

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 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 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, as amended by Pub. L. 116-283, div. A, title XVIII, §1842(c)(1), Jan. 1, 2021, 134 Stat. 4244, provided that:

“(a) IN GENERAL.—Under the authority of section 2374a of title 10, United States Code, and section 24 of the Stevenson-Wylder 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.”

[Pub. L. 116-283, div. A, title XVIII, §§ 1801(d), 1842(c)(1), Jan. 1, 2021, 134 Stat. 4151, 4244, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, section 1089(a) of Pub. L. 115-91, set out above, is amended by striking “section 2374a” and inserting “section 4065”.]

§ 2374b. Disclosure requirements for recipients of research and development funds

(a) IN GENERAL.—Except as provided in subsections (b) and (c), an individual or entity (including a State or local government) that uses funds received from the Department of Defense to carry out research or development activities shall include, in any public document pertaining

to such activities, a clear statement indicating the dollar amount of the funds received from the Department for such activities.

(b) EXCEPTION.—The disclosure requirement under subsection (a) shall not apply to a public document consisting of fewer than 280 characters.

(c) WAIVER.—The Secretary of Defense may waive the disclosure requirement under subsection (a) on a case-by-case basis.

(d) PUBLIC DOCUMENT DEFINED.—In this section, the term “public document” means any document or other written statement made available for public reference or use, regardless of whether such document or statement is made available in hard copy or electronic format.

(Added Pub. L. 116-283, div. A, title II, §212(a)(1), Jan. 1, 2021, 134 Stat. 3456.)

REPEAL OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§ 1801(d), 1881(a), Jan. 1, 2021, 134 Stat. 4151, 4293, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, chapter 139 of this title, and therefore this section, is repealed.

PRIOR PROVISIONS

A prior section 2374b, 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, prior to repeal by Pub. L. 112-239, div. A, title X, §1076(g)(4), Jan. 2, 2013, 126 Stat. 1955.

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 2021 Amendment note preceding section 3001 of this title.

EFFECTIVE DATE

Pub. L. 116-283, div. A, title II, §212(b), Jan. 1, 2021, 134 Stat. 3456, provided that: “The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 2021, and shall apply with respect to funds for research and development that are awarded by the Department of Defense on or after that date.”

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.

TRANSFER OF CHAPTER

Pub. L. 116-283, div. A, title XVIII, §§ 1801(d), 1821(a)(1), Jan. 1, 2021, 134 Stat. 4151, 4194, pro-

vided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this chapter is transferred to part V of subtitle A of this title, as added by section 801 of Pub. L. 115-232, inserted in place of chapter 247 as enacted by that section, and redesignated as chapter 247 of this title. Except for section 2380b of this title, sections in this chapter, as transferred and redesignated by section 1821(a)(1) of Pub. L. 116-283, were redesignated by section 1821(a)(2) of Pub. L. 116-283. Section 2380b of this title was amended so as to become section 3457(c) of this title by section 1821(b)(7)(A), (B) of Pub. L. 116-283. See Effective Date of 2021 Amendment note below and Renumbering of Section, Renumbering and Amendment of Section, and Amendment of Section notes for the individual sections in this chapter.

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.

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.

§ 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 section 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.