

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 8752 of this title.

REGULATIONS

Pub. L. 100-456, div. A, title VIII, §834(b), Sept. 29, 1988, 102 Stat. 2025, provided that:

“(1) The Secretary of Defense shall prescribe the regulations required by paragraph (1) of section 2410b of title 10, United States Code [now 10 U.S.C. 3845(a)(1)], as added by subsection (a), not later than 30 days after the date of the enactment of this Act [Sept. 29, 1988].

“(2) The Secretary of Defense shall prescribe the regulations required by paragraph (2) of section 2410b of title 10, United States Code [now 10 U.S.C. 3845(a)(2)], as added by subsection (a), not later than 180 days after the date of the enactment of this Act.”

§ 3846. [Reserved]

(Added Pub. L. 116-283, div. A, title XVIII, §1835(e)(2), Jan. 1, 2021, 134 Stat. 4241; amended Pub. L. 117-81, div. A, title XVII, §1701(i)(7)(B)(ii), Dec. 27, 2021, 135 Stat. 2142.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3846, added Pub. L. 85-861, §1(94), Sept. 2, 1958, 72 Stat. 1484, related to transfer or discharge of reserve first lieutenants, captains, and majors not recommended for promotion by two selection boards, 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 14501 et seq. of this title.

AMENDMENTS

2021—Pub. L. 117-81, §1701(i)(7)(B)(ii), amended Pub. L. 116-283, §1835(e)(1), which enacted this section, by adding section 3846 designation and catchline “[Reserved]” and striking out former section 3846 designation and catchline “Defense Contract Audit Agency: legal resources and expertise”.

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.

§ 3847. Defense Contract Audit Agency: annual report

(a) **REQUIRED REPORT.**—The Director of the Defense Contract Audit Agency shall prepare an annual report of the activities of the Agency during the previous fiscal year. The report shall include, at a minimum—

(1) a description of significant problems, abuses, and deficiencies encountered during the conduct of contractor audits;

(2) statistical tables showing—

(A) the total number and dollar value of audit reports completed and pending, set forth separately by type of audit;

(B) the priority given to each type of audit;

(C) the length of time taken for each type of audit, both from the date of receipt of a qualified incurred cost submission and from the date the audit begins;

(D) the sustained questioned costs, set forth separately by type of audit, both as a total value and as a percentage of the total questioned costs for the audit;

(E) the total number and dollar value of incurred cost audits completed, and the method by which such incurred cost audits were completed;

(F) the aggregate cost of performing audits, set forth separately by type of audit;

(G) the ratio of sustained questioned costs to the aggregate costs of performing audits, set forth separately by type of audit; and

(H) the total number and dollar value of audits that are pending for a period longer than one year as of the end of the fiscal year covered by the report, and the fiscal year in which the qualified submission was received, set forth separately by type of audit;

(3) a summary of any recommendations of actions or resources needed to improve the audit process;

(4) a summary, set forth separately by dollar amount and percentage, of indirect costs for independent research and development incurred by contractors in the previous fiscal year;

(5) a summary, set forth separately by dollar amount and percentage, of indirect costs for bid and proposal costs incurred by contractors in the previous fiscal year;

(6) a description of outreach actions toward industry to promote more effective use of audit resources; and

(7) any other matters the Director considers appropriate.

(b) **SUBMISSION OF ANNUAL REPORT.**—Not later than March 30 of each year, the Director shall submit to the congressional defense committees the report required by subsection (a).

(c) **PUBLIC AVAILABILITY.**—Not later than 60 days after the submission of an annual report to the congressional defense committees under subsection (b), the Director shall make the report available on the publicly available website of the Agency or such other publicly available website as the Director considers appropriate.

(d) **DEFINITIONS.**—

(1) The terms “incurred cost audit” and “qualified incurred cost submission” have the meaning given those terms in section 3842 of this title.

(2) The term “sustained questioned costs” means questioned costs that were recovered by the Federal Government as a result of contract negotiations related to such questioned costs.

(Added Pub. L. 112-81, div. A, title VIII, §805(a), Dec. 31, 2011, 125 Stat. 1486, §2313a; amended Pub. L. 114-92, div. A, title VIII, §893(b), Nov. 25, 2015, 129 Stat. 952; Pub. L. 114-328, div. A, title VIII, §824(d)(1), Dec. 23, 2016, 130 Stat. 2279; Pub. L. 115-91, div. A, title VIII, §811(d)(1), title X, §1081(d)(5), Dec. 12, 2017, 131 Stat. 1460, 1600; re-

numbered § 3847 and amended Pub. L. 116-283, div. A, title XVIII, § 1835(c), (d)(3), Jan. 1, 2021, 134 Stat. 4240.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3847, added Pub. L. 85-861, § 1(94), Sept. 2, 1958, 72 Stat. 1484; Pub. L. 86-559, § 1(25), June 30, 1960, 74 Stat. 272, provided for transfer to Retired Reserve or discharge from his reserve appointment, after July 1, 1960, of each officer in a reserve grade below lieutenant colonel with 25 years service assigned to Army Nurse Corps, Army Medical Specialist Corps, or Women's Army Corps who had not been recommended for promotion to reserve grade of lieutenant colonel or who has not remained on active duty since such a recommendation, prior to repeal by Pub. L. 90-130, § 1(12)(A), Nov. 8, 1967, 81 Stat. 376.

