

services may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

(d) **NONAPPLICATION OF CERTAIN CONDITIONS.**—The conditions of sections 3803 and 3804 of this title need not be applied if they would be inconsistent, as determined by the head of the agency, with commercial terms and conditions pursuant to this section.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (f), Jan. 1, 2021, 134 Stat. 4234, 4236.)

CODIFICATION

The text of subsec. (f) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1834(f), was based on Pub. L. 103–355, title II, §2001(f), Oct. 13, 1994, 108 Stat. 3302; Pub. L. 115–232, div. A, title VIII, §836(c)(6), Aug. 13, 2018, 132 Stat. 1866.

AMENDMENTS

2021—Pub. L. 116–283, §1834(f)(1)(A), transferred subsec. (f) of section 2307 of this title to this section and struck out subsec. (f) designation and heading “Conditions for Payments for Commercial Products and Commercial Services” at beginning.

Subsec. (a). Pub. L. 116–283, §1834(f)(1)(B), (4), after transfer of section 2307(f) of this title to this section, redesignated par. (1) as subsec. (a), inserted heading, and substituted “section 3801 of this title” for “subsection (a)”.

Subsec. (b). Pub. L. 116–283, §1834(f)(4), inserted heading.

Pub. L. 116–283, §1834(f)(2), which directed the designation of “the second sentence of subsection (a) as subsection (b)”, was executed by designating the second and third sentences of subsec. (a) as (b), to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 116–283, §1834(f)(1)(B), (5), after transfer of section 2307(f) of this title to this section, redesignated par. (2) as subsec. (c), inserted heading, and substituted “section 3801 of this title” for “subsection (a)”.

Subsec. (d). Pub. L. 116–283, §1834(f)(1)(B), (6), after transfer of section 2307(f) of this title to this section, redesignated par. (3) as subsec. (d), inserted heading, and substituted “sections 3803 and 3804 of this title” for “subsections (d) and (e)” and “this section” for “paragraphs (1) and (2)”.

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.

§ 3806. Action in case of fraud

(a) **REMEDY COORDINATION OFFICIAL DEFINED.**—In this section, the term “remedy coordination official”, with respect to an agency, means the person or entity in that agency who coordinates within that agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.

(b) **RECOMMENDATION TO REDUCE OR SUSPEND PAYMENTS.**—In any case in which the remedy coordination official of an agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that agency

is based on fraud, the remedy coordination official shall recommend that the head of the agency reduce or suspend further payments to such contractor.

(c) **REDUCTION OR SUSPENSION OF PAYMENTS.**—The head of an agency receiving a recommendation under subsection (b) in the case of a contractor’s request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

(d) **EXTENT OF REDUCTION OR SUSPENSION.**—The extent of any reduction or suspension of payments by the head of an agency under subsection (c) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

(e) **WRITTEN JUSTIFICATION.**—A written justification for each decision of the head of an agency whether to reduce or suspend payments under subsection (c) and for each recommendation received by such agency head in connection with such decision shall be prepared and be retained in the files of such agency.

(f) **NOTICE.**—The head of an agency shall prescribe procedures to ensure that, before such agency head decides to reduce or suspend payments in the case of a contractor under subsection (c), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

(g) **REVIEW.**—Not later than 180 days after the date on which the head of an agency reduces or suspends payments to a contractor under subsection (c), the remedy coordination official of such agency shall—

(1) review the determination of fraud on which the reduction or suspension is based; and

(2) transmit a recommendation to the head of such agency whether the suspension or reduction should continue.

(h) **ANNUAL REPORT.**—The head of an agency shall prepare for each year a report containing the recommendations made by the remedy coordination official of that agency to reduce or suspend payments under subsection (c), the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. The Secretary of each military department shall transmit the annual report of such department to the Secretary of Defense. Each such report shall be available to any member of Congress upon request.

(i) **RESTRICTION ON DELEGATION.**—The head of an agency may not delegate responsibilities under this section to any person in a position below level IV of the Executive Schedule.

(j) **INAPPLICABILITY TO COAST GUARD.**—This section applies to the agencies named in paragraphs (1), (2), (3), (4), and (6) of section 3063 of this title.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (g), Jan. 1, 2021, 134 Stat. 4234, 4237.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (i), is set out in section 5315 of Title 5, Government Organization and Employees.

CODIFICATION

The text of subsec. (i) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116-283, §1834(g), was based on Pub. L. 101-510, div. A, title VIII, §836(a), Nov. 5, 1990, 104 Stat. 1615; Pub. L. 102-25, title VII, §701(j)(2)(A), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102-484, div. A, title X, §1052(24), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103-355, title II, §2001(a)(7), Oct. 13, 1994, 108 Stat. 3301; Pub. L. 105-85, div. A, title VIII, §802(1), Nov. 18, 1997, 111 Stat. 1831; Pub. L. 106-391, title III, §306, Oct. 30, 2000, 114 Stat. 1592.

AMENDMENTS

2021—Pub. L. 116-283, §1834(g)(1), (2), (11), transferred subsec. (i) of section 2307 of this title to this section, struck out subsec. (i) designation and heading “Action in Case of Fraud” at beginning, and redesignated par. (10) as subsec. (a), pars. (1) to (7) as subsecs. (b) to (h), respectively, and pars. (9) and (8) as subsecs. (i) and (j), respectively.

Subsec. (a). Pub. L. 116-283, §1834(g)(3), inserted heading and substituted “this section” for “this subsection”.

Subsec. (b). Pub. L. 116-283, §1834(g)(4), inserted heading.

