

shall not engage in activities with regard to particular audits that could compromise the independence of the defense audit agency or undermine compliance with applicable audit standards.

(d) DEFENSE AUDIT AGENCY DEFINED.—In this section, the term “defense audit agency” means the Defense Contract Audit Agency and the Defense Contract Management Agency.

(Added Pub. L. 112–239, div. A, title XVI, § 1612(a), Jan. 2, 2013, 126 Stat. 2064, § 204; renumbered § 3848 and amended Pub. L. 116–283, div. A, title XVIII, § 1835(c), (d)(4), Jan. 1, 2021, 134 Stat. 4240.)

PRIOR PROVISIONS

A prior section 3848, added Pub. L. 85–861, § 1(94), Sept. 2, 1958, 72 Stat. 1485; amended Pub. L. 86–559, § 1(26), June 30, 1960, 74 Stat. 272; Pub. L. 90–130, § 1(12)(B), Nov. 8, 1967, 81 Stat. 376; Pub. L. 90–486, § 9(1), Aug. 13, 1968, 82 Stat. 760; Pub. L. 95–485, title VIII, § 820(h), Oct. 20, 1978, 92 Stat. 1627; Pub. L. 96–513, title V, § 512(8), Dec. 12, 1980, 94 Stat. 2929; Pub. L. 99–145, title V, § 522(a)(1), title XIII, § 1303(a)(20)(B), Nov. 8, 1985, 99 Stat. 631, 739; Pub. L. 100–456, div. A, title XII, § 1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve first lieutenants, captains, majors, and lieutenant colonels with 28 years of service, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§ 1629(a)(3), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996. See section 14501 et seq. of this title.

A prior section 3849, added Pub. L. 85–861, § 1(94), Sept. 2, 1958, 72 Stat. 1485, related to separation or transfer to retired reserve of officers in the reserve grade of lieutenant colonel assigned to the Women’s Army Corps upon completion of 28 years of service, prior to repeal by Pub. L. 86–559, § 1(27), June 30, 1960, 74 Stat. 272.

Prior sections 3850 to 3855 were repealed by Pub. L. 103–337, div. A, title XVI, §§ 1629(a)(3), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Section 3850, added Pub. L. 85–861, § 1(94), Sept. 2, 1958, 72 Stat. 1485; amended Pub. L. 104–106, div. A, title XV, § 1501(c)(25), Feb. 10, 1996, 110 Stat. 499, related to transfer or discharge of excessive reserve commissioned officers in active status with thirty or more years of service. See sections 14514 and 14704 of this title.

Section 3851, added Pub. L. 85–861, § 1(94), Sept. 2, 1958, 72 Stat. 1486; amended Pub. L. 86–559, § 1(28), June 30, 1960, 74 Stat. 272; Pub. L. 90–486, § 9(1), Aug. 13, 1968, 82 Stat. 760; Pub. L. 96–513, title V, § 512(8), Dec. 12, 1980, 94 Stat. 2929; Pub. L. 98–525, title V, § 513, Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99–145, title V, § 522(a)(2), title XIII, § 1303(a)(20)(B), Nov. 8, 1985, 99 Stat. 631, 739; Pub. L. 99–661, div. A, title XIII, § 1342(g), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100–456, div. A, title XII, § 1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve colonels and brigadier generals with 30 years of service or five years in grade. See section 14508(a), (e) of this title.

Section 3852, added Pub. L. 85–861, § 1(94), Sept. 2, 1958, 72 Stat. 1486; amended Pub. L. 86–559, § 1(29), June 30, 1960, 74 Stat. 272; Pub. L. 99–145, title V, § 523, title XIII, § 1303(a)(20)(B), Nov. 8, 1985, 99 Stat. 632, 739; Pub. L. 100–456, div. A, title XII, § 1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve major generals with 35 years of service or five years in grade. See section 14508(b), (f) of this title.

Section 3853, added Pub. L. 85–861, § 1(94), Sept. 2, 1958, 72 Stat. 1486; amended Pub. L. 86–559, § 1(30), June 30, 1960, 74 Stat. 273; Pub. L. 86–651, title I, § 115, Sept. 7, 1962, 76 Stat. 513; Pub. L. 96–513, title V, § 512(9), Dec. 12, 1980, 94 Stat. 2929; Pub. L. 98–94, title X, § 1016(a), Sept. 24, 1983, 97 Stat. 668; Pub. L. 103–337, div. A, title XVI, § 1635(a), Oct. 5, 1994, 108 Stat. 2968, related to computation of years of service. See section 14706 of this title.

Section 3854, added Pub. L. 85–861, § 1(94), Sept. 2, 1958, 72 Stat. 1486, authorized Secretary of the Army to prescribe regulations to carry out this chapter.

Section 3855, added Pub. L. 86–559, § 1(31), June 30, 1960, 74 Stat. 273; amended Pub. L. 96–107, title IV, § 403(a), Nov. 9, 1979, 93 Stat. 808; Pub. L. 96–513, title II, § 215(a), Dec. 12, 1980, 94 Stat. 2885; Pub. L. 100–180, div. A, title VII, § 717(a), (d)(1)(A), Dec. 4, 1987, 101 Stat. 1113, 1114; Pub. L. 101–189, div. A, title VII, §§ 710(a), 711(a), Nov. 29, 1989, 103 Stat. 1476, 1477, related to retention in active status of certain reserve officers. See section 14703(a)(1), (b) of this title.

AMENDMENTS

2021—Pub. L. 116–283 renumbered section 204 of this title as this section and substituted “Defense audit agencies: Small Business Ombudsmen” for “Small Business Ombudsman for defense audit agencies” in section catchline.

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.

CHAPTER 281—CLAIMS AND DISPUTES

Sec.

- 3861. Research and development contracts: indemnification provisions.
- 3862. Requests for equitable adjustment or other relief: certification.
- 3863. Retention of amounts collected from contractor during the pendency of contract dispute.

PRIOR PROVISIONS

A prior chapter 281 “CLAIMS AND DISPUTES”, as added by Pub. L. 115–232, div. A, title VIII, § 801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3861, was repealed by Pub. L. 116–283, div. A, title XVIII, § 1836(a), Jan. 1, 2021, 134 Stat. 4241.

§ 3861. Research and development contracts: indemnification provisions

(a) With the approval of the Secretary of the military department concerned, any contract of a military department for research or development, or both, may provide that the United States will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not compensated by insurance or otherwise:

(1) Claims (including reasonable expenses of litigation or settlement) by third persons, including employees of the contractor, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(2) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(b) A contract, made under subsection (a), that provides for indemnification must also provide for—

(1) notice to the United States of any claim or suit against the contractor for the death, bodily injury, or loss of or damage to property; and

(2) control of or assistance in the defense by the United States, at its election, of that suit or claim.

(c) No payment may be made under subsection (a) unless the Secretary of the department con-