

2013—Subsec. (f). Pub. L. 113-66 substituted “September 30, 2018” for “September 30, 2013”.

2011—Subsec. (a). Pub. L. 111-383 substituted “Assistant Secretary of Defense for Research and Engineering” for “Director of Defense Research and Engineering”.

2009—Subsec. (f). Pub. L. 111-84 substituted “2013” for “2010”.

2006—Subsec. (a). Pub. L. 109-364, §212(a)(1), substituted “Director of Defense Research and Engineering and the service acquisition executive for each military department” for “Director of the Defense Advanced Research Projects Agency” and “programs” for “a program”.

Subsec. (b). Pub. L. 109-364, §212(a)(2)(A), substituted “Each program” for “The program”.

Subsec. (d). Pub. L. 109-364, §212(a)(2)(B), substituted “A program” for “The program” and “an official referred to in that subsection” for “the Director”.

Subsec. (e). Pub. L. 109-364, §212(c), reenacted heading without change and amended text generally. Prior to amendment, subsec. (e) required an annual report, which included the results of consultations between the Director and officials of the military departments, a description of goals, cash prizes, methods used for submissions, a description of resources, and a description of transition plans.

Pub. L. 109-163 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Promptly after the end of each fiscal year during which one or more prizes are awarded under the program under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the program for that fiscal year. The report shall include the following:

“(1) The military applications of the research, technology, or prototypes for which prizes were awarded.

“(2) The total amount of the prizes awarded.

“(3) The methods used for solicitation and evaluation of submissions, together with an assessment of the effectiveness of those methods.”

Subsec. (f). Pub. L. 109-364, §212(b), substituted “2010” for “2007”.

2003—Subsec. (e). Pub. L. 108-136 inserted “during which one or more prizes are awarded under the program under subsection (a)” after “each fiscal year” in introductory provisions.

2002—Subsec. (f). Pub. L. 107-314 substituted “September 30, 2007” for “September 30, 2003”.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title X, §1081(c), Dec. 23, 2016, 130 Stat. 2419, provided that the amendment made by section 1081(c)(6) is effective as of Nov. 25, 2015, and as if included in Pub. L. 114-92 as enacted.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

#### PRIZE COMPETITION TO IDENTIFY ROOT CAUSE OF PHYSIOLOGICAL EPISODES ON NAVY, MARINE CORPS, AND AIR FORCE TRAINING AND OPERATIONAL AIRCRAFT

Pub. L. 115-91, div. A, title X, §1089, Dec. 12, 2017, 131 Stat. 1605, provided that:

“(a) IN GENERAL.—Under the authority of section 2374a of title 10, United States Code, and section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719), the Secretary of Defense, in consultation with the Secretary of the Navy, the Secretary of the Air Force, the Commandant of the Marine Corps, and the heads of any other appropriate Federal agencies that have experience in prize competitions, and when appropriate, in coordination with private organizations, may establish a prize competition designed to accelerate identification of the root cause or causes of, or find solutions to, physiological episodes experienced

in Navy, Marine Corps, and Air Force training and operational aircraft.

“(b) EVALUATION OF PERSONNEL.—The Secretary of Defense, or the Secretary’s designee, shall select the person or persons to conduct the competition authorized in subsection (a) and evaluate any submissions.

“(c) LIMITATION.—The Secretary of Defense may not exercise the authority under subsection (a) before the date that is 15 days after the date on which the Secretary of Defense submits to [the] congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] certification in writing that the use of the authority will not compromise classified information, proprietary information, or intellectual property.”

#### [§ 2374b. Repealed. Pub. L. 112-239, div. A, title X, § 1076(g)(4), Jan. 2, 2013, 126 Stat. 1955]

Section, added Pub. L. 107-314, div. A, title II, §248(c)(1), Dec. 2, 2002, 116 Stat. 2502, related to prizes for achievements in promoting science, mathematics, engineering, or technology education.

### CHAPTER 140—PROCUREMENT OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

Sec.	
2375.	Relationship of other provisions of law to procurement of commercial products and commercial services.
2376.	Definitions.
2377.	Preference for commercial products and commercial services.
[2378.	Repealed.]
2379.	Procurement of a major weapon system as a commercial product: requirement for prior determination by Secretary of Defense and notification to Congress.
2380.	Commercial product and commercial service determinations by Department of Defense.
2380a.	Treatment of certain products and services as commercial products and commercial services.
2380b.	Treatment of commingled items purchased by contractors as commercial products.

#### AMENDMENTS

2018—Pub. L. 115-232, div. A, title VIII, §836(d)(8)(A), (H), Aug. 13, 2018, 132 Stat. 1868, 1869, substituted “PROCUREMENT OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES” for “PROCUREMENT OF COMMERCIAL ITEMS” in chapter heading, and amended analysis generally, substituting items 2375 to 2380b for former items 2375 “Relationship of commercial item provisions to other provisions of law”, 2376 “Definitions”, 2377 “Preference for acquisition of commercial items”, 2379 “Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items”, 2380 “Commercial item determinations by Department of Defense”, 2380a “Treatment of certain items as commercial items”, and 2380B “Treatment of items purchased prior to release of prime contract requests for proposals as commercial items”.

