

(B) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

(C) the overall ranking of all offers;

(D) a summary of the rationale for the award;

(E) in the case of a proposal that includes a commercial product that is an end item under the contract, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract;

(F) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency; and

(G) an opportunity for a disappointed offeror to submit, within two business days after receiving a post-award debriefing, additional questions related to the debriefing.

(2) The agency shall respond in writing to any additional question submitted under paragraph (1)(G) within five business days after receipt of the question. The agency shall not consider the debriefing to be concluded until the agency delivers its written responses to the disappointed offeror.

(d) **INFORMATION NOT TO BE INCLUDED.**—The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552(b) of title 5.

(e) **INCLUSION OF STATEMENT IN SOLICITATION.**—Each solicitation for competitive proposals shall include a statement that information described in subsection (c) may be disclosed in post-award debriefings.

(f) **AFTER SUCCESSFUL PROTEST.**—If, within one year after the date of the contract award and as a result of a successful procurement protest, the agency seeks to fulfill the requirement under the protested contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency shall make available to all offerors—

(1) the information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

(2) the same information that would have been provided to the original offerors.

(g) **SUMMARY TO BE INCLUDED IN FILE.**—The contracting officer shall include a summary of any debriefing conducted this section¹ in the contract file.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(c)(2)(D), (6), Jan. 1, 2021, 134 Stat. 4182, 4183.)

CODIFICATION

The text of subsec. (b)(5) of section 2305 of this title, which was transferred to this section, redesignated as subsecs. (a) to (f), and amended by Pub. L. 116–283, §1816(c)(1), (2)(D), (6)(A)–(J), was based on Pub. L. 103–355, title I, §1014(2), Oct. 13, 1994, 108 Stat. 3256; Pub.

L. 104–106, div. D, title XLI, §4104(a)(1), Feb. 10, 1996, 110 Stat. 644; Pub. L. 115–91, div. A, title VIII, §818(b), Dec. 12, 2017, 131 Stat. 1463; Pub. L. 115–232, div. A, title VIII, §836(c)(3), Aug. 13, 2018, 132 Stat. 1864.

For derivation of subsec. (g) of this section, see Codification note related to subsec. (f) set out under section 3305 of this title.

PRIOR PROVISIONS

A prior section 3304, act Aug. 10, 1956, ch. 1041, 70A Stat. 189; Pub. L. 85–155, title I, §101(14), Aug. 21, 1957, 71 Stat. 378, covered promotion of officers in the Army Nurse Corps and the Army Medical Specialists Corps to colonel and lieutenant colonel, set out the requirements of officers on the promotion lists, and provided for the procedure to be followed in determining the order of promotion, prior to repeal by Pub. L. 90–130, §1(10)(C), Nov. 8, 1967, 81 Stat. 375.

AMENDMENTS

2021—Pub. L. 116–283, §1816(c)(6)(A), transferred subsec. (b)(5) of section 2305 of this title to this section and struck out par. (5) designation at beginning.

Subsec. (a). Pub. L. 116–283, §1816(c)(6)(B), (E), redesignated subpar. (A) of former section 2305(b)(5) of this title as subsec. (a) of this section and inserted heading. Former second sentence of subsec. (a) designated subsec. (b).

Subsec. (b). Pub. L. 116–283, §1816(c)(6)(C), (F), designated second sentence of subsec. (a) as subsec. (b) of this section and inserted heading.

Subsec. (c)(1). Pub. L. 116–283, §1816(c)(6)(B), (G)(i), (ii), redesignated subpar. (B) of former section 2305(b)(5) of this title and its cls. (i) to (vii) as subsec. (c)(1) of this section and subpars. (A) to (G), respectively, and inserted subsec. heading.

Subsec. (c)(2). Pub. L. 116–283, §1816(c)(6)(D), (G)(iii), redesignated subpar. (C) of former section 2305(b)(5) of this title as subsec. (c)(2) of this section and substituted “paragraph (1)(G)” for “subparagraph (B)(vii)”.

Subsec. (d). Pub. L. 116–283, §1816(c)(6)(B), (H), redesignated subpar. (D) of former section 2305(b)(5) of this title as subsec. (d) of this section and inserted heading.

Subsec. (e). Pub. L. 116–283, §1816(c)(6)(B), (I), redesignated subpar. (E) of former section 2305(b)(5) of this title as subsec. (e) of this section, inserted heading, and substituted “subsection (c)” for “subparagraph (B)”.

Subsec. (f). Pub. L. 116–283, §1816(c)(6)(B), (J), redesignated subpar. (F) of former section 2305(b)(5) of this title as subsec. (f) of this section, inserted heading, and redesignated cls. (i) and (ii) as pars. (1) and (2), respectively.

Subsec. (g). Pub. L. 116–283, §1816(c)(6)(K), added subsec. (g) identical to subsec. (f) of section 3305 of this title.

EFFECTIVE DATE

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

§ 3305. Pre-award debriefings

(a) **REQUEST FOR DEBRIEFING.**—When the contracting officer excludes an offeror submitting a competitive proposal from the competitive range (or otherwise excludes such an offeror from further consideration prior to the final source selection decision), the excluded offeror may request in writing, within three days after the date on which the excluded offeror receives notice of its exclusion, a debriefing prior to award.

(b) **WHEN DEBRIEFING TO BE CONDUCTED.**—The contracting officer shall make every effort to

¹ So in original. Probably should be “under this section”.

debrief the unsuccessful offeror as soon as practicable but may refuse the request for a debriefing if it is not in the best interests of the Government to conduct a debriefing at that time.

