

tion before “small business”, and struck out par. (2) which read as follows: “entities described in subsection (a)(1) of section 2323 of this title in furtherance of the goal specified in that subsection.”

1996—Pub. L. 104-106 renumbered section 2304a of this title as this section.

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 note below.

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

Pub. L. 103-160, div. A, title VIII, §848(b), Nov. 30, 1993, 107 Stat. 1725, provided that: “Section 2304a of title 10, United States Code [now 10 U.S.C. 3901], as added by subsection (a), shall take effect on the date of the enactment of this Act [Nov. 30, 1993].”

§ 3902. Credit for Indian contracting in meeting certain subcontracting goals for small disadvantaged businesses

(a) REGULATIONS.—Subject to subsections (b) and (c), in any case in which a subcontracting goal is specified in a Department of Defense contract in the implementation of section 8(d) of the Small Business Act (15 U.S.C. 637(d)), credit toward meeting that subcontracting goal shall be given for—

(1) work performed in connection with that Department of Defense contract, and work performed in connection with any subcontract awarded under that Department of Defense contract, if such work is performed on any Indian lands and meets the requirements of paragraph (1) of subsection (b); or

(2) work performed in connection with that Department of Defense contract, and work performed in connection with any subcontract awarded under that Department of Defense contract, if the performance of such contract or subcontract is undertaken as a joint venture that meets the requirements of paragraph (2) of that subsection.

(b) ELIGIBLE WORK.—(1) Work performed on Indian lands meets the requirements of this paragraph if—

(A) not less than 40 percent of the workers directly engaged in the performance of the work are Indians; or

(B) the contractor or subcontractor has an agreement with the tribal government having jurisdiction over such Indian lands that provides goals for training and development of the Indian workforce and Indian management.

(2) A joint venture undertaking to perform a contract or subcontract meets the requirements of this paragraph if—

(A) an Indian tribe or tribally owned corporation owns at least 50 percent of the joint venture;

(B) the activities of the joint venture under the contract or subcontract provide employ-

ment opportunities for Indians either directly or through the purchase of products or services for the performance of such contract or subcontract; and

(C) the Indian tribe or tribally owned corporation manages the performance of such contract or subcontract.

(c) EXTENT OF CREDIT.—The amount of the credit given toward the attainment of any subcontracting goal under subsection (a) shall be—

(1) in the case of work performed as described in subsection (a)(1), the value of the work performed; and

(2) in the case of a contract or subcontract undertaken to be performed by a joint venture as described in subsection (a)(2), an amount equal to the amount of the contract or subcontract multiplied by the percentage of the tribe’s or tribally owned corporation’s ownership interest in the joint venture.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the implementation of this section.

(e) DEFINITIONS.—In this section:

(1) The term “Indian lands” has the meaning given that term by section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).

(2) The term “Indian” has the meaning given that term by section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(d)).

(3) The term “Indian tribe” has the meaning given that term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

(4) The term “tribally owned corporation” means a corporation owned entirely by an Indian tribe.

(Added Pub. L. 102-484, div. A, title VIII, §801(g)(1), Oct. 23, 1992, 106 Stat. 2445, §2323a; amended Pub. L. 104-201, div. A, title X, §1074(a)(13), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 115-232, div. A, title VIII, §812(a)(2)(C)(vii), Aug. 13, 2018, 132 Stat. 1847; Pub. L. 116-92, div. A, title XVII, §1731(a)(39)(B), Dec. 20, 2019, 133 Stat. 1814; renumbered §3902, Pub. L. 116-283, div. A, title XVIII, §1838(b), Jan. 1, 2021, 134 Stat. 4242; Pub. L. 117-81, div. A, title XVII, §1701(v)(2)(A), Dec. 27, 2021, 135 Stat. 2154.)

Editorial Notes

CODIFICATION

Section, as added by Pub. L. 102-484, consists of text of Pub. L. 101-189, div. A, title VIII, §832, Nov. 29, 1989, 103 Stat. 1508, revised by Pub. L. 102-484 by substituting “section 2323 of this title” for “section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)” in subsec. (a). Section 832 of Pub. L. 101-189, which was formerly set out as a note under section 2301 of this title, was repealed by Pub. L. 102-484, div. A, title VIII, §801(h)(5), Oct. 23, 1992, 106 Stat. 2445.

AMENDMENTS

2021—Pub. L. 116-283, §1838(b), as amended by Pub. L. 117-81, §1701(v)(2)(A), renumbered section 2323a of this title as this section.

2019—Pub. L. 116-92, §1731(a)(39)(B)(i), struck out “and certain institutions of higher education” after “businesses” in section catchline.

Subsec. (e)(1). Pub. L. 116-92, § 1731(a)(39)(B)(ii)(I), struck out “102 Stat. 2468;” before “25 U.S.C. 2703(4).”

Subsec. (e)(2). Pub. L. 116-92, § 1731(a)(39)(B)(ii)(II), substituted “(25 U.S.C. 5304(d))” for “(25 U.S.C. 450b(d))”.

Subsec. (e)(3). Pub. L. 116-92, § 1731(a)(39)(B)(ii)(III), substituted “(25 U.S.C. 5304(e))” for “(25 U.S.C. 450b(e))”.

2018—Subsec. (a). Pub. L. 115-232 struck out “section 2323 of this title and” after “implementation of”.

1996—Subsec. (a). Pub. L. 104-201, which directed amendment of subsec. (a) by substituting “section 2323 of this title” for “section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)”, could not be executed because the language “section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)” did not appear. See Codification note above.

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 note below.

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.

§ 3903. Subcontracting plans: credit for certain purchases

(a) PURCHASES BENEFITING SEVERELY HANDICAPPED PERSONS.—In the case of a business concern that has negotiated a small business subcontracting plan with a military department or a Defense Agency, purchases made by that business concern from qualified nonprofit agencies for the blind or other severely handicapped shall count toward meeting the subcontracting goal provided in that plan.

(b) DEFINITIONS.—In this section:

(1) The term “small business subcontracting plan” means a plan negotiated pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) that establishes a goal for the participation of small business concerns as subcontractors under a contract.

(2) The term “qualified nonprofit agency for the blind or other severely handicapped” means—

(A) a qualified nonprofit agency for the blind, as defined in section 8501(7) of title 41;

(B