

§ 908(d)(1)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–140, and Pub. L. 99–591, § 101(c) [title X, § 908(d)(1)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–140; Pub. L. 99–661, div. A, title IX, formerly title IV, § 908(d)(1)(A), Nov. 14, 1986, 100 Stat. 3920, renumbered title IX, Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–355, title I, § 1505(a), (b), Oct. 13, 1994, 108 Stat. 3298; Pub. L. 105–85, div. A, title VIII, § 803(a), Nov. 18, 1997, 111 Stat. 1831; Pub. L. 115–91, div. A, title VIII, § 815(b), Dec. 12, 2017, 131 Stat. 1462. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical subsections.

The text of subsec. (c) of section 2326 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116–283, § 1819(c)(1), (3), was based on Pub. L. 115–91, div. A, title VIII, § 815(a)(2), Dec. 12, 2017, 131 Stat. 1462.

The text of subsec. (h) of section 2326 of this title, which was transferred to this section, redesignated as subsec. (c), and amended by Pub. L. 116–283, § 1819(c)(1), (4), was based on Pub. L. 114–328, div. A, title VIII, § 811(3), Dec. 23, 2016, 130 Stat. 2268; Pub. L. 115–91, div. A, title VIII, § 815(a)(1), Dec. 12, 2017, 131 Stat. 1462.

#### AMENDMENTS

2021—Subsec. (a). Pub. L. 116–283, § 1819(c)(1), (2)(A), redesignated subsec. (b) of section 2326 of this title as subsec. (a) of this section and substituted “Contractual Action to Provide Time for Definition of Contractual Terms, Specifications, and Price; Limitations on Obligation of Funds” for “Limitations on Obligation of Funds” in heading.

Subsec. (a)(1). Pub. L. 116–283, § 1819(c)(2)(A), inserted heading.

Subsec. (a)(2). Pub. L. 116–283, § 1819(c)(2)(C), inserted par. (2) designation and heading. Former par. (2) redesignated subpar. (A) of par. (2).

Subsec. (a)(2)(A). Pub. L. 116–283, § 1819(c)(2)(B), (D), redesignated subsec. (a)(2) as (a)(2)(A), inserted heading, realigned margin, and substituted “Except as provided in subparagraph (B),” for “Except as provided in paragraph (3).”

Subsec. (a)(2)(B). Pub. L. 116–283, § 1819(c)(2)(B), (E), redesignated subsec. (a)(3) as (a)(2)(B), inserted heading, realigned margin, and substituted “section 3377(b) of this title” for “subsection (h)”.

Subsec. (a)(3). Pub. L. 116–283, § 1819(c)(2)(F), redesignated par. (4) as (3) and inserted heading. Former par. (3) redesignated subpar. (B) of par. (2).

Subsec. (a)(4), (5). Pub. L. 116–283, § 1819(c)(2)(G), redesignated par. (5) as (4) and inserted heading. Former par. (4) redesignated (3).

Subsec. (b). Pub. L. 116–283, § 1819(c)(1), (3), redesignated subsec. (c) of section 2326 of this title as subsec. (b) of this section and substituted “subsection (a)(1)” for “subsection (b)(1)” in introductory provisions.

Subsec. (c). Pub. L. 116–283, § 1819(c)(1), redesignated subsec. (h) of section 2326 of this title as subsec. (c) of this section.

Subsec. (c)(1). Pub. L. 116–283, § 1819(c)(4)(A), (B), inserted heading and substituted “subsection (a)(1)(A)” for “subsection (b)(1)(A)”.

Subsec. (c)(2). Pub. L. 116–283, § 1819(c)(4)(C), (D), inserted heading and substituted “subsection (a)(3)” for “subsection (b)(4)”.

#### 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.

### § 3373. Undefinitized contractual actions: limitation on inclusion of non-urgent requirements and on modification of scope

(a) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equip-

ment that are not needed on an urgent basis may not be included in an undefinitized contractual action for spare parts and support equipment that are needed on an urgent basis unless the head of the agency approves such inclusion as being—

- (1) good business practice; and
- (2) in the best interests of the United States.

(b) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the head of the agency approves such modification as being—

- (1) good business practice; and
- (2) in the best interests of the United States.

(Added and amended Pub. L. 116–283, div. A, title XVIII, § 1819(a), (d), Jan. 1, 2021, 134 Stat. 4189, 4190.)

#### CODIFICATION

The text of subssecs. (d) and (e) of section 2326 of this title, which were transferred to this section, redesignated as subssecs. (a) and (b), respectively, and amended by Pub. L. 116–283, § 1819(d), was based on Pub. L. 99–500, § 101(c) [title X, § 908(d)(1)(A)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–141, and Pub. L. 99–591, § 101(c) [title X, § 908(d)(1)(A)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–141; Pub. L. 99–661, div. A, title IX, formerly title IV, § 908(d)(1)(A), Nov. 14, 1986, 100 Stat. 3920, 3921, renumbered title IX, Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 115–91, div. A, title VIII, § 815(a)(1), Dec. 12, 2017, 131 Stat. 1462. Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 added identical subsections.

#### AMENDMENTS

2021—Pub. L. 116–283, § 1819(d), redesignated subssecs. (d) and (e) of section 2326 of this title as subssecs. (a) and (b), respectively, 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.

### § 3374. Undefinitized contractual actions: allowable profit

(a) ALLOWED PROFIT TO REFLECT CERTAIN REDUCED COST RISKS OF CONTRACTOR.—The head of an agency shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

- (1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and
- (2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

(b) DATE AS OF WHICH CONTRACTOR COST RISK TO BE DETERMINED.—If a contractor submits a qualifying proposal to definitize an undefinitized contractual action and the contracting officer for such action definitizes the contract after the end of the 180-day period beginning on the date on which the contractor submitted the qualifying proposal, the head of the agency concerned shall ensure that the profit allowed on the con-