AMENDMENTS

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

Subsec. (d)(1). Pub. L. 116-283, § 1835(d)(3), substituted “section 3842” for “section 2313b”.

2017—Subsec. (a)(2)(A). Pub. L. 115-91, § 811(d)(1)(A)(i), inserted “and dollar value” after “number” and “, set forth separately by type of audit” after “pending”.

Subsec. (a)(2)(C). Pub. L. 115-91, § 811(d)(1)(A)(ii), inserted “, both from the date of receipt of a qualified incurred cost submission and from the date the audit begins” after “audit”.

Subsec. (a)(2)(D). Pub. L. 115-91, § 811(d)(1)(A)(iii), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “the total costs of sustained or recovered costs both as a total number and as a percentage of questioned costs; and”.

Subsec. (a)(2)(E) to (H). Pub. L. 115-91, § 811(d)(1)(A)(iv), (v), added subpars. (E) to (H) and struck out former subpar. (E) which read as follows: “an assessment of the number and types of audits pending for a period longer than allowed pursuant to guidance of the Defense Contract Audit Agency;”.

Subsec. (a)(4), (5). Pub. L. 115-91, § 1081(d)(5), amended Pub. L. 114-328, § 824(d)(1)(B). See 2016 Amendment note below.

Subsec. (d). Pub. L. 115-91, § 811(d)(1)(B), added subsec. (d).

2016—Subsec. (a)(4), (5). Pub. L. 114-328, § 824(d)(1)(B), as amended by Pub. L. 115-91, § 1081(d)(5), added pars. (4) and (5). Former pars. (4) and (5) redesignated (6) and (7), respectively.

Subsec. (a)(6), (7). Pub. L. 114-328, § 824(d)(1)(A), redesignated pars. (4) and (5) as (6) and (7), respectively.

2015—Subsec. (a)(2)(D). Pub. L. 114-92, § 893(b)(1), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs); and”.

Subsec. (a)(4), (5). Pub. L. 114-92, § 893(b)(2)–(4), added par. (4) and redesignated former par. (4) as (5).

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 2017 AMENDMENT

Pub. L. 115-91, div. A, title X, § 1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(5) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114-328 as enacted.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title VIII, § 824(d)(2), Dec. 23, 2016, 130 Stat. 2279, provided that: “The amendments

made by this subsection [amending this section] shall take effect on October 1, 2018.”

§ 3848. Defense audit agencies: Small Business Ombudsmen

(a) SMALL BUSINESS OMBUDSMAN.—The Secretary of Defense shall designate within each defense audit agency an official as the Small Business Ombudsman to have the duties described in subsection (b) and such other responsibilities as may be determined by the Secretary.

(b) DUTIES.—The Small Business Ombudsman of a defense audit agency shall—

(1) advise the Director of the defense audit agency on policy issues related to small business concerns;

(2) serve as the defense audit agency's primary point of contact and source of information for small business concerns;

(3) collect and monitor relevant data regarding the defense audit agency's conduct of audits of small business concerns, including—

(A) data regarding the timeliness of audit closeouts for small business concerns; and

(B) data regarding the responsiveness of the defense audit agency to issues or other matters raised by small business concerns; and

(4) make recommendations to the Director regarding policies, processes, and procedures related to the timeliness of audits of small business concerns and the responsiveness of the defense audit agency to issues or other matters raised by small business concerns.

(c) AUDIT INDEPENDENCE.—The Small Business Ombudsman of a defense audit agency shall be segregated from ongoing audits in the field and shall not engage in activities with regard to particular audits that could compromise the independence of the defense audit agency or undermine compliance with applicable audit standards.

(d) DEFENSE AUDIT AGENCY DEFINED.—In this section, the term “defense audit agency” means the Defense Contract Audit Agency and the Defense Contract Management Agency.

(Added Pub. L. 112-239, div. A, title XVI, § 1612(a), Jan. 2, 2013, 126 Stat. 2064, § 204; renumbered § 3848 and amended Pub. L. 116-283, div. A, title XVIII, § 1835(c), (d)(4), Jan. 1, 2021, 134 Stat. 4240.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3848, added Pub. L. 85-861, § 1(94), Sept. 2, 1958, 72 Stat. 1485; amended Pub. L. 86-559, § 1(26), June 30, 1960, 74 Stat. 272; Pub. L. 90-130, § 1(12)(B), Nov. 8, 1967, 81 Stat. 376; Pub. L. 90-486, § 9(1), Aug. 13, 1968, 82 Stat. 760; Pub. L. 95-485, title VIII, § 820(h), Oct. 20, 1978, 92 Stat. 1627; Pub. L. 96-513, title V, § 512(8), Dec. 12, 1980, 94 Stat. 2929; Pub. L. 99-145, title V, § 522(a)(1), title XIII, § 1303(a)(20)(B), Nov. 8, 1985, 99 Stat. 631, 739; Pub. L. 100-456, div. A, title XII, § 1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve first lieutenants, captains, majors, and lieutenant colonels with 28 years of service, 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 14501 et seq. of this title.

A prior section 3849, added Pub. L. 85-861, § 1(94), Sept. 2, 1958, 72 Stat. 1485, related to separation or transfer to