

(h) **INAPPLICABILITY TO CERTAIN CONTRACTS.**—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

(i) **ADVISORY AND ASSISTANCE SERVICES DEFINED.**—In this section, the term “advisory and assistance services” has the meaning given such term in section 1105(g) of title 31.

(Added Pub. L. 103–355, title I, §1004(a)(1), Oct. 13, 1994, 108 Stat. 3251; amended Pub. L. 111–350, §5(b)(13), Jan. 4, 2011, 124 Stat. 3843.)

TRANSFER OF SECTION

Pub. L. 116–283, div. A, title XVIII, §§1801(d), 1820(d)(1), Jan. 1, 2021, 134 Stat. 4151, 4192, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 245 of this title, as amended by section 1820(a) of Pub. L. 116–283, inserted after section 3403, and redesignated as section 3405 of this title. See Effective Date of 2021 Amendment note below.

AMENDMENTS

2011—Subsecs. (c), (f)(3). Pub. L. 111–350 substituted “section 1708 of title 41” for “section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416)”.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 2302 of this title.

PROVISIONS NOT AFFECTED BY PUB. L. 103–355

This section not to be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under former 40 U.S.C. 759 or chapter 11 of Title 40, Public Buildings, Property, and Works, see section 1004(d) of Pub. L. 103–355, set out as a note under section 2304a of this title.

WAIVERS TO EXTEND TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES

Pub. L. 109–364, div. A, title VIII, §834, Oct. 17, 2006, 120 Stat. 2332, which temporarily allowed for waivers to extend certain task order contracts for advisory and assistance services, was repealed by Pub. L. 115–232, div. A, title VIII, §812(b)(17), Aug. 13, 2018, 132 Stat. 1848.

§ 2304c. Task and delivery order contracts: orders

(a) **ISSUANCE OF ORDERS.**—The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

(1) A separate notice for such order under section 1708 of title 41 or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

(2) Except as provided in subsection (b), a competition (or a waiver of competition ap-

proved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

(b) **MULTIPLE AWARD CONTRACTS.**—When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of \$2,500 that is to be issued under any of the contracts unless—

(1) the agency’s need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis;

(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee; or

(5) the task or delivery order satisfies one of the exceptions in section 2304(c) of this title to the requirement to use competitive procedures.

(c) **STATEMENT OF WORK.**—A task or delivery order shall include a statement of work that clearly specifies all tasks to be performed or property to be delivered under the order.

(d) **ENHANCED COMPETITION FOR ORDERS IN EXCESS OF \$5,000,000.**—In the case of a task or delivery order in excess of \$5,000,000, the requirement to provide all contractors a fair opportunity to be considered under subsection (b) is not met unless all such contractors are provided, at a minimum—

(1) a notice of the task or delivery order that includes a clear statement of the agency’s requirements;

(2) a reasonable period of time to provide a proposal in response to the notice;

(3) disclosure of the significant factors and subfactors, including cost or price, that the agency expects to consider in evaluating such proposals, and their relative importance;

(4) in the case of an award that is to be made on a best value basis, a written statement documenting the basis for the award and the relative importance of quality and price or cost factors; and

(5) an opportunity for a post-award debriefing consistent with the requirements of section 2305(b)(5) of this title.

(e) **PROTESTS.**—(1) A protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for—

(A) a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued; or

(B) a protest of an order valued in excess of \$25,000,000.

(2) Notwithstanding section 3556 of title 31, the Comptroller General of the United States shall have exclusive jurisdiction of a protest authorized under paragraph (1)(B).

(f) **TASK AND DELIVERY ORDER OMBUDSMAN.**—Each head of an agency who awards multiple task or delivery order contracts pursuant to section 2304a(d)(1)(B) or 2304b(e) of this title shall appoint or designate a task and delivery order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task or delivery orders when required under subsection (b). The task and delivery order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

(g) **APPLICABILITY.**—This section applies to task and delivery order contracts entered into under sections 2304a and 2304b of this title.

