. Cost effectiveness calculations.
- 30309. Use of abandoned and underutilized buildings, grounds, and facilities.
- 30310. Exception to alternative fuel procurement requirement.

DETECTION AND AVOIDANCE OF COUNTERFEIT PARTS

Pub. L. 115-10, title VIII, §823, Mar. 21, 2017, 131 Stat. 62, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) A 2012 investigation by the Committee on Armed Services of the Senate of counterfeit electronic parts in the Department of Defense supply chain from 2009 through 2010 uncovered 1,800 cases and over 1,000,000 counterfeit parts and exposed the threat such counterfeit parts pose to service members and national security.

“(2) Since 2010, the Comptroller General of the United States has identified in 3 separate reports the risks and challenges associated with counterfeit parts and counterfeit prevention at both the Department of Defense and NASA, including inconsistent definitions of counterfeit parts, poorly targeted quality control practices, and potential barriers to improvements to these practices.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that the presence of counterfeit electronic parts in the NASA supply chain poses a danger to United States government astronauts, crew, and other personnel and a risk to the agency overall.

“(c) REGULATIONS.—

“(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [Mar. 21, 2017], the Administrator shall revise the NASA Supplement to the Federal Acquisition Regulation to improve the detection and avoidance of counterfeit electronic parts in the supply chain.

“(2) CONTRACTOR RESPONSIBILITIES.—In revising the regulations under paragraph (1), the Administrator shall—

“(A) require each covered contractor—

“(i) to detect and avoid the use or inclusion of any counterfeit parts in electronic parts or products that contain electronic parts;

“(ii) to take such corrective actions as the Administrator considers necessary to remedy the use or inclusion described in clause (i); and

“(iii) including a subcontractor, to notify the applicable NASA contracting officer not later than 30 calendar days after the date the covered contractor becomes aware, or has reason to suspect, that any end item, component, part or material contained in supplies purchased by NASA,

or purchased by a covered contractor or subcontractor for delivery to, or on behalf of, NASA, contains a counterfeit electronic part or suspect counterfeit electronic part; and

“(B) prohibit the cost of counterfeit electronic parts, suspect counterfeit electronic parts, and any corrective action described under subparagraph (A)(ii) from being included as allowable costs under agency contracts, unless—

“(i)(I) the covered contractor has an operational system to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts that has been reviewed and approved by NASA or the Department of Defense; and

“(II) the covered contractor has provided the notice under subparagraph (A)(iii); or

“(ii) the counterfeit electronic parts or suspect counterfeit electronic parts were provided to the covered contractor as Government property in accordance with part 45 of the Federal Acquisition Regulation.

“(3) SUPPLIERS OF ELECTRONIC PARTS.—In revising the regulations under paragraph (1), the Administrator shall—

“(A) require NASA and covered contractors, including subcontractors, at all tiers—

“(i) to obtain electronic parts that are in production or currently available in stock from—

“(I) the original manufacturers of the parts or their authorized dealers; or

“(II) suppliers who obtain such parts exclusively from the original manufacturers of the parts or their authorized dealers; and

“(ii) to obtain electronic parts that are not in production or currently available in stock from suppliers that meet qualification requirements established under subparagraph (C);

“(B) establish documented requirements consistent with published industry standards or Government contract requirements for—

“(i) notification of the agency; and

“(ii) inspection, testing, and authentication of electronic parts that NASA or a covered contractor, including a subcontractor, obtains from any source other than a source described in subparagraph (A);

“(C) establish qualification requirements, consistent with the requirements of section 2319 of title 10, United States Code, pursuant to which NASA may identify suppliers that have appropriate policies and procedures in place to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts; and

“(D) authorize a covered contractor, including a subcontractor, to identify and use additional suppliers beyond those identified under subparagraph (C) if—

“(i) the standards and processes for identifying such suppliers comply with established industry standards;

“(ii) the covered contractor assumes responsibility for the authenticity of parts provided by such suppliers under paragraph (2); and

“(iii) the selection of such suppliers is subject to review and audit by NASA.

“(d) DEFINITIONS.—In this section:

“(1) COVERED CONTRACTOR.—The term ‘covered contractor’ means a contractor that supplies an electronic part, or a product that contains an electronic part, to NASA.

“(2) ELECTRONIC PART.—The term ‘electronic part’ means a discrete electronic component, including a microcircuit, transistor, capacitor, resistor, or diode, that is intended for use in a safety or mission critical application.”

[For definitions of terms used in section 823 of Pub. L. 115-10, set out above, see section 2 of Pub. L. 115-10, set out as a note under section 10101 of this title.]

AVOIDING ORGANIZATIONAL CONFLICTS OF INTEREST IN MAJOR ADMINISTRATION ACQUISITION PROGRAMS

Pub. L. 115-10, title VIII, §830, Mar. 21, 2017, 131 Stat. 66, provided that: