

tenants of Army Reserve assigned to units. See section 14301 et seq. of this title.

Section 3383, added Pub. L. 85-861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1477; amended Pub. L. 86-559, §1(16), June 30, 1960, 74 Stat. 270; Pub. L. 88-620, §2, Oct. 3, 1964, 78 Stat. 999; Pub. L. 90-130, §1(11)(E), Nov. 8, 1967, 81 Stat. 376; Pub. L. 95-485, title VIII, §820(e)(5), Oct. 20, 1978, 92 Stat. 1627, related to promotion of officers of Army Reserve to grades of first lieutenant, captain, major, lieutenant colonel, and colonel to fill vacancies. See section 14301 et seq. of this title.

Section 3384, added Pub. L. 85-861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1477, related to promotion of officers of Army Reserve to grades of brigadier general or major general to fill vacancies. See section 14315 of this title.

Section 3385, added Pub. L. 85-861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1477, related to promotion of officers of Army National Guard of United States upon Federal recognition. See section 14308(f) of this title.

Section 3386, added Pub. L. 85-861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1478, related to promotion of reserve commissioned officers upon release from active duty. See section 14301 et seq. of this title.

Section 3388, added Pub. L. 85-861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1478, related to effect of commissioned officer of Army Reserve entering upon active duty while eligible for promotion. See section 14301 et seq. of this title.

Section 3389, added Pub. L. 85-861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1478; amended Pub. L. 86-559, §1(17), June 30, 1960, 74 Stat. 270, related to promotion of commissioned officers of Army Reserve or Army National Guard of United States to higher reserve grades after temporary appointments. See section 14301 et seq. of this title.

Section 3390, added Pub. L. 85-861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1478; amended Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to procedure for promotion to higher reserve grade of officer of Army National Guard of United States after temporary appointment. See section 14301 et seq. of this title.

A prior section 3391, added Pub. L. 85-861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1479; Pub. L. 86-559, §1(18), June 30, 1960, 74 Stat. 270, prohibited promotion of reserve officers of Army Nurse Corps or Army Medical Specialist Corps to reserve grades above colonel and prohibited promotion of reserve officers of Women's Army Corps to reserve grades above lieutenant colonel, prior to repeal by Pub. L. 90-130, §1(11)(F), Nov. 8, 1967, 81 Stat. 376.

Prior sections 3392 to 3396 were repealed by Pub. L. 103-337, div. A, title XVI, §§1629(a)(1), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Section 3392, added Pub. L. 85-861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1479; amended Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to appointment of adjutants general or assistant adjutants general as reserve officers of Army. See section 12215(a) of this title.

Section 3393, added Pub. L. 85-861, §1(80)(E), Sept. 2, 1958, 72 Stat. 1479, provided that sea or foreign service not be made condition for promotion of reserve commissioned officers in reserve grades.

Section 3394, act Aug. 10, 1956, ch. 1041, 70A Stat. 195, related to acceptance of promotion by officers of Army National Guard of United States or Army Reserve. See section 14309 of this title.

Section 3395, act Aug. 10, 1956, ch. 1041, 70A Stat. 195, related to appointment of reserve officers in time of war. See section 14301 et seq. of this title.

Section 3396, added Pub. L. 96-513, title II, §206(a), Dec. 12, 1980, 94 Stat. 2884, provided that chapter, except section 3353, did not apply to reserve officers on active-duty list.

#### AMENDMENTS

2021—Pub. L. 116-283, §1819(g), redesignated subsecs. (i) and (j) of section 2326 of this title as subsecs. (a) and (b), respectively, of this section and substituted “chap-

ter” for “section” in subsec. (a) and in introductory provisions of subsec. (b).

#### 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.

#### CHAPTER 245—TASK AND DELIVERY ORDER CONTRACTS (MULTIPLE AWARD CONTRACTS)

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|---------------|---|
| Sec.<br>3401. | Task and delivery order contracts: definitions.         |
| 3402.         | [Reserved].   |
| 3403.         | Task and delivery order contracts: general authority.   |
| 3404.         | [Reserved].   |
| 3405.         | Task order contracts: advisory and assistance services. |
| 3406.         | Task and delivery order contracts: orders.              |

#### Editorial Notes

##### PRIOR PROVISIONS

A prior chapter 245 “TASK AND DELIVERY ORDER CONTRACTS (MULTIPLE AWARD CONTRACTS)”, as added by Pub. L. 115-232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, and consisting of reserved section 3401, was repealed by Pub. L. 116-283, div. A, title XVIII, §1820(a), Jan. 1, 2021, 134 Stat. 4191.

##### AMENDMENTS

2021—Pub. L. 117-81, div. A, title XVII, §1701(b)(8)(A), Dec. 27, 2021, 135 Stat. 2133, amended Pub. L. 116-283, div. A, title XVIII, §1820(a), Jan. 1, 2021, 134 Stat. 4191, which added this analysis, by substituting “[Reserved]” for “Guidance on use of task and delivery order contracts” in item 3404.

