

“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

Sec.	
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.
2385.	Arms and ammunition: immunity from taxation.
2386.	Copyrights, patents, designs, etc.; acquisition.
[2387.]	Repealed.]
[2388.]	Renumbered.]
2389.	Ensuring safety regarding insensitive munitions.
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.]
2395.	Availability of appropriations for procurement of technical military equipment and supplies.

- Sec.
2396. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, public utility services, and pay and supplies of armed forces of friendly foreign countries.
- [2397 to 2398a. Repealed or Renumbered.]
2399. Operational test and evaluation of defense acquisition programs.
2400. Low-rate initial production of new systems.
2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles.
- 2401a. Lease of vehicles, equipment, vessels, and aircraft.
2402. Prohibition of contractors limiting subcontractor sales directly to the United States.
- [2403 to 2407. Repealed or Renumbered.]
2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.
2409. Contractor employees: protection from reprisal for disclosure of certain information.
- 2409a. Incentives and consideration for qualified training programs.
2410. Requests for equitable adjustment or other relief: certification.
- 2410a. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property.
- 2410b. Contractor inventory accounting systems: standards.
- [2410c. Renumbered.]
- 2410d. Subcontracting plans: credit for certain purchases.
- [2410e. Repealed.]
- 2410f. Debarment of persons convicted of fraudulent use of “Made in America” labels.
- 2410g. Advance notification of contract performance outside the United States.
- [2410h. Renumbered.]
- 2410i. Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel.
- 2410j. Displaced contractor employees: assistance to obtain certification and employment as teachers or employment as teachers’ aides.
- 2410k. Defense contractors: listing of suitable employment openings with local employment service office.
- 2410l. Contracts for advisory and assistance services: cost comparison studies.
- 2410m. Retention of amounts collected from contractor during the pendency of contract dispute.
- 2410n. Products of Federal Prison Industries: procedural requirements.
- 2410o. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.
- 2410p. Contracts: limitations on lead system integrators.
- 2410q. Multiyear contracts: purchase of electricity from renewable energy sources.
- 2410r. Contract working dogs: requirement to transfer animals to 341st Training Squadron after service life.
- 2410s. Security clearances for facilities of certain companies.

AMENDMENTS

2019—Pub. L. 116-92, div. A, title VIII, §864(b), Dec. 20, 2019, 133 Stat. 1523, added item 2409a.

2018—Pub. L. 115-232, div. A, title X, §1081(a)(22), Aug. 13, 2018, 132 Stat. 1984, inserted period at end of item 2410s.

2017—Pub. L. 115-91, div. A, title XVI, §1621(b), Dec. 12, 2017, 131 Stat. 1732, added item 2410s.

2016—Pub. L. 114-328, div. A, title III, §342(a)(2), title VIII, §833(b)(4)(B), Dec. 23, 2016, 130 Stat. 2082, 2285,

added item 2410r and struck out item 2387 “Procurement of table and kitchen equipment for officers’ quarters: limitation on”.

2013—Pub. L. 112-239, div. A, title XVI, §1671(c)(1), Jan. 2, 2013, 126 Stat. 2084, struck out item 2382 “Consolidation of contract requirements: policy and restrictions”.

2008—Pub. L. 110-181, div. A, title VIII, §828(b), title X, §1063(a)(11), Jan. 28, 2008, 122 Stat. 229, 322, inserted period at end of item 2410p and added item 2410q.

2006—Pub. L. 109-364, div. A, title VIII, §807(a)(2), div. B, title XXVIII, §2851(c)(2), Oct. 17, 2006, 120 Stat. 2315, 2495, added item 2410p and struck out items 2388 “Liquid fuels and natural gas: contracts for storage, handling, or distribution”, 2394 “Contracts for energy or fuel for military installations”, 2394a “Procurement of energy systems using renewable forms of energy”, 2398 “Procurement of gasohol as motor vehicle fuel”, 2398a “Procurement of fuel derived from coal, oil shale, and tar sands”, 2404 “Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority”, and 2410c “Preference for energy efficient electric equipment”.

Pub. L. 109-163, div. A, title VIII, §815(d)(2), Jan. 6, 2006, 119 Stat. 3382, substituted “Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles” for “Requirement for authorization by law of certain contracts relating to vessels and aircraft” in item 2401.

2005—Pub. L. 109-58, title III, §369(q)(2), Aug. 8, 2005, 119 Stat. 733, added item 2398a.

2004—Pub. L. 108-375, div. A, title VIII, §804(a)(2), Oct. 28, 2004, 118 Stat. 2008, added item 2383.

2003—Pub. L. 108-136, div. A, title VIII, §801(a)(2), title X, §1005(b)(2), Nov. 24, 2003, 117 Stat. 1540, 1585, added item 2382 and substituted “Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property” for “Severable service contracts for periods crossing fiscal years” in item 2410a.

2002—Pub. L. 107-314, div. A, title VIII, §826(b), title X, §1062(a)(10)(B), Dec. 2, 2002, 116 Stat. 2617, 2650, transferred item 2410h “Acquisition fellowship program” to subchapter IV of chapter 87 as item 1747 and added item 2410i.

2001—Pub. L. 107-107, div. A, title VIII, §§811(a)(2), 834(a)(2), Dec. 28, 2001, 115 Stat. 1181, 1191, added items 2389 and 2410n.

1999—Pub. L. 106-65, div. A, title VIII, §803(b)(2), Oct. 5, 1999, 113 Stat. 704, substituted “Acquisition of certain fuel sources” for “Acquisition of petroleum and natural gas” in item 2404.

1997—Pub. L. 105-85, div. A, title VIII, §§801(b), 810(a)(2), 831(b), 847(b)(1), title X, §1014(b)(2), Nov. 18, 1997, 111 Stat. 1831, 1839, 1842, 1845, 1875, inserted “public utility services,” after “tuition,” in item 2396, struck out items 2403 “Major weapon systems: contractor guarantees” and 2405 “Limitation on adjustment of shipbuilding contracts”, substituted “Severable service contracts for periods crossing fiscal years” for “Appropriated funds: availability for certain contracts for 12 months” in item 2410a, and added item 2410m.

1996—Pub. L. 104-106, div. A, title VIII, §§803(b), 807(a)(2), div. D, title XLIII, §4304(c)(1), Feb. 10, 1996, 110 Stat. 390, 392, 664, struck out items 2383 “Procurement of critical aircraft and ship spare parts: quality control”, 2397 “Employees or former employees of defense contractors: reports”, 2397a “Requirements relating to private employment contacts between certain Department of Defense procurement officials and defense contractors”, and 2397c “Defense contractors: requirements concerning former Department of Defense officials” and substituted “Lease of vehicles, equipment, vessels, and aircraft” for “Lease of vessels, aircraft, and vehicles” in item 2401a.

1994—Pub. L. 103-355, title II, §§2102(b), 2201(b)(2), 2301(c), title III, §3065(a)(2), title VI, §6005(b)(2), Oct. 13, 1994, 108 Stat. 3309, 3318, 3321, 3337, 3365, added item 2401a, struck out items 2382 “Contract profit controls