Subsec. (c). Pub. L. 116-283, §1834(g)(5), inserted heading and substituted “subsection (b)” for “paragraph (1)”.

Subsec. (d). Pub. L. 116-283, §1834(g)(6), inserted heading and substituted “subsection (c)” for “paragraph (2)”.

Subsec. (e). Pub. L. 116-283, §1834(g)(7), inserted heading and substituted “subsection (c)” for “paragraph (2)”.

Subsec. (f). Pub. L. 116-283, §1834(g)(8), inserted heading and substituted “subsection (c)” for “paragraph (2)”.

Subsec. (g). Pub. L. 116-283, §1834(g)(9), inserted heading, substituted “subsection (c)” for “paragraph (2)” in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (h). Pub. L. 116-283, §1834(g)(10), inserted heading and substituted “subsection (c)” for “paragraph (2)”.

Subsec. (i). Pub. L. 116-283, §1834(g)(12), inserted heading and substituted “this section” for “this subsection”.

Subsec. (j). Pub. L. 116-283, §1834(g)(13), inserted heading and substituted “section applies” for “subsection applies” and “section 3063” for “section 2303(a)”.

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.

§ 3807. Vesting of title in the United States

If a contract paid by a method authorized under section 3801(1) of this title provides for title to property to vest in the United States, the title to the property shall vest in accordance with the terms of the contract, regardless of any security interest in the property that is asserted before or after the contract is entered into.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1834(a), (h), Jan. 1, 2021, 134 Stat. 4234, 4239.)

CODIFICATION

The text of subsec. (h) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116-283, §1834(h), was based on Pub. L. 105-85, div. A, title VIII, §802(2), Nov. 18, 1997, 111 Stat. 1831.

PRIOR PROVISIONS

Prior sections 3811 to 3813 were repealed by Pub. L. 90-235, §3(a)(2), (b)(1), Jan. 2, 1968, 81 Stat. 757, 758.

Section 3811, act Aug. 10, 1956, ch. 1041, 70A Stat. 220, provided for discharge of enlisted members of Army and limitations thereon, and for issuance of discharge certificates. See section 1169 of this title.

Section 3812, act Aug. 1956, ch. 1041, 70A Stat. 220, provided for the discharge of members of the Army enlisted during war or emergency. See section 1172 of this title.

Section 3813, act Aug. 10, 1956, ch. 1041, 70A Stat. 220, provided for dependency discharges for enlisted members of the Army.

A prior section 3814, act Aug. 10, 1956, ch. 1041, 70A Stat. 220, authorized Secretary of the Army to discharge a regular commissioned officer who has less than three years of continuous service as a commissioned officer therein, provided that such officer not be dismissed because of his marriage, unless marriage occurred within one year after date of his original appointment, prior to repeal by Pub. L. 96-513, title II, §214, title VII, §701, Dec. 12, 1980, 94 Stat. 2885, 2955, effective Sept. 15, 1981. See section 630 of this title.

A prior section 3814a, added Pub. L. 93-558, §1, Dec. 30, 1974, 88 Stat. 1793, related to discharge, during a reduction in force, of regular commissioned officers, second lieutenants, first lieutenants, and captains, expired three years after its effective date, Dec. 30, 1974, in accordance with section 2 of Pub. L. 93-558, and was repealed by Pub. L. 103-337, div. A, title XVI, §§1629(a)(2), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Prior sections 3815 and 3816 were repealed by Pub. L. 90-235, §3(a)(2), (b)(1), Jan. 2, 1968, 81 Stat. 757, 758.

Section 3815, act Aug. 10, 1956, ch. 1041, 70A Stat. 220, provided for resignation of regular enlisted members of Army enlisted on a career basis and limitations thereon.

Section 3816, act Aug. 10, 1956, ch. 1041, 70A Stat. 221, provided for minority discharges for regular enlisted members of Army. See section 1170 of this title.

A prior section 3818, acts Aug. 10, 1956, ch. 1041, 70A Stat. 221; Oct. 20, 1978, Pub. L. 95-485, title VIII, §820(g), 92 Stat. 1627, authorized the Secretary of the Army to terminate appointment of a female commissioned officer of Regular Army, other than by dismissal, under regulations prescribed by President, or to terminate the appointment of a female warrant officer or enlistment of a female member of Regular Army by discharge from the Army, prior to repeal by Pub. L. 96-513, title II, §236, title VII, §701, Dec. 12, 1980, 94 Stat. 2887, 2955, effective Sept. 15, 1981.

Prior sections 3819 and 3820 were repealed by Pub. L. 103-337, div. A, title XVI, §§1629(a)(2), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Section 3819, added Pub. L. 85-861, §1(93)(A), Sept. 2, 1958, 72 Stat. 1482; amended Pub. L. 98-525, title V, §528(b), Oct. 19, 1984, 98 Stat. 2526, related to discharge of Army Reserve officers for failure of promotion to first lieutenant. See section 14503 of this title.

Section 3820, acts Aug. 10, 1956, ch. 1041, 70A Stat. 221; Sept. 2, 1958, Pub. L. 85-861, §1(93)(B), 72 Stat. 1482, related to discharge and withdrawal of Federal recognition of officers of Army National Guard of United States absent without leave. See section 14907 of this title.

AMENDMENTS

2021—Pub. L. 116-283, §1834(h), transferred subsec. (h) of section 2307 of this title to this section, struck out subsec. (h) designation and heading “Vesting of Title in the United States” at beginning, and substituted “section 3801(1) of this title” for “subsection (a)(1)”.