

were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

(3) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

(4) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under section 3702(b) of this title.

(d) OFFSETS.—

(1) WHEN ALLOWED.—A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by subsection (a) if—

(A) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

(B) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) or, if applicable consistent with subsection (a)(2), another date agreed upon between the parties, and that the data were not submitted as specified in section 3702(c) of this title before such date.

(2) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under paragraph (1) if—

(A) the certification under section 3702(b) of this title with respect to the cost or pricing data involved was known to be false when signed; or

(B) the United States proves that, had the cost or pricing data referred to in paragraph (1)(B) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable consistent with subsection (a)(2), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

(Added and amended Pub. L. 116-283, div. A, title XVIII, § 1831(a), (g), Jan. 1, 2021, 134 Stat. 4209, 4214.)

### Editorial Notes

#### CODIFICATION

The text of subsec. (e) of section 2306a of this title, which was transferred to this section and amended by Pub. L. 116-283, § 1831(g), was based on Pub. L. 99-500, § 101(c) [title X, § 952(a)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-166, and Pub. L. 99-591, § 101(c) [title X, § 952(a)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-166; Pub. L. 99-661, div. A, title IX, formerly title IV, § 952(a), Nov. 14, 1986, 100 Stat. 3945, renumbered title IX, Pub. L. 100-26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103-355, title I, § 1204(1), Oct. 13, 1994, 108 Stat. 3275; Pub. L. 104-106, div. D, title XLIII, § 4321(b)(7)(B), Feb. 10, 1996, 110 Stat. 672. Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 added identical sections. Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

#### AMENDMENTS

2021—Pub. L. 116-283, § 1831(g)(1), transferred subsec. (e) of section 2306a of this title to this section, struck out subsec. (e) designation and heading “Price Reductions for Defective Cost or Pricing Data” at beginning, and redesignated pars. (1) to (4) as subsecs. (a) to (d), respectively.

Subsec. (a). Pub. L. 116-283, § 1831(g)(2), after redesignation of section 2306a(e)(1) of this title as subsec. (a) of this section, inserted subsec. heading, redesignated subpar. (A) as par. (1), inserted heading, and substituted “section 3702(b) of this title” for “subsection (a)(2)”, and redesignated subpar. (B) as par. (2), inserted heading, and substituted “of this chapter” for “of this section”.

Subsec. (b). Pub. L. 116-283, § 1831(g)(3), after redesignation of section 2306a(e)(2) of this title as subsec. (b) of this section, inserted heading and substituted “subsection (a)” for “paragraph (1)”.

Subsec. (c). Pub. L. 116-283, § 1831(g)(4)(A)–(D), after redesignation of section 2306a(e)(3) of this title as subsec. (c) of this section, inserted heading, redesignated subpar. (A), and its cls. (i) and (ii), and subpars. (B) to (D) as par. (1), subpars. (A) and (B), and pars. (2) to (4), respectively, and substituted “subsection (a)” for “paragraph (1)” in introductory provisions.

Subsec. (c)(4). Pub. L. 116-283, § 1831(g)(4)(E), substituted “section 3702(b) of this title” for “subsection (a)(2)”.

Subsec. (d). Pub. L. 116-283, § 1831(g)(5)(A)–(C), after redesignation of section 2306a(e)(4) of this title as subsec. (d) of this section, inserted heading, substituted “subsection (a)” for “paragraph (1)” in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (d)(1). Pub. L. 116-283, § 1831(g)(5)(A), (B), (D), inserted heading, substituted “subsection (a)” for “paragraph (1)” in introductory provisions, and redesignated cls. (i) and (ii) of former section 2306a(e)(4)(A) as subpars. (A) and (B), respectively.

Subsec. (d)(1)(B). Pub. L. 116-283, § 1831(g)(5)(E), substituted “subsection (a)(2)” for “paragraph (1)(B)” and “section 3702(c) of this title” for “subsection (a)(3)”.

Subsec. (d)(2). Pub. L. 116-283, § 1831(g)(5)(F)(i), (ii), substituted “paragraph (1)” for “subparagraph (A)” in introductory provisions and redesignated cls. (i) and (ii) of former section 2306a(e)(4)(B) as subpars. (A) and (B), respectively.

Subsec. (d)(2)(A). Pub. L. 116-283, § 1831(g)(5)(F)(iii), substituted “section 3702(b) of this title” for “subsection (a)(2)”.

Subsec. (d)(2)(B). Pub. L. 116-283, § 1831(g)(5)(F)(iv), substituted “in paragraph (1)(B)” for “in subparagraph (A)(ii)” and “with subsection (a)(2)” for “with paragraph (1)(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.

### § 3707. Interest and penalties for certain overpayments

(a) IN GENERAL.—If the United States makes an overpayment to a contractor under a contract subject to this chapter and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

(1) for interest on the amount of such overpayment, to be computed—

(A) for the period beginning on the date the overpayment was made to the contractor

and ending on the date the contractor repays the amount of such overpayment to the United States; and

(B) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

(2) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

(b) **LIABILITY NOT AFFECTED BY REFUSAL TO SUBMIT CERTIFICATION.**—Any liability under this section of a contractor that submits cost or pricing data but refuses to submit the certification required by section 3702(b) of this title with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1831(a), (h), Jan. 1, 2021, 134 Stat. 4209, 4216; Pub. L. 117-81, div. A, title XVII, §1701(b)(10)(H), Dec. 27, 2021, 135 Stat. 2134.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 6621 of the Internal Revenue Code of 1986, referred to in subsec. (a)(1)(B), is classified to section 6621 of Title 26, Internal Revenue Code.

**CODIFICATION**

The text of subsec. (f) of section 2306a of this title, which was transferred to this section and amended by Pub. L. 116-283, §1831(h), was based on Pub. L. 99-500, §101(c) [title X, §952(a)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-166, and Pub. L. 99-591, §101(c) [title X, §952(a)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-166; Pub. L. 99-661, div. A, title IX, formerly title IV, §952(a), Nov. 14, 1986, 100 Stat. 3945, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100-180, div. A, title VIII, §804(b)(2), Dec. 4, 1987, 101 Stat. 1125; Pub. L. 102-190, div. A, title X, §1061(a)(9), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 103-355, title I, §§1204(1), 1209, Oct. 13, 1994, 108 Stat. 3275, 3277. Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 added identical sections. Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

**AMENDMENTS**

2021—Pub. L. 116-283, §1832(h)(1), transferred subsec. (f) of section 2306a of this title to this section, redesignated it as subsec. (a), and redesignated par. (2) as subsec. (b).

Subsec. (a). Pub. L. 116-283, §1831(h)(2), as amended by Pub. L. 117-81, §1701(b)(10)(H), after redesignation of section 2306a(f) of this title as subsec. (a) of this section, in heading, substituted “In General” for “Interest and Penalties for Certain Overpayments”, in introductory provisions, struck out par. (1) designation at beginning and substituted “this chapter” for “this section”, and redesignated subpar. (A), its cls. (i) and (ii), and subpar. (B) as par. (1), subpars. (A) and (B), and par. (2), respectively.

Subsec. (b). Pub. L. 116-283, §1831(h)(3), as amended by Pub. L. 117-81, §1701(b)(10)(H), after redesignation of section 2306a(f)(2) of this title as subsec. (b) of this section, inserted heading and substituted “this section” for “this subsection” and “section 3702(b) of this title” for “subsection (a)(2)”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by 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.

**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.

**§ 3708. Right to examine contractor records**

For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this chapter, the head of an agency shall have the authority provided by section 3841(b)(2) of this title.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1831(a), (i), Jan. 1, 2021, 134 Stat. 4209, 4216.)

**Editorial Notes**

**CODIFICATION**

The text of subsec. (g) of section 2306a of this title, which was transferred to this section and amended by Pub. L. 116-283, §1831(i), was based on Pub. L. 103-355, title I, §1205, Oct. 13, 1994, 108 Stat. 3276.

**AMENDMENTS**

2021—Pub. L. 116-283, §1831(i), transferred subsec. (g) of section 2306a of this title to this section, struck out subsec. (g) designation and heading “Right of United States To Examine Contractor Records” at beginning, and substituted “this chapter” for “this section” and “section 3841(b)(2)” for “section 2313(a)(2)”.

**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 272—[Reserved]**

Sec.	
3721.	[Reserved].
3722.	[Reserved].
3723.	[Reserved].
3724.	[Reserved].

**Editorial Notes**

**AMENDMENTS**

2021—Pub. L. 117-81, div. A, title XVII, §1701(i)(6), Dec. 27, 2021, 135 Stat. 2141, amended Pub. L. 116-283, div. A, title XVIII, §1831(k), Jan. 1, 2021, 134 Stat. 4217, which added this analysis, by substituting “[Reserved]” for “OTHER PROVISIONS RELATING TO COST OR PRICING DATA” in chapter heading and “[Reserved]” for “Evaluating the reasonableness of price: guidance and training” in item 3721, for “Grants of exceptions to cost or pricing data certification requirements and waivers of cost accounting standards” in item 3722, for “Streamlining awards for innovative technology projects: pilot program” in item 3723, and for “Risk-based contracting for smaller contract actions under Truth in Negotiations Act: pilot program” in item 3724.

**§ 3721. [Reserved]**

(Added Pub. L. 116-283, div. A, title XVIII, §1831(k), Jan. 1, 2021, 134 Stat. 4217; amended