

part 37 of the Federal Acquisition Regulation.” Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 109-364, §213(b)(3)(A), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 109-364, §213(b)(3)(A), (4), redesignated subsec. (i) as (j) and substituted “The report shall also include a list of each challenge proposal that was determined by a Panel to satisfy each of the criteria specified in subsection (c)(5), but was not determined under a full review and evaluation to satisfy such criteria, together with a detailed rationale for the Department’s determination that such criteria were not satisfied” for “No report is required for a fiscal year in which the Challenge Program is not carried out”. Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 109-364, §213(b)(3)(A), (f), redesignated subsec. (j) as (k) and substituted “2012” for “2007”.

§ 2360. Research and development laboratories: contracts for services of university students

(a) Subject to the availability of appropriations for such purpose, the Secretary of Defense may procure by contract under the authority of this section the temporary or intermittent services of students at institutions of higher learning for the purpose of providing technical support at defense research and development laboratories. Such contracts may be made directly with such students or with nonprofit organizations employing such students.

(b) Students providing services pursuant to a contract made under subsection (a) shall be considered to be employees for the purposes of chapter 81 of title 5, relating to compensation for work injuries, and to be employees of the government for the purposes of chapter 171 of title 28, relating to tort claims. Such students who are not otherwise employed by the Federal Government shall not be considered to be Federal employees for any other purpose.

(c) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall include definitions for the purposes of this section of the terms “student”, “institution of higher learning”, and “nonprofit organization”.

(Added Pub. L. 97-86, title VI, §603(a), Dec. 1, 1981, 95 Stat. 1110.)

§ 2361. Award of grants and contracts to colleges and universities: requirement of competition

(a) The Secretary of Defense may not make a grant or award a contract to a college or university for the performance of research and development, or for the construction of any research or other facility, unless—

(1) in the case of a grant, the grant is made using competitive procedures; and

(2) in the case of a contract, the contract is awarded in accordance with section 2304 of this title (other than pursuant to subsection (c)(5) of that section).

(b)(1) A provision of law may not be construed as modifying or superseding the provisions of subsection (a), or as requiring funds to be made available by the Secretary of Defense to a particular college or university by grant or contract, unless that provision of law—

(A) specifically refers to this section;

(B) specifically states that such provision of law modifies or supersedes the provisions of this section; and

(C) specifically identifies the particular college or university involved and states that the grant to be made or the contract to be awarded, as the case may be, pursuant to such provision of law is being made or awarded in contravention of subsection (a).

(2) A grant may not be made, or a contract awarded, pursuant to a provision of law that authorizes or requires the making of the grant, or the awarding of the contract, in a manner that is inconsistent with subsection (a) until—

(A) the Secretary of Defense submits to Congress a notice in writing of the intent to make the grant or award the contract; and

(B) a period of 180 days has elapsed after the date on which the notice is received by Congress.

(Added Pub. L. 100-456, div. A, title II, §220(a), Sept. 29, 1988, 102 Stat. 1940; amended Pub. L. 101-189, div. A, title II, §252(a), (b)(1), (c)(1), Nov. 29, 1989, 103 Stat. 1404, 1405; Pub. L. 101-510, div. A, title XIII, §1311(4), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 103-35, title II, §201(g)(5), May 31, 1993, 107 Stat. 100; Pub. L. 103-160, div. A, title VIII, §821(b), Nov. 30, 1993, 107 Stat. 1704; Pub. L. 103-337, div. A, title VIII, §813, Oct. 5, 1994, 108 Stat. 2816; Pub. L. 104-106, div. A, title II, §264, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 237, 502; Pub. L. 104-201, div. A, title II, §265, Sept. 23, 1996, 110 Stat. 2466.)

PRIOR PROVISIONS

A prior section 2361 was renumbered section 2351 of this title.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-201 struck out subsec. (c) which read as follows:

“(1) The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives an annual report on the use of competitive procedures for the award of research and development contracts, and the award of construction contracts, to colleges and universities. Each such report shall include—

“(A) a list of each college and university that, during the period covered by the report, received more than \$1,000,000 in such contracts through the use of procedures other than competitive procedures; and

“(B) the cumulative amount of such contracts received during that period by each such college and university.

“(2) Each report under paragraph (1) shall cover the preceding fiscal year and shall be submitted not later than February 1 of the fiscal year after the fiscal year covered by the report.”

Subsec. (c)(1). Pub. L. 104-106, §1502(a)(1), substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

Subsec. (c)(2). Pub. L. 104-106, §264, substituted “preceding fiscal year” for “preceding calendar year” and “the fiscal year after the fiscal year” for “the year after the year”.

1994—Subsec. (c). Pub. L. 103-337 added subsec. (c).

