

trust laws, he shall refer the bid or proposal to the Attorney General for appropriate action.

(Added and amended Pub. L. 116–283, div. A, title XVIII, § 1816(c)(2)(G), (9), Jan. 1, 2021, 134 Stat. 4182, 4185.)

CODIFICATION

The text of subsec. (b)(9) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, § 1816(c)(1), (2)(G), (9), was based on Pub. L. 98–369, div. B, title VII, § 2723(b), July 18, 1984, 98 Stat. 1192; Pub. L. 99–145, title XIII, § 1303(a)(14), Nov. 8, 1985, 99 Stat. 739; Pub. L. 103–355, title I, § 1014(1), Oct. 13, 1994, 108 Stat. 3255; Pub. L. 104–106, div. D, title XLI, § 4104(a), Feb. 10, 1996, 110 Stat. 644.

PRIOR PROVISIONS

A prior section 3307, act Aug. 10, 1956, ch. 1041, 70A Stat. 191, related to promotion of officers in regular grade of brigadier general to grade of major 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)(9), transferred subsec. (b)(9) of section 2305 of this title to this section and struck out par. (9) 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.

§ 3308. Protests

(a) PROTEST FILE.—

(1) ESTABLISHMENT AND ACCESS.—If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

(2) REDACTED INFORMATION.—Information exempt from disclosure under section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

(b) AGENCY ACTIONS ON PROTESTS.—If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency—

(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.

(Added and amended Pub. L. 116–283, div. A, title XVIII, § 1816(d), (e), Jan. 1, 2021, 134 Stat. 4185.)

CODIFICATION

The text of subsec. (e) of section 2305 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116–283, § 1816(e),

was based on Pub. L. 103–355, title I, § 1015, Oct. 13, 1994, 108 Stat. 3256; Pub. L. 104–106, div. E, title LVI, § 5601(a), Feb. 10, 1996, 110 Stat. 699; Pub. L. 104–201, div. A, title X, § 1074(b)(4)(A), Sept. 23, 1996, 110 Stat. 2660.

The text of subsec. (f) of section 2305 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116–283, § 1816(e)(1), was based on Pub. L. 103–355, title I, § 1016, Oct. 13, 1994, 108 Stat. 3257.

PRIOR PROVISIONS

A prior section 3308, act Aug. 10, 1956, ch. 1041, 70A Stat. 192, related to effect of removal from recommended list by President of name of any promotion-list officer or brigadier general of Regular Army who in President's opinion is not qualified for promotion or who is not confirmed by Senate, 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 629 of this title.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116–283, § 1816(e), redesignated subsec. (e) of section 2305 of this title as subsec. (a) of this section and, in pars. (1) and (2), inserted headings and realigned margins.

Subsec. (b). Pub. L. 116–283, § 1816(e)(1), redesignated subsec. (f) of section 2305 of this title as subsec. (b) of this section.

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.

§ 3309. Prohibition on release of contractor proposals

(a) DEFINITION.—In this section, the term “proposal” means any proposal, including a technical, management, or cost proposal, submitted by a contractor in response to the requirements of a solicitation for a competitive proposal.

(b) PROHIBITION.—Except as provided in subsection (c), a proposal in the possession or control of an agency named in section 3063 of this title may not be made available to any person under section 552 of title 5.

(c) INAPPLICABILITY.—Subsection (b) does not apply to any proposal that is set forth or incorporated by reference in a contract entered into between the Department and the contractor that submitted the proposal.

(Added and amended Pub. L. 116–283, div. A, title XVIII, § 1816(d), (f), Jan. 1, 2021, 134 Stat. 4185.)

CODIFICATION

The text of subsec. (g) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, § 1816(f), was based on Pub. L. 104–201, div. A, title VIII, § 821(a), Sept. 23, 1996, 110 Stat. 2609; Pub. L. 106–65, div. A, title VIII, § 821, Oct. 5, 1999, 113 Stat. 714.

PRIOR PROVISIONS

A prior section 3309, act Aug. 10, 1956, ch. 1041, 70A Stat. 192, provided that President prescribe a system of physical examination for all commissioned officers of Regular Army in grades below brigadier general to determine their fitness for promotion in Regular Army, 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 624 of this title.