

(3) With respect to qualified incurred cost submissions received on or after the date of the enactment of this section, audit findings shall be issued for an incurred cost audit not later than one year after the date of receipt of such qualified incurred cost submission.

(4) Not later than October 1, 2020, and subject to paragraph (5), if audit findings are not issued within one year after the date of receipt of a qualified incurred cost submission, the audit shall be considered to be complete and no additional audit work shall be conducted.

(5) The Under Secretary of Defense (Comptroller) may waive the requirements of paragraph (4) on a case-by-case basis if the Director of the Defense Contract Audit Agency submits a written request. The Director of the Defense Contract Audit Agency shall include in the report required under section 3847 of this title the total number of waivers issued and the reasons for issuing each such waiver.

(h) REVIEW OF AUDIT PERFORMANCE.—Not later than April 1, 2025, the Comptroller General of the United States shall submit to the congressional defense committees a report that evaluates for the period beginning on October 1, 2019, and ending on August 31, 2023—

(1) the timeliness, individual cost, and quality of incurred cost audits, set forth separately by incurred cost audits performed by the Defense Contract Audit Agency and by qualified private auditors;

(2) the cost to contractors of the Department of Defense for incurred cost audits, set forth separately by incurred cost audits performed by the Defense Contract Audit Agency and by qualified private auditors;

(3) the effect, if any, on other types of audits conducted by the Defense Contract Audit Agency that results from incurred cost audits conducted by qualified private auditors; and

(4) the capability and capacity of qualified private auditors to conduct incurred cost audits for the Department of Defense.

(i) DEFINITIONS.—In this section:

(1) The term “commercial auditor” means a private entity engaged in the business of performing audits.

(2) The term “incurred cost audit” means an audit of charges to the Government by a contractor under a flexibly priced contract.

(3) The term “flexibly priced contract” has the meaning given the term “flexibly-priced contracts and subcontracts” in part 30 of the Federal Acquisition Regulation (section 30.001 of title 48, Code of Federal Regulations).

(4) The term “generally accepted government auditing standards” means the generally accepted government auditing standards of the Comptroller General of the United States.

(5) The term “numeric materiality standard” means a dollar amount of misstatements, including omissions, contained in an incurred cost audit that would be material if the misstatements, individually or in the aggregate, could reasonably be expected to influence the economic decisions of the Government made on the basis of the incurred cost audit.

(6) The term “qualified incurred cost submission” means a submission by a contractor

of costs incurred under a flexibly priced contract that has been qualified by the Department of Defense as sufficient to conduct an incurred cost audit.

(7) The term “qualified private auditor” means a commercial auditor—

(A) that performs audits in accordance with generally accepted government auditing standards; and

(B) that has received a passing peer review rating, as defined by generally accepted government auditing standards.

(Added Pub. L. 115–91, div. A, title VIII, § 803(a), Dec. 12, 2017, 131 Stat. 1451, § 2313b; amended Pub. L. 115–232, div. A, title X, § 1081(a)(19), Aug. 13, 2018, 132 Stat. 1984; Pub. L. 116–92, div. A, title XVII, § 1731(a)(41), Dec. 20, 2019, 133 Stat. 1814; renumbered § 3842 and amended Pub. L. 116–283, div. A, title XVIII, § 1835(c), (d)(1), Jan. 1, 2021, 134 Stat. 4240.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (b)(1)(E)(i) and (g)(3), is the date of enactment of Pub. L. 115–91, which was approved Dec. 12, 2017.

Section 809 of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsec. (f)(2), is section 809 of Pub. L. 114–92, div. A, title VIII, Nov. 25, 2015, 129 Stat. 889, which relates to the establishment of an advisory panel on streamlining acquisition regulations and is not classified to the Code.

PRIOR PROVISIONS

A prior section 3842, added Pub. L. 85–861, § 1(94), Sept. 2, 1958, 72 Stat. 1483, related to separation or transfer to Retired Reserve of Reserve nurses and medical specialists at age 55 if in a reserve grade above captain, prior to repeal by Pub. L. 86–559, § 1(22), June 30, 1960, 74 Stat. 271.

AMENDMENTS

2021—Pub. L. 116–283, § 1835(c), renumbered section 2313b of this title as this section.

Subsec. (g)(5). Pub. L. 116–283, § 1835(d)(1), substituted “section 3847” for “section 2313a”.

2019—Subsec. (d)(1), (2). Pub. L. 116–92 substituted “a task order” for “an task order”.

2018—Subsec. (b)(1)(E). Pub. L. 115–232 redesignated cls. (A) and (B) as (i) and (ii), respectively.

