

provisions and in subpar. (A). Former par. (2) redesignated subsec. (b).

Subsec. (a)(3). Pub. L. 117–81, §1701(d)(4), substituted “paragraphs (1) and (2)” for “subparagraphs (A) and (B)” in introductory provisions.

Pub. L. 116–283, §1811(e)(3)(A), (C), (D), as amended by Pub. L. 117–81, §1701(b)(4)(F), redesignated par. (1)(C) as (3), inserted heading, and realigned margin and redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively. Former par. (3) redesignated subsec. (c).

Subsec. (b). Pub. L. 116–283, §1811(e)(2), (4), redesignated subsec. (a)(2) as (b), inserted heading, and substituted “subsection (a)” for “paragraph (1)” in introductory provisions, redesignated subpar. (A) and its cls. (i) and (ii) as par. (1) and subpars. (A) and (B), respectively, and redesignated subpar. (B), its cls. (i) and (ii), and each of their subcls. (I) and (II) as par. (2), subpars. (A) and (B), and cls. (i) and (ii), respectively.

Subsec. (c). Pub. L. 116–283, §1811(e)(2), (5)(A), (B), redesignated subsec. (a)(3) as (c), inserted heading, redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, and realigned margins.

Subsec. (c)(1). Pub. L. 116–283, §1811(e)(5)(A), (C), inserted heading, substituted “paragraph (3)” for “subparagraph (C)” in two places, redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively, and, in subpar. (C) as redesignated, redesignated subcls. (I) to (III) as cls. (i) to (iii), respectively.

Subsec. (c)(2). Pub. L. 116–283, §1811(e)(5)(B), (D), redesignated par. (3)(B) as (2), inserted heading, and substituted “paragraph (1)(C)” for “clause (iii) of subparagraph (A)”.

Subsec. (c)(3). Pub. L. 116–283, §1811(e)(5)(B), (E), redesignated par. (3)(C) as (3), inserted heading, and substituted “section 3403(d)(1)(B)” for “section 2304a(d)(1)(B)” in introductory provisions; redesignated cl. (i) as subpar. (A) and substituted “paragraph (1)(B)” for “clause (ii) of subparagraph (A)”;

and redesignated cl. (ii) and its subcls. (I) and (II) as subpar. (B) and cls. (i) and (ii), respectively, and substituted “subparagraph (A)” for “clause (i)” in introductory provisions, “paragraph (1)(C)” for “clause (iii) of subparagraph (A)” in cl. (i), and “section 3406(c)” for “section 2304c(b)” in cl. (ii).

Subsec. (c)(4). Pub. L. 116–283, §1811(e)(5)(B), (F), redesignated par. (3)(D) as (4), inserted heading, substituted “paragraph (3)” for “subparagraph (C)” in introductory provisions, and redesignated cls. (i) to (iii) as subpars. (A) to (C), respectively.

Subsec. (c)(5). Pub. L. 116–283, §1811(e)(5)(B), (G), redesignated par. (3)(E) as (5), inserted heading, and substituted “Paragraph (3)” for “Subparagraph (C)”.

Subsec. (d). Pub. L. 116–283, §1811(e)(2), (6), redesignated subsec. (a)(4) as (d), inserted heading, substituted “this section” for “this subsection” in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (e). Pub. L. 116–283, §1811(e)(2), (7), redesignated subsec. (a)(5) as (e) and inserted heading.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(b)(4)(F) of Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

Amendment by section 1701(d)(4) of Pub. L. 117–81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116–283 have taken effect, see section 1701(a)(3) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

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 sec-

tion 1801(d) of Pub. L. 116–283, set out as an Effective Date of 2021 Amendment note preceding section 3001 of this title.

PILOT PROGRAM TO USE ALPHA CONTRACTING TEAMS FOR COMPLEX REQUIREMENTS

Pub. L. 116–92, div. A, title VIII, §802, Dec. 20, 2019, 133 Stat. 1483, provided that:

“(a) IN GENERAL.—(1) The Secretary of Defense shall select at least 2, and up to 5, initiatives to participate in a pilot [program] to use teams that, with the advice of expert third parties, focus on the development of complex contract technical requirements for services, with each team focusing on developing achievable technical requirements that are appropriately valued and identifying the most effective acquisition strategy to achieve those requirements.

“(2) The Secretary shall develop metrics for tracking progress of the program at improving quality and acquisition cycle time.

“(b) DEVELOPMENT OF CRITERIA AND INITIATIVES.—(1) Not later than February 1, 2020, the Secretary of Defense shall establish the pilot program and notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of the criteria used to select initiatives and the metrics used to track progress.

“(2) Not later than May 1, 2020, the Secretary shall notify the congressional defense committees of the initiatives selected for the program.

“(3) Not later than December 1, 2020, the Secretary shall brief the congressional defense committees on the progress of the selected initiatives, including the progress of the initiatives at improving quality and acquisition cycle time according to the metrics developed under subsection (a)(2).”