2016—Pub. L. 114-328, div. A, title VIII, §§833(b)(3)(B), 877(b), 878(b)(2), Dec. 23, 2016, 130 Stat. 2284, 2312, added items 2380a and 2380B and struck out items 2378 “Procurement of copier paper containing specified percentages of post-consumer recycled content” and 2380A “Treatment of goods and services provided by nontraditional defense contractors as commercial items”.

2015—Pub. L. 114-92, div. A, title VIII, §§851(a)(2), 857(b), Nov. 25, 2015, 129 Stat. 916, 921, added items 2380 and 2380A.

2006—Pub. L. 109-163, div. A, title VIII, §803(a)(2), Jan. 6, 2006, 119 Stat. 3371, added item 2379.

1997—Pub. L. 105-85, div. A, title III, §350(b), Nov. 18, 1997, 111 Stat. 1692, added item 2378.

**§ 2375. Relationship of other provisions of law to procurement of commercial products and commercial services**

(a) **APPLICABILITY OF GOVERNMENT-WIDE STATUTES.**—(1) No contract for the procurement of a commercial product or commercial service entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation pursuant to section 1906(b) of title 41.

(2) No subcontract under a contract for the procurement of a commercial product or commercial service entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation pursuant to section 1906(c) of title 41.

(3) No contract for the procurement of a commercially available off-the-shelf item entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation pursuant to section 1907 of title 41.

(b) **APPLICABILITY OF DEFENSE-UNIQUE STATUTES TO CONTRACTS FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES.**—(1) The Defense Federal Acquisition Regulation Supplement shall include a list of defense-unique provisions of law and of contract clause requirements based on government-wide acquisition regulations, policies, or executive orders not expressly authorized in law that are inapplicable to contracts for the procurement of commercial products and commercial services. A provision of law or contract clause requirement properly included on the list pursuant to paragraph (2) does not apply to purchases of commercial products and commercial services by the Department of Defense. This section does not render a provision of law or contract clause requirement not included on the list inapplicable to contracts for the procurement of commercial products and commercial services.

(2) A provision of law or contract clause requirement described in subsection (e) that is enacted after October 13, 1994, shall be included on the list of inapplicable provisions of law and contract clause requirements required by paragraph (1) unless the Under Secretary of Defense for Acquisition and Sustainment makes a written determination that it would not be in the best interest of the Department of Defense to exempt contracts for the procurement of commercial products and commercial services from the applicability of the provision or contract clause requirement.

(c) **APPLICABILITY OF DEFENSE-UNIQUE STATUTES TO SUBCONTRACTS FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES.**—(1) The Defense Federal Acquisition Regulation Supplement shall include a list of provisions of law and of contract clause requirements based on government-wide acquisition regulations, policies, or executive orders not expressly authorized in law that are inapplicable to subcontracts under a Department of Defense contract or subcontract for the procurement of commercial products and commercial services. A provision of law or contract clause requirement properly included on the list pursuant to paragraph (2) does not apply to those subcontracts. This sec-

tion does not render a provision of law or contract clause requirement not included on the list inapplicable to subcontracts under a contract for the procurement of commercial products and commercial services.

(2) A provision of law or contract clause requirement described in subsection (e) shall be included on the list of inapplicable provisions of law and contract clause requirements required by paragraph (1) unless the Under Secretary of Defense for Acquisition and Sustainment makes a written determination that it would not be in the best interest of the Department of Defense to exempt subcontracts under a contract for the procurement of commercial products and commercial services from the applicability of the provision or contract clause requirement.

(3) In this subsection, the term “subcontract” includes a transfer of commercial products and commercial services between divisions, subsidiaries, or affiliates of a contractor or subcontractor. The term does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract.

(4) This subsection does not authorize the waiver of the applicability of any provision of law or contract clause requirement with respect to any first-tier subcontract under a contract with a prime contractor reselling or distributing commercial products and commercial services of another contractor without adding value.

(d) **APPLICABILITY OF DEFENSE-UNIQUE STATUTES TO CONTRACTS FOR COMMERCIALLY AVAILABLE, OFF-THE-SHELF ITEMS.**—(1) The Defense Federal Acquisition Regulation Supplement shall include a list of provisions of law and of contract clause requirements based on government-wide acquisition regulations, policies, or executive orders not expressly authorized in law that are inapplicable to contracts for the procurement of commercially available off-the-shelf items. A provision of law or contract clause requirement properly included on the list pursuant to paragraph (2) does not apply to Department of Defense contracts for the procurement of commercially available off-the-shelf items. This section does not render a provision of law or contract clause requirement not included on the list inapplicable to contracts for the procurement of commercially available off-the-shelf items.

(2) A provision of law or contract clause requirement described in subsection (e) shall be included on the list of inapplicable provisions of law and contract clause requirements required by paragraph (1) unless the Under Secretary of Defense for Acquisition and Sustainment makes a written determination that it would not be in the best interest of the Department of Defense to exempt contracts for the procurement of commercially available off-the-shelf items from the applicability of the provision or contract clause requirement.

(e) **COVERED PROVISION OF LAW OR CONTRACT CLAUSE REQUIREMENT.**—A provision of law or contract clause requirement referred to in subsections (b)(2), (c)(2), and (d)(2) is a provision of law or contract clause requirement that the