

contract with an executive agency subject to this chapter and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the Federal Government—

(1) for interest on the amount of the overpayment, to be computed—

(A) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of the overpayment to the Federal Government; and

(B) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621); and

(2) if the submission of the defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

(b) LIABILITY NOT AFFECTED BY REFUSAL TO SUBMIT CERTIFICATION.—Any liability under this section of a contractor that submits cost or pricing data but refuses to submit the certification required by section 3502(b) of this title with respect to the cost or pricing data is not affected by the refusal to submit the certification.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3769.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 3507: 41:254b(f), June 30, 1949, ch. 288, title III, §304A(f), as added Pub. L. 103-355, title I, §1251(a)(2), Oct. 13, 1994, 108 Stat. 3283.

§ 3508. Right to examine contractor records

For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this chapter, an executive agency shall have the authority provided by section 4706(b)(2) of this title.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3770.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 3508: 41:254b(g), June 30, 1949, ch. 288, title III, §304A(g), as added Pub. L. 103-355, title I, §1251(a)(2), Oct. 13, 1994, 108 Stat. 3283.

§ 3509. Notification of violations of Federal criminal law or overpayments

(a) DEFINITION.—In this section, the term “covered contract” means any contract in an amount greater than \$5,000,000 and more than 120 days in duration.

(b) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall include, pursuant to FAR Case 2007-006 (as published at 72 Fed. Reg. 64019, November 14, 2007) or any follow-on FAR case, provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those

performed outside the United States and those for commercial items.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3770; Pub. L. 115-232, div. A, title VIII, §836(b)(14), Aug. 13, 2018, 132 Stat. 1864.)

AMENDMENT OF SUBSECTION (b)

Pub. L. 115-232, div. A, title VIII, § 836(b)(14), (h), Aug. 13, 2018, 132 Stat. 1864, 1874, provided that, effective Jan. 1, 2020, subject to a savings provision, subsection (b) of this section is amended by striking “commercial items” and inserting “commercial products or commercial services”. See 2018 Amendment note below.

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 3509: 41:251 note, Pub. L. 110-252, title VI, §§6102, 6103, June 30, 2008, 122 Stat. 2386, 2387.

In subsection (b), the words “shall include” are substituted for “shall be amended” and “to include” to reflect the permanence of the provision. The words “within 180 days after the date of the enactment of this Act” are omitted as obsolete.

AMENDMENTS

2018—Subsec. (b). Pub. L. 115-232 substituted “commercial products or commercial services” for “commercial items”.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

CHAPTER 37—AWARDING OF CONTRACTS

- Sec. 3701. Basis of award and rejection. 3702. Sealed bids. 3703. Competitive proposals. 3704. Post-award debriefings. 3705. Pre-award debriefings. 3706. Encouragement of alternative dispute resolution. 3707. Antitrust violations. 3708. Protests.

§ 3701. Basis of award and rejection

(a) AWARD.—An executive agency shall evaluate sealed bids and competitive proposals, and award a contract, based solely on the factors specified in the solicitation.

(b) REJECTION.—All sealed bids or competitive proposals received in response to a solicitation may be rejected if the agency head determines that rejection is in the public interest.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3770.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 3701(a): 41:253b(a), June 30, 1949, ch. 288, title III, §303B(a), (b), as added Pub. L. 98-369, title VII, §2711(a)(2), July 18, 1984, 98 Stat. 1179; Pub. L. 103-355, title I, §1061(c)(1), Oct. 13, 1994, 108 Stat. 3267. Row 3701(b): 41:253b(b).