

§954(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–173, and Pub. L. 99–661, div. A, title IX, formerly title IV, §954(b), Nov. 14, 1986, 100 Stat. 3953, renumbered title IX by Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: “The amendments made by this section [enacting this section] shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 18, 1986].”

§ 2329. Procurement of services: data analysis and requirements validation

(a) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation, shall ensure that—

(1) appropriate and sufficiently detailed data are collected and analyzed to support the validation of requirements for services contracts and inform the planning, programming, budgeting, and execution process of the Department of Defense;

(2) requirements for services contracts are evaluated appropriately and in a timely manner to inform decisions regarding the procurement of services; and

(3) decisions regarding the procurement of services consider available resources and total force management policies and procedures.

(b) SPECIFICATION OF AMOUNTS REQUESTED IN BUDGET.—Effective October 1, 2021, the Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation, shall annually submit to Congress information on services contracts that clearly and separately identifies the amount requested for each category of services to be procured for each Defense Agency, Department of Defense Field Activity, command, or military installation. Such information shall—

(1) be submitted at or before the time of the budget submission by the President under section 1105(a) of title 31 or on the date on which the future-years defense program is submitted to Congress under section 221 of this title;

(2) cover the fiscal year covered by such budget submission by the President;

(3) be consistent with total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Department of Defense included in such budget submission by the President for that fiscal year;

(4) be organized using a common enterprise data structure developed under section 2222 of this title; and

(5) be included in the future-years defense program submitted to Congress under section 221 of this title.

(c) DATA ANALYSIS.—(1) Each Secretary of a military department shall regularly analyze past spending patterns and anticipated future requirements with respect to the procurement of services within such military department.

(2)(A) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation, shall regularly analyze past spending patterns and anticipated future requirements with respect to the procurement of services—

(i) within each Defense Agency and Department of Defense Field Activity; and

(ii) across military departments, Defense Agencies, and Department of Defense Field Activities.

(B) The Secretaries of the military departments shall make data on services contracts available to the Secretary of Defense for purposes of conducting the analysis required under subparagraph (A).

(3) The analyses conducted under this subsection shall—

(A) identify contracts for similar services that are procured for three or more consecutive years at each Defense Agency, Department of Defense Field Activity, command, or military installation;

(B) evaluate patterns in the procurement of services, to the extent practicable, at each Defense Agency, Department of Defense Field Activity, command, or military installation and by category of services procured;

(C) be used to validate requirements for services contracts entered into after the date of the enactment of this subsection; and

(D) be used to inform decisions on the award of and funding for such services contracts.

(d) REQUIREMENTS EVALUATION.—Each Services Requirements Review Board shall evaluate each requirement for a services contract, taking into consideration total force management policies and procedures, available resources, the analyses conducted under subsection (c), and contracting efficacy and efficiency. An evaluation of a services contract for compliance with contracting policies and procedures may not be considered to be an evaluation of a requirement for such services contract.

(e) TIMELY PLANNING TO AVOID BRIDGE CONTRACTS.—(1) Effective October 1, 2018, the Secretary of Defense shall ensure that a requirements owner shall, to the extent practicable, plan appropriately before the date of need of a service at a Defense Agency, Department of Defense Field Activity, command, or military installation to avoid the use of a bridge contract to provide for continuation of a service to be performed through a services contract. Such planning shall include allowing time for a requirement to be validated, a services contract to be entered into, and funding for the services contract to be secured.

(2)(A) Upon the first use, due to inadequate planning (as determined by the Secretary of Defense), of a bridge contract to provide for continuation of a service to be performed through a services contract, the requirements owner, along with the contracting officer or a designee of the contracting officer for the contract, shall—

(i) for a services contract in an amount less than \$10,000,000, provide an update on the status of the bridge contract (including the rationale for using the bridge contract) to the commander or the senior civilian official of the Defense Agency concerned, Department of Defense Field Activity concerned, command concerned, or military installation concerned, as applicable; or

(ii) for a services contract in an amount equal to or greater than \$10,000,000, provide an

update on the status of the bridge contract (including the rationale for using the bridge contract) to the service acquisition executive for the military department concerned, the head of the Defense Agency concerned, the combatant commander concerned, or the Under Secretary of Defense for Acquisition and Sustainment, as applicable.

(B) Upon the second use, due to inadequate planning (as determined by the Secretary of Defense), of a bridge contract to provide for continuation of a service to be performed through a services contract in an amount less than \$10,000,000, the commander or senior civilian official referred to in subparagraph (A)(i) shall provide notification of such second use to the Vice Chief of Staff of the armed force concerned and the service acquisition executive of the military department concerned, the head of the Defense Agency concerned, the combatant commander concerned, or the Under Secretary of Defense for Acquisition and Sustainment, as applicable.