(c) **PRECONDITION FOR POST-AWARD DEBRIEFING.**—The contracting officer is required to debrief an excluded offeror in accordance with section 3304 of this title only if that offeror requested and was refused a preaward debriefing under subsections (a) and (b).

(d) **INFORMATION TO BE PROVIDED.**—The debriefing conducted under subsections (a) and (b) shall include—

(1) the executive agency's evaluation of the significant elements in the offeror's offer;

(2) a summary of the rationale for the offeror's exclusion; and

(3) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

(e) **INFORMATION NOT TO BE DISCLOSED.**—The debriefing conducted under subsections (a) and (b) may not disclose the number or identity of other offerors and shall not disclose information about the content, ranking, or evaluation of other offerors' proposals.

(f) **SUMMARY TO BE INCLUDED IN FILE.**—The contracting officer shall include a summary of any debriefing conducted this section¹ in the contract file.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(c)(2)(E), (7), Jan. 1, 2021, 134 Stat. 4182, 4183.)

CODIFICATION

The text of subsec. (b)(6) of section 2305 of this title, which was transferred to this section, redesignated as subsecs. (a) to (e), and amended by Pub. L. 116–283, §1816(c)(1), (2)(E), (7)(A), (C)–(I), was based on Pub. L. 104–106, div. D, title XLI, §4104(a)(3), Feb. 10, 1996, 110 Stat. 644; Pub. L. 104–201, div. A, title X, §1074(a)(11), Sept. 23, 1996, 110 Stat. 2659.

The text of subsec. (b)(7) of section 2305 of this title, which was transferred to this section, redesignated as subsec. (f), and amended by Pub. L. 116–283, §1816(c)(1), (2)(E), (7)(B), (J), was based on Pub. L. 104–106, div. D, title XLI, §4104(a)(3), Feb. 10, 1996, 110 Stat. 644.

PRIOR PROVISIONS

A prior section 3305, act Aug. 10, 1956, ch. 1041, 70A Stat. 189; Pub. L. 85–155, title I, §101(16), Aug. 21, 1957, 71 Stat. 379; Pub. L. 90–130, §1(10)(D), (E), Nov. 8, 1967, 81 Stat. 375, related to promotion of officers in regular grade of lieutenant colonel to grade of colonel, prior to repeal by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981. See section 619 et seq. of this title.

AMENDMENTS

2021—Pub. L. 116–283, §1816(c)(7)(A), transferred subsec. (b)(6) of section 2305 of this title to this section and struck out par. (6) designation at beginning.

Subsec. (a). Pub. L. 116–283, §1816(c)(7)(C), (E), redesignated subpar. (A) of former section 2305(b)(6) of this title as subsec. (a) of this section and inserted heading. Former second sentence of subsec. (a) designated subsec. (b).

Subsec. (b). Pub. L. 116–283, §1816(c)(7)(D), (F), designated second sentence of subsec. (a) as subsec. (b) of this section and inserted heading.

¹ So in original. Probably should be “under this section”.

Subsec. (c). Pub. L. 116–283, §1816(c)(7)(B), (G), redesignated subpar. (B) of former section 2305(b)(6) of this title as subsec. (c) of this section, inserted heading, and substituted “section 3304 of this title” for “paragraph (5)” and “subsections (a) and (b)” for “subparagraph (A)”.

Subsec. (d). Pub. L. 116–283, §1816(c)(7)(B), (H), redesignated subpar. (C) of former section 2305(b)(6) of this title and its cls. (i) to (iii) as subsec. (d) of this section and pars. (1) to (3), respectively, inserted heading, and substituted “subsections (a) and (b)” for “subparagraph (A)” in introductory provisions.

Subsec. (e). Pub. L. 116–283, §1816(c)(7)(B), (I), redesignated subpar. (D) of former section 2305(b)(6) of this title as subsec. (e) of this section, inserted heading, and substituted “subsections (a) and (b)” for “subparagraph (A)”.

Subsec. (f). Pub. L. 116–283, §1816(c)(7)(B), (J), redesignated subsec. (b)(7) of section 2305 of this title as subsec. (f) of this section, inserted heading, and substituted “this section” for “under paragraph (5) or (6)”.

EFFECTIVE DATE

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

§ 3306. Encouragement of alternative dispute resolution

The Federal Acquisition Regulation shall include a provision encouraging the use of alternative dispute resolution techniques to provide informal, expeditious, and inexpensive procedures for an offeror to consider using before filing a protest, prior to the award of a contract, of the exclusion of the offeror from the competitive range (or otherwise from further consideration) for that contract.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1816(c)(2)(F), (8), Jan. 1, 2021, 134 Stat. 4182, 4185.)

CODIFICATION

The text of subsec. (b)(8) of this title, which was transferred to this section and amended by Pub. L. 116–283, §1816(c)(1), (2)(F), (8), was based on Pub. L. 104–106, div. D, title XLI, §4104(a)(3), Feb. 10, 1996, 110 Stat. 644.

PRIOR PROVISIONS

A prior section 3306, act Aug. 10, 1956, ch. 1041, 70A Stat. 190, related to promotion of officers in regular grade of colonel to grade of brigadier general, prior to repeal by Pub. L. 96–513, title II, §204, title VII, §701, Dec. 12, 1980, 94 Stat. 2880, 2955, effective Sept. 15, 1981. See section 619 et seq. of this title.

AMENDMENTS

2021—Pub. L. 116–283, §1816(c)(8), transferred subsec. (b)(8) of section 2305 of this title to this section and struck out par. (8) designation at beginning.

EFFECTIVE DATE

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

§ 3307. Antitrust violations

If the head of an agency considers that a bid or proposal evidences a violation of the anti-