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.

§ 3843. [Reserved]

(Added Pub. L. 116–283, div. A, title XVIII, § 1835(e)(1), Jan. 1, 2021, 134 Stat. 4241; amended Pub. L. 117–81, div. A, title XVII, § 1701(i)(7)(B)(i), Dec. 27, 2021, 135 Stat. 2142.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3843, added Pub. L. 85–861, § 1(94), Sept. 2, 1958, 72 Stat. 1483; amended Pub. L. 86–559, § 1(23), June 30, 1960, 74 Stat. 271; Pub. L. 99–145, title XIII,

§1303(a)(20)(A), Nov. 8, 1985, 99 Stat. 739, related to transfer or discharge of reserve commissioned officers below grade of major general, 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 sections 14509 and 14510 of this title.

AMENDMENTS

2021—Pub. L. 117-81, §1701(i)(7)(B)(i), amended Pub. L. 116-283, §1835(e)(1), which enacted this section, by adding section 3843 designation and catchline “[Reserved]” and striking out former section 3843 designation and catchline “Contractor internal audit reports: Department of Defense access to, use of, and safeguards and protections for”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116-283 by Pub. L. 117-81, resulting in omission of this section, 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 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.

§ 3844. [Reserved]

(Added Pub. L. 116-283, div. A, title XVIII, §1835(e)(1), Jan. 1, 2021, 134 Stat. 4241; amended Pub. L. 117-81, div. A, title XVII, §1701(i)(7)(B)(i), Dec. 27, 2021, 135 Stat. 2142.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3844, added Pub. L. 85-861, §1(94), Sept. 2, 1958, 72 Stat. 1484; amended Pub. L. 86-559, §1(24), June 30, 1960, 74 Stat. 271, related to transfer or discharge of certain reserve major generals and brigadier generals who are 62 years old, 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 14511 of this title.

AMENDMENTS

2021—Pub. L. 117-81, §1701(i)(7)(B)(i), amended Pub. L. 116-283, §1835(e)(1), which enacted this section, by adding section 3844 designation and catchline “[Reserved]” and striking out former section 3844 designation and catchline “Contractor business systems”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116-283 by Pub. L. 117-81, resulting in omission of this section, 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 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.

§ 3845. Contractor inventory accounting systems: standards

(a) The Secretary of Defense shall prescribe in regulations—

(1) standards for inventory accounting systems used by contractors under contract with the Department of Defense; and

(2) appropriate enforcement requirements with respect to such standards.

(b) The regulations prescribed pursuant to subsection (a) shall not apply to a contract that is for an amount not greater than the simplified acquisition threshold.

(c) The regulations prescribed pursuant to subsection (a) shall not apply to a contract for the purchase of commercial products.

(Added Pub. L. 100-456, div. A, title VIII, §834(a)(1), Sept. 29, 1988, 102 Stat. 2024, §2410b; amended Pub. L. 103-355, title IV, §4102(h), title VIII, §8105(i), Oct. 13, 1994, 108 Stat. 3341, 3393; Pub. L. 104-106, div. D, title XLIII, §4301(a)(1), Feb. 10, 1996, 110 Stat. 656; Pub. L. 104-201, div. A, title X, §1074(b)(3), Sept. 23, 1996, 110 Stat. 2660; Pub. L. 111-350, §5(b)(28), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 115-232, div. A, title VIII, §836(e)(6), Aug. 13, 2018, 132 Stat. 1870; renumbered §3845 and amended Pub. L. 116-283, div. A, title XVIII, §1835(c), (d)(2), Jan. 1, 2021, 134 Stat. 4240.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3845, added Pub. L. 85-861, §1(94), Sept. 2, 1958, 72 Stat. 1484; amended Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of certain officers of Army National Guard of United States who are 64 years of age, prior to repeal 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 14512(a) of this title.

AMENDMENTS

2021—Pub. L. 116-283, §1835(c), renumbered section 2410b of this title as this section.

Subsec. (c). Pub. L. 116-283, §1835(d)(2), struck out “(as defined in section 103 of title 41)” after “commercial products”.

2018—Subsec. (c). Pub. L. 115-232 substituted “commercial products” for “commercial items”.

2011—Subsec. (c). Pub. L. 111-350 substituted “section 103 of title 41” for “section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))”.

1996—Subsec. (a)(2). Pub. L. 104-106, as amended by Pub. L. 104-201, struck out “certification and” after “appropriate”.

1994—Subsecs. (a), (b). Pub. L. 103-355, §4102(h), designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (c). Pub. L. 103-355, §8105(i), added subsec. (c).

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 OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 2220 of this title.