(f) EXCEPTION.—Except with respect to the analyses required under subsection (c), this section shall not apply to—

(1) services contracts in support of contingency operations, humanitarian assistance, or disaster relief;

(2) services contracts in support of a national security emergency declared with respect to a named operation; or

(3) services contracts entered into pursuant to an international agreement.

(g) DEFINITIONS.—In this section:

(1) The term “bridge contract” means—

(A) an extension to an existing contract beyond the period of performance to avoid a lapse in service caused by a delay in awarding a subsequent contract; or

(B) a new short-term contract awarded on a sole-source basis to avoid a lapse in service caused by a delay in awarding a subsequent contract.

(2) The term “requirements owner” means a member of the armed forces (other than the Coast Guard) or a civilian employee of the Department of Defense responsible for a requirement for a service to be performed through a services contract.

(3) The term “Services Requirements Review Board” has the meaning given in Department of Defense Instruction 5000.74, titled “Defense Acquisition of Services” and dated January 5, 2016, or a successor instruction.

(Added Pub. L. 115–91, div. A, title VIII, §851(a)(1), Dec. 12, 2017, 131 Stat. 1489; amended Pub. L. 115–232, div. A, title VIII, §818(a), Aug. 13, 2018, 132 Stat. 1852; Pub. L. 116–92, div. A, title VIII, §817(a), title XVII, §1731(a)(42), Dec. 20, 2019, 133 Stat. 1488, 1814.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(3)(C), is the date of enactment of Pub. L. 115–91, which was approved Dec. 12, 2017.

PRIOR PROVISIONS

A prior section 2329, added Pub. L. 100–180, div. A, title VIII, §810(a)(1), Dec. 4, 1987, 101 Stat. 1130; amended

Pub. L. 100–456, div. A, title XII, §1233(j), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 103–160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728, related to contract terms and conditions for production special tooling and production special test equipment, prior to repeal by Pub. L. 103–355, title I, §1506(a), Oct. 13, 1994, 108 Stat. 3298.

AMENDMENTS

2019—Subsec. (a). Pub. L. 116–92, §817(a)(1), inserted “, acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation,” after “Secretary of Defense” in introductory provisions.

Subsec. (b). Pub. L. 116–92, §817(a)(2), inserted “, acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation,” after “Secretary of Defense” in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 116–92, §817(a)(3), inserted “, acting through the Under Secretary of Defense (Comptroller) and Director of Cost Assessment and Program Evaluation,” after “Secretary of Defense” in introductory provisions.

Subsec. (g)(1). Pub. L. 116–92, §1731(a)(42), substituted “term ‘bridge contract’” for “term ‘bridge contract’” in introductory provisions.

2018—Subsec. (b). Pub. L. 115–232, §818(a)(1), substituted “October 1, 2021” for “October 1, 2022” in introductory provisions.

Subsec. (b)(1). Pub. L. 115–232, §818(a)(2), substituted “at or before” for “at or about” and inserted “or on the date on which the future-years defense program is submitted to Congress under section 221 of this title” after “title 31”.

Subsec. (b)(5). Pub. L. 115–232, §818(a)(3)–(5), added par. (5).

STANDARD GUIDELINES FOR EVALUATION OF REQUIREMENTS FOR SERVICES CONTRACTS

Pub. L. 115–91, div. A, title VIII, §852, Dec. 12, 2017, 131 Stat. 1492, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall encourage the use of standard guidelines within the Department of Defense for the evaluation of requirements for services contracts. Such guidelines shall be available to the Services Requirements Review Boards (established under Department of Defense Instruction 5000.74, titled ‘Defense Acquisition of Services’ and dated January 5, 2016, or a successor instruction) within each Defense Agency, each Department of Defense Field Activity, and each military department for the purpose of standardizing the requirements evaluation required under section 2329 of title 10, United States Code, as added by this Act.

“(b) DEFINITIONS.—In this section—

“(1) the terms ‘Defense Agency’, ‘Department of Defense Field Activity’, and ‘military department’ have the meanings given those terms in section 101 of title 10, United States Code; and

“(2) the term ‘total force management policies and procedures’ means the policies and procedures established under section 129a of such title.”

§ 2330. Procurement of contract services: management structure

(a) REQUIREMENT FOR MANAGEMENT STRUCTURE.—The Secretary of Defense shall establish and implement a management structure for the procurement of contract services for the Department of Defense. The management structure shall provide, at a minimum, for the following:

(1) The Under Secretary of Defense for Acquisition and Sustainment shall—

(A) develop and maintain (in consultation with the service acquisition executives) policies, procedures, and best practices guidelines addressing the procurement of contract