1993—Subsec. (b)(2). Pub. L. 103-35 substituted “inconsistent” for “inconsistent”.

Subsec. (c). Pub. L. 103-160 struck out subsec. (c) which read as follows:

“(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on the use of competitive procedures for the award of research and

development contracts, and the award of construction contracts, to colleges and universities. Each such report shall include—

“(A) a list of each college and university that, during the period covered by the report, received more than \$1,000,000 in such contracts through the use of procedures other than competitive procedures; and

“(B) the cumulative amount of such contracts received during that period by each such college and university.

“(2) The reports under paragraph (1) shall cover the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report.

“(3) A report is not required under paragraph (1) for any period beginning after December 31, 1993.”

1990—Subsec. (c)(1). Pub. L. 101-510, § 1311(4)(A), substituted “an annual report” for “a semiannual report” in introductory provisions.

Subsec. (c)(2). Pub. L. 101-510, § 1311(4)(B), substituted “the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report” for “the six-month periods ending on June 30 and December 31 of each year. Each such report shall be submitted within 30 days after the end of the period covered by the report”.

1989—Subsec. (a). Pub. L. 101-189, § 252(a), substituted “unless—” for “unless” and pars. (1) and (2) for “the grant or contract is made or awarded using competitive procedures.”

Subsec. (b). Pub. L. 101-189, § 252(b)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “A provision of law enacted after the date of the enactment of this section may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes the provisions of this section.”

Subsec. (c). Pub. L. 101-189, § 252(c)(1), added subsec. (c).

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title VIII, § 821(b), Nov. 30, 1993, 107 Stat. 1704, provided that the amendment made by that section is effective Feb. 1, 1994.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title II, § 252(b)(2), Nov. 29, 1989, 103 Stat. 1405, provided that: “Subsection (b) of section 2361 of title 10, United States Code, as amended by paragraph (1), applies with respect to any provision of law enacted after September 30, 1989.”

EFFECTIVE DATE

Pub. L. 100-456, div. A, title II, § 220(c), Sept. 29, 1988, 102 Stat. 1941, provided that: “The limitation specified in section 2361(a) of title 10, United States Code (as added by subsection (a)), on the authority of the Secretary of Defense to make grants and award contracts shall take effect on October 1, 1989.”

INITIAL REPORT ON USE OF COMPETITIVE PROCEDURES IN AWARDING CONTRACTS

Pub. L. 101-189, div. A, title II, § 252(c)(2), Nov. 29, 1989, 103 Stat. 1405, required that first report under subsec. (c) of this section cover last six months of 1989 and be submitted not later than Feb. 1, 1990.

§ 2361a. Extramural acquisition innovation and research activities

(a) ESTABLISHMENT.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment and in coordination with the Under Secretary of Defense for Research and Engineering, shall establish and maintain extramural acquisition inno-

vation and research activities as described in subsection (d), which shall include an acquisition research organization within a civilian college or university that is not owned or operated by the Federal Government that is established to provide and maintain essential research and development capabilities through a long-term strategic relationship with the Department of Defense.

(b) GOALS.—The goal of any activity conducted pursuant to this section shall be to provide academic analyses and policy alternatives for innovation in defense acquisition policies and practices to policymakers in the Federal Government by using a variety of means intended to widely disseminate research findings from such an activity, in addition to executing demonstration and pilot programs of innovative acquisition policies and practices.

(c) DIRECTOR.—

(1) APPOINTMENT.—Not later than June 1, 2020, the Secretary of Defense shall appoint an individual from civilian life to serve as the director for the extramural acquisition innovation and research activities required by this section (referred to in this section as the “Director”).

(2) TERM.—The Director shall serve a term of five years.

(d) ACTIVITIES.—The activities described in this subsection are as follows:

(1) Research on past and current defense acquisition policies and practices, commercial and international best practices, and the application of new technologies and analytical capabilities to improve acquisition policies and practices.

(2) Pilot programs to prototype and demonstrate new acquisition practices for potential transition to wider use in the Department of Defense.

(3) Establishment of data repositories and development of analytical capabilities, in coordination with the Chief Data Officer of the Department of Defense, to enable researchers and acquisition professionals to access and analyze historical data sets to support research and new policy and practice development.

(4) Executive education to—

(A) support acquisition workforce development, including for early career, mid-career, and senior leaders; and

(B) provide appropriate education on acquisition issues to non-acquisition professionals.

(5) On an ongoing basis, a review of the implementation of recommendations contained in relevant Department of Defense and private sector studies on acquisition policies and practices, including—

(A) for recommendations for the enactment of legislation, identify the extent to which the recommendations have been enacted into law by Congress;

(B) for recommendations for the issuance of regulations, identify the extent to which the recommendations have been adopted through the issuance or revision of regulations;