

“such product or service” for “such item”, and “the product or service” for “the item”.

Subsec. (b)(2)(B)(ii). Pub. L. 115-232, § 836(d)(5)(B)(vi), substituted “the product or service” for “the item”.

2017—Pub. L. 115-91 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

2016—Pars. (1), (2). Pub. L. 114-328 amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

“(1) establish and maintain a centralized capability with necessary expertise and resources to oversee the making of commercial item determinations for the purposes of procurements by the Department of Defense; and

“(2) provide public access to Department of Defense commercial item determinations for the purposes of procurements by the Department of Defense.”

#### 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.

### § 2380a. Treatment of certain products and services as commercial products and commercial services

(a) GOODS AND SERVICES PROVIDED BY NON-TRADITIONAL DEFENSE CONTRACTORS.—Notwithstanding section 2376(1) of this title, products and services provided by nontraditional defense contractors (as that term is defined in section 2302(9) of this title) may be treated by the head of an agency as commercial products and commercial services, respectively, for purposes of this chapter.

(b) SERVICES PROVIDED BY CERTAIN NONTRADITIONAL CONTRACTORS.—Notwithstanding section 2376(1) of this title, services provided by a business unit that is a nontraditional defense contractor (as that term is defined in section 2302(9) of this title) shall be treated as commercial services for purposes of this chapter, to the extent that such services use the same pool of employees as used for commercial customers and are priced using methodology similar to methodology used for commercial pricing.

(Added Pub. L. 114-92, div. A, title VIII, § 857(a), Nov. 25, 2015, 129 Stat. 921, § 2380A; renumbered § 2380a and amended Pub. L. 114-328, div. A, title VIII, § 878(a), (b)(1), Dec. 23, 2016, 130 Stat. 2312; Pub. L. 115-232, div. A, title VIII, § 836(d)(6), (8)(F), Aug. 13, 2018, 132 Stat. 1868, 1869.)

#### AMENDMENTS

2018—Pub. L. 115-232, § 836(d)(8)(F), substituted “products and services as commercial products and commercial services” for “items as commercial items” in section catchline.

Subsec. (a). Pub. L. 115-232, § 836(d)(6)(A), substituted “products and” for “items and” and “commercial products and commercial services, respectively,” for “commercial items”.

Subsec. (b). Pub. L. 115-232, § 836(d)(6)(B), substituted “commercial services” for “commercial items”.

2016—Pub. L. 114-328, § 878(b)(1), which directed amendment of “Section 2380A of title 10” by striking out the section catchline and inserting “§ 2380a. Treatment of certain items as commercial items”, was executed by redesignating this section as section 2380a and substituting “Treatment of certain items as commercial items” for “Treatment of goods and services provided by nontraditional defense contractors as commercial items” in section catchline, to reflect the probable intent of Congress.

Pub. L. 114-328, § 878(a), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

#### 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.

### § 2380b. Treatment of commingled items purchased by contractors as commercial products

Notwithstanding section 2376(1) of this title, items valued at less than \$10,000 that are purchased by a contractor for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract shall be treated as a commercial product for purposes of this chapter.

(Added Pub. L. 114-328, div. A, title VIII, § 877(a), Dec. 23, 2016, 130 Stat. 2311, § 2380B; renumbered § 2380b and amended Pub. L. 115-232, div. A, title VIII, § 836(d)(7), (8)(G), Aug. 13, 2018, 132 Stat. 1868, 1869; Pub. L. 116-92, div. A, title XVII, § 1731(a)(47), Dec. 20, 2019, 133 Stat. 1815.)

#### AMENDMENTS

2019—Pub. L. 116-92 inserted “section” before “2376(1) of this title” and substituted “purposes of” for “purposed of”.

2018—Pub. L. 115-232 renumbered section 2380B of this title as this section and substituted “commercial products” for “commercial items” in section catchline and “commercial product” for “commercial item” in text.

#### 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 141—MISCELLANEOUS PROCUREMENT PROVISIONS

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2381.	Contracts: regulations for bids.
[2382.]	Repealed.]
2383.	Contractor performance of acquisition functions closely associated with inherently governmental functions.
2384.	Supplies: identification of supplier and sources.
2384a.	Supplies: economic order quantities.
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2386.	Copyrights, patents, designs, etc.; acquisition.
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[2388.]	Renumbered.]
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2390.	Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.
2391.	Military base reuse studies and community planning assistance.
2392.	Prohibition on use of funds to relieve economic dislocations.
2393.	Prohibition against doing business with certain offerors or contractors.
[2394, 2394a.]	Renumbered.]
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