#### Statutory Notes and Related Subsidiaries

##### PROVISIONS NOT AFFECTED BY PUB. L. 103-355

Pub. L. 103-355, title I, §1004(d), Oct. 13, 1994, 108 Stat. 3253, as amended by Pub. L. 108-136, div. A, title X, §1045(f), Nov. 24, 2003, 117 Stat. 1613, provided that: “Nothing in section 2304a [now 10 U.S.C. 3403], 2304b [now 10 U.S.C. 3405], 2304c [now 10 U.S.C. 3406], or 2304d [now 10 U.S.C. 3401] of title 10, United States Code, as added by subsection (a), and nothing in the amendments made by subsections (b) and (c) [amending former sections 2304 of this title (now 10 U.S.C. 3201 et seq.) and 2331 of this title (now 10 U.S.C. 4507)], shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under chapter 11 of title 40, United States Code.”

#### § 3401. Task and delivery order contracts: definitions

In this chapter:

(1) DELIVERY ORDER CONTRACT.—The term “delivery order contract” means a contract for property—

(A) that does not procure or specify a firm quantity of property (other than a minimum or maximum quantity); and

(B) that provides for the issuance of orders for the delivery of property during the period of the contract.

(2) TASK ORDER CONTRACT.—The term “task order contract” means a contract for services—

(A) that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity); and

(B) that provides for the issuance of orders for the performance of tasks during the period of the contract.

(Added Pub. L. 103-355, title I, §1004(a)(1), Oct. 13, 1994, 108 Stat. 3253, §2304d; renumbered §3401 and amended Pub. L. 116-283, div. A, title XVIII, §1820(b), Jan. 1, 2021, 134 Stat. 4191.)

#### Editorial Notes

##### AMENDMENTS

2021—Pub. L. 116-283, §1820(b)(1), (2), renumbered section 2304d of this title as this section, substituted “In this chapter” for “In sections 2304a, 2304b, and 2304c of this title” in introductory provisions, and reversed order and designations of pars. (1) and (2).

Par. (1). Pub. L. 116-283, §1820(b)(3), inserted heading, inserted dash after “for property”, and reorganized remainder of text of par. (1) into designated subpars. (A) and (B).

Par. (2). Pub. L. 116-283, §1820(b)(4), inserted heading, inserted dash after “for services”, and reorganized remainder of text of par. (2) into designated subpars. (A) and (B).

#### Statutory Notes and Related Subsidiaries

##### 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.

##### EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 8752 of this title.

##### PROVISIONS NOT AFFECTED BY PUB. L. 103-355

This section not to be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under former 40 U.S.C. 759 or chapter 11 of Title 40, Public Buildings, Property, and Works, see section 1004(d) of Pub. L. 103-355, set out as a note preceding this section.

#### § 3403. Task and delivery order contracts: general authority

(a) **AUTHORITY TO AWARD.**—Subject to the requirements of this section, section 3406 of this title, and other applicable law, the head of an agency may enter into a task or delivery order contract (as defined in section 3401 of this title) for procurement of services or property.

(b) **SOLICITATION.**—The solicitation for a task or delivery order contract shall include the following:

(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

(c) **APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES.**—The head of an agency may use procedures other than competitive procedures to enter into a task or delivery order contract under this section only if—

(1) an exception in subsection (a) of section 3204 of this title applies to the contract; and

(2) the use of such procedures is approved in accordance with subsection (e) of such section.

(d) **SINGLE AND MULTIPLE CONTRACT AWARDS.**—

(1) **EXERCISE OF AUTHORITY.**—The head of an agency may exercise the authority provided in this section—

(A) to award a single task or delivery order contract; or

(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

(2) **DETERMINATION NOT REQUIRED.**—No determination under section 3203 of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

(3) **WHEN SINGLE SOURCE AWARDS FOR TASK OR DELIVERY ORDER CONTRACTS EXCEEDING \$100,000,000 ARE ALLOWED.**—(A) Except as provided under subparagraph (B), no task or delivery order contract in an amount estimated to exceed \$100,000,000 (including all options) may be awarded to a single source unless the head of the agency determines in writing that—

(i) the task or delivery orders expected under the contract are so integrally related that only a single source can efficiently perform the work;

(ii) the contract provides only for firm, fixed price task orders or delivery orders for—

(I) products for which unit prices are established in the contract; or

(II) services for which prices are established in the contract for the specific tasks to be performed;

(iii) only one source is qualified and capable of performing the work at a reasonable price to the government; or

(iv) because of exceptional circumstances, it is necessary in the public interest to award the contract to a single source.

(B) A task or delivery order contract in an amount estimated to exceed \$100,000,000 (including all options) may be awarded to a single source without the written determination otherwise required under subparagraph (A) if the head of the agency has made a written determination pursuant to section 3204(a) of this title that procedures other than competitive procedures may be used for the awarding of such contract.

(4) **REGULATIONS.**—The regulations implementing this subsection shall—

(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

(B) establish criteria for determining when award of multiple task or delivery order con-