§ 3207. Assessment before contract for acquisition of supplies is entered into

The Secretary of Defense shall ensure that before a contract for the delivery of supplies to the Department of Defense is entered into—

(1) when the appropriate officials of the Department are making an assessment of the most advantageous source for acquisition of the supplies (considering quality, price, delivery, and other factors), there is a review of the availability and cost of each item of supply—

(A) through the supply system of the Department of Defense; and

(B) under standard Government supply contracts, if the item is in a category of supplies defined under regulations of the Secretary of Defense as being potentially available under a standard Government supply contract; and

(2) there is a review of both the procurement history of the item and a description of the item, including, when necessary for an adequate description of the item, a picture, drawing, diagram, or other graphic representation of the item.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1811(f), Jan. 1, 2021, 134 Stat. 4173.)

Editorial Notes

CODIFICATION

The text of subsec. (c) of section 2305 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1811(f)(2), was based on Pub. L. 98–525, title XII, §1213(a), Oct. 19, 1984, 98 Stat. 2591.

PRIOR PROVISIONS

A prior section 3207, act Aug. 10, 1956, ch. 1041, 70A Stat. 173; Pub. L. 85–155, title I, §101(5), Aug. 21, 1957, 71

Stat. 376; Pub. L. 90-130, §1(9)(C), (D), Nov. 8, 1967, 81 Stat. 375, prescribed authorized strength of Army Medical Specialist Corps in commissioned officers on active list of Regular Army, prior to repeal by Pub. L. 96-513, title II, §202, title VII, §701, Dec. 12, 1980, 94 Stat. 2878, 2955, effective Sept. 15, 1981.

AMENDMENTS

2021—Pub. L. 116-283, §1811(f)(2), transferred subsec. (c) of section 2305 of this title to this section and struck out subsec. (c) designation at beginning.

Statutory Notes and Related Subsidiaries

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.

PROCESS FOR ENHANCED SUPPLY CHAIN SCRUTINY

Pub. L. 115-91, div. A, title VIII, §807, Dec. 12, 2017, 131 Stat. 1456, provided that:

“(a) PROCESS.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall establish a process for enhancing scrutiny of acquisition decisions in order to improve the integration of supply chain risk management into the overall acquisition decision cycle.

“(b) ELEMENTS.—The process under subsection (a) shall include the following elements:

“(1) Designation of a senior official responsible for overseeing the development and implementation of the process.

“(2) Development or integration of tools to support commercial due-diligence, business intelligence, or otherwise analyze and monitor commercial activity to understand business relationships with entities determined to be threats to the United States.

“(3) Development of risk profiles of products or services based on commercial due-diligence tools and data services.

“(4) Development of education and training curricula for the acquisition workforce that supports the process.

“(5) Integration, as needed, with intelligence sources to develop threat profiles of entities determined to be threats to the United States.

“(6) Periodic review and assessment of software products and services on computer networks of the Department of Defense to remove prohibited products or services.

“(7) Synchronization of the use of current authorities for making supply chain decisions, including section 806 of Public Law 111-383 (10 U.S.C. 2304 note) or improved use of suspension and debarment officials.

“(8) Coordination with interagency, industrial, and international partners, as appropriate, to share information, develop Government-wide strategies for dealing with significant entities determined to be significant threats to the United States, and effectively use authorities in other departments and agencies to provide consistent, Government-wide approaches to supply chain threats.

“(9) Other matters as the Secretary considers necessary.

“(c) NOTIFICATION.—Not later than 90 days after establishing the process required by subsection (a), the Secretary shall provide a written notification to the Committees on Armed Services of the Senate and House of Representatives that the process has been established. The notification also shall include the following:

“(1) Identification of the official designated under subsection (b)(1).

“(2) Identification of tools and services currently available to the Department of Defense under subsection (b)(2).

“(3) Assessment of additional tools and services available under subsection (b)(2) that the Department of Defense should evaluate.

“(4) Identification of, or recommendations for, any statutory changes needed to improve the effectiveness of the process.

“(5) Projected resource needs for implementing any recommendations made by the Secretary.”

§ 3208. Planning for future competition in contracts for major systems

(a) DEVELOPMENT CONTRACT.—

(1) DETERMINING WHETHER PROPOSALS ARE NECESSARY.—The Secretary of Defense shall ensure that, in preparing a solicitation for the award of a development contract for a major system, the head of an agency consider requiring in the solicitation that an offeror include in its offer proposals described in paragraph (2). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

(2) CONTENTS OF PROPOSALS.—Proposals referred to in the first sentence of paragraph (1) are the following:

(A) Proposals to incorporate in the design of the major system items which are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source.

(B) With respect to items that are likely to be required in substantial quantities during the system's service life, proposals to incorporate in the design of the major system items which the United States will be able to acquire competitively in the future.

(b) PRODUCTION CONTRACT.—

(1) DETERMINING WHETHER PROPOSALS ARE NECESSARY.—The Secretary of Defense shall ensure that, in preparing a solicitation for the award of a production contract for a major system, the head of an agency consider requiring in the solicitation that an offeror include in its offer proposals described in paragraph (2). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

(2) CONTENTS OF PROPOSALS.—Proposals referred to in the first sentence of paragraph (1) are proposals identifying opportunities to ensure that the United States will be able to obtain on a competitive basis items procured in connection with the system that are likely to be reprocurd in substantial quantities during the service life of the system. Proposals submitted in response to such requirement may include the following:

(A) Proposals to provide to the United States the right to use technical data to be