(Added Pub. L. 103-355, title I, §1004(a)(1), Oct. 13, 1994, 108 Stat. 3252; amended Pub. L. 110-181, div. A, title VIII, §843(a)(2), Jan. 28, 2008, 122 Stat. 237; Pub. L. 111-350, §5(b)(14), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 111-383, div. A, title VIII, §825, title X, §1075(f)(5)(A), Jan. 7, 2011, 124 Stat. 4270, 4376; Pub. L. 112-239, div. A, title VIII, §830, Jan. 2, 2013, 126 Stat. 1842; Pub. L. 114-328, div. A, title VIII, §§825(b), 835(a), Dec. 23, 2016, 130 Stat. 2280, 2285.)

TRANSFER OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§1801(d), 1820(e)(1), Jan. 1, 2021, 134 Stat. 4151, 4194, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 245 of this title, as amended by section 1820(a) of Pub. L. 116-283, inserted after section 3405, and redesignated as section 3406 of this title. See Effective Date of 2021 Amendment note below.

AMENDMENTS

2016—Subsec. (b)(5). Pub. L. 114-328, §825(b), added par. (5).

Subsec. (e)(1)(B). Pub. L. 114-328, §835(a), substituted “\$25,000,000” for “\$10,000,000”.

2013—Subsec. (e)(3). Pub. L. 112-239 struck out par. (3) which read as follows: “Paragraph (1)(B) and paragraph (2) of this subsection shall not be in effect after September 30, 2016.”

2011—Subsec. (a)(1). Pub. L. 111-350 substituted “section 1708 of title 41” for “section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416)”.

Subsec. (e). Pub. L. 111-383, §1075(f)(5)(A), made technical correction to directory language of Pub. L. 110-181, §843(a)(2)(C). See 2008 Amendment note below.

Subsec. (e)(3). Pub. L. 111-383, §825, amended par. (3) generally. Prior to amendment, par. (3) read as follows: “This subsection shall be in effect for three years, beginning on the date that is 120 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008.”

2008—Subsec. (d). Pub. L. 110-181, §843(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 110-181, §843(a)(2)(C), as amended by Pub. L. 111-383, §1075(f)(5)(A), added subsec. (e) and struck out former subsec. (e). Former text read as follows: “A protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for a protest on the ground that the order

increases the scope, period, or maximum value of the contract under which the order is issued.”

Pub. L. 110-181, §843(a)(2)(A), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsecs. (f), (g). Pub. L. 110-181, §843(a)(2)(A), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title VIII, §843(a)(3)(B), Jan. 28, 2008, 122 Stat. 238, provided that: “The amendments made by paragraph (2) [amending this section] shall take effect on the date that is 120 days after the date of the enactment of this Act [Jan. 28, 2008], and shall apply with respect to any task or delivery order awarded on or after such date.”

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 2302 of this title.

PROVISIONS NOT AFFECTED BY PUB. L. 103-355

This section not to be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under former 40 U.S.C. 759 or chapter 11 of Title 40, Public Buildings, Property, and Works, see section 1004(d) of Pub. L. 103-355, set out as a note under section 2304a of this title.

§ 2304d. Task and delivery order contracts: definitions

In sections 2304a, 2304b, and 2304c of this title:

(1) The term “task order contract” means a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract.

(2) The term “delivery order contract” means a contract for property that does not procure or specify a firm quantity of property (other than a minimum or maximum quantity) and that provides for the issuance of orders for the delivery of property during the period of the contract.

(Added Pub. L. 103-355, title I, §1004(a)(1), Oct. 13, 1994, 108 Stat. 3253.)

TRANSFER OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§1801(d), 1820(b)(1), Jan. 1, 2021, 134 Stat. 4151, 4191, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 245 of this title, as amended by section 1820(a) of Pub. L. 116-283, inserted after the table of sections, and redesignated as section 3401 of this title. See Effective Date of 2021 Amendment note below.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.