

(f) FOLLOW-ON PRODUCTION CONTRACTS OR TRANSACTIONS.—(1) A transaction entered into under this section for a prototype project may provide for the award of a follow-on production contract or transaction to the participants in the transaction. A transaction includes all individual prototype subprojects awarded under the transaction to a consortium of United States industry and academic institutions.

(2) A follow-on production contract or transaction provided for in a transaction under paragraph (1) may be awarded to the participants in the transaction without the use of competitive procedures, notwithstanding the requirements of section 2304 of this title, if—

(A) competitive procedures were used for the selection of parties for participation in the transaction; and

(B) the participants in the transaction successfully completed the prototype project provided for in the transaction.

(3) A follow-on production contract or transaction may be awarded, pursuant to this subsection, when the Department determines that an individual prototype or prototype subproject as part of a consortium is successfully completed by the participants.

(4) Award of a follow-on production contract or transaction pursuant to the terms under this subsection is not contingent upon the successful completion of all activities within a consortium as a condition for an award for follow-on production of a successfully completed prototype or prototype subproject within that consortium.

(5) Contracts and transactions entered into pursuant to this subsection may be awarded using the authority in subsection (a), under the authority of chapter 137 of this title, or under such procedures, terms, and conditions as the Secretary of Defense may establish by regulation.

(g) AUTHORITY TO PROVIDE PROTOTYPES AND FOLLOW-ON PRODUCTION ITEMS AS GOVERNMENT-FURNISHED EQUIPMENT.—An agreement entered into pursuant to the authority of subsection (a) or a follow-on contract or transaction entered into pursuant to the authority of subsection (f) may provide for prototypes or follow-on production items to be provided to another contractor as Government-furnished equipment.

(h) APPLICABILITY OF PROCUREMENT ETHICS REQUIREMENTS.—An agreement entered into under the authority of this section shall be treated as a Federal agency procurement for the purposes of chapter 21 of title 41.

(Added Pub. L. 114-92, div. A, title VIII, §815(a)(1), Nov. 25, 2015, 129 Stat. 893, §2371b; amended Pub. L. 115-91, div. A, title II, §216, title VIII, §864, Dec. 12, 2017, 131 Stat. 1328, 1494; Pub. L. 115-232, div. A, title II, §211, Aug. 13, 2018, 132 Stat. 1674; Pub. L. 116-92, div. A, title XVII, §1731(a)(46), Dec. 20, 2019, 133 Stat. 1814; renumbered §4003 and amended Pub. L. 116-283, div. A, title XVIII, §§1841(b)(1), (2)(C), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4243, 4294.)

AMENDMENTS

2021—Pub. L. 116-283, §1841(b)(1), renumbered section 2371b of this title as this section.

Subsecs. (a)(1), (b)(1), (c)(3)(A). Pub. L. 116-283, §1841(b)(2)(C), substituted “section 4002” for “section 2371”.

Subsec. (e)(1). Pub. L. 116-283, §1883(b)(2), substituted “section 3014” for “section 2302(9)”.

Subsec. (f)(2). Pub. L. 116-283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116-283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to “section 2304”, which was redesignated as multiple sections.

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.

§ 4004. Procurement for experimental purposes

(a) AUTHORITY.—The Secretary of Defense and the Secretaries of the military departments may each buy ordnance, signal, chemical activity, transportation, energy, medical, space-flight, telecommunications, and aeronautical supplies, including parts and accessories, and designs thereof, that the Secretary of Defense or the Secretary concerned considers necessary for experimental or test purposes in the development of the best supplies that are needed for the national defense.

(b) PROCEDURES.—Purchases under this section may be made inside or outside the United States and by contract or otherwise. Chapter 137 of this title applies only when such purchases are made in quantities greater than necessary for experimentation, technical evaluation, assessment of operational utility, or safety or to provide a residual operational capability.

(Added Pub. L. 103-160, div. A, title VIII, §822(c)(1), Nov. 30, 1993, 107 Stat. 1706, §2373; amended Pub. L. 103-337, div. A, title X, §1070(g), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 104-106, div. A, title VIII, §812, Feb. 10, 1996, 110 Stat. 395; Pub. L. 114-92, div. A, title VIII, §814, Nov. 25, 2015, 129 Stat. 893; Pub. L. 115-232, div. A, title VIII, §886, Aug. 13, 2018, 132 Stat. 1916; renumbered §4004, Pub. L. 116-283, div. A, title XVIII, §1841(b)(1), Jan. 1, 2021, 134 Stat. 4243.)

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2373 of this title as this section.

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.

§ 4007. Science and technology programs to be conducted so as to foster the transition of science and technology to higher levels of research, development, test, and evaluation

(a) POLICY.—Each official specified in subsection (b) shall ensure that the management and conduct of the science and technology programs under the authority of that official are carried out in a manner that will foster the transition of science and technology to higher levels of research, development, test, and evaluation.

(b) COVERED OFFICIALS.—Subsection (a) applies to the following officials of the Department of Defense:

(1) The Under Secretary of Defense for Research and Engineering.

(2) The Secretary of each military department.

(3) The Director of the Defense Advanced Research Projects Agency.

(4) The directors and heads of other offices and agencies of the Department of Defense with assigned research, development, test, and evaluation responsibilities.

(Added Pub. L. 106-398, §1 [div. A], title IX, §904(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-225, §2359; amended Pub. L. 116-92, div. A, title IX, §902(55), Dec. 20, 2019, 133 Stat. 1549; renumbered §4007, Pub. L. 116-283, div. A, title XVIII, §1841(c), Jan. 1, 2021, 134 Stat. 4243.)

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2359 of this title as this section.

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.

§ 4008. Merit-based award of grants for research and development

(a) It is the policy of Congress that an agency named in section 2303(a)¹ of this title should not be required by legislation to award a new grant for research, development, test, or evaluation to a non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be awarded through merit-based selection procedures.

(b) A provision of law may not be construed as requiring a new grant to be awarded to a specified non-Federal Government entity unless that provision of law—

(1) specifically refers to this subsection;

(2) specifically identifies the particular non-Federal Government entity involved; and

(3) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in subsection (a).

(c) For purposes of this section, a grant is a new grant unless the work provided for in the grant is a continuation of the work performed by the specified entity under a preceding grant.

(d) This section shall not apply with respect to any grant that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an agency named in section 2303(a)¹ of this title and to report on such matters to the Congress or any agency of the Federal Government.

(Added Pub. L. 103-355, title VII, §7203(a)(2), Oct. 13, 1994, 108 Stat. 3380, §2374; renumbered §4008

¹ Probably refers to section 3063 of this title, but amendment by section 1883(b)(2) of Pub. L. 116-283 was not executed as section 2303(a) was transferred to two different sections.

and amended Pub. L. 116-283, div. A, title XVIII, §§1841(c), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4243, 4294.)

AMENDMENTS

2021—Pub. L. 116-283, §1841(c), renumbered section 2374 of this title as this section.

Subsecs. (a), (d). Pub. L. 116-283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116-283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to “section 2303(a)”, which was redesignated as multiple sections.

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.

§ 4009. Technology protection features activities

(a) ACTIVITIES.—The Secretary of Defense shall carry out activities to develop and incorporate technology protection features in a designated system during the research and development phase of such system.

(b) COST-SHARING.—Any contract for the design or development of a system resulting from activities under subsection (a) for the purpose of enhancing or enabling the exportability of the system, either for the development of program protection strategies for the system or the design and incorporation of exportability features into the system, shall include a cost-sharing provision that requires the contractor to bear half of the cost of such activities, or such other portion of such cost as the Secretary considers appropriate upon showing of good cause.

(c) DEFINITIONS.—In this section:

(1) The term “designated system” means any system (including a major system, as defined in section 3041 of title 10, United States Code) that the Under Secretary of Defense for Acquisition and Sustainment designates for purposes of this section.

(2) The term “technology protection features” means the technical modifications necessary to protect critical program information, including anti-tamper technologies and other systems engineering activities intended to prevent or delay exploitation of critical technologies in a designated system.

(Added Pub. L. 115-232, div. A, title II, §223(a), Aug. 13, 2018, 132 Stat. 1682, §2357; renumbered §4009 and amended Pub. L. 116-283, div. A, title XVIII, §§1841(c), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4243, 4294.)

AMENDMENTS

2021—Pub. L. 116-283, §1841(c), renumbered section 2357 of this title as this section.

Subsec. (c)(1). Pub. L. 116-283, §1883(b)(2), substituted “section 3041” for “section 2302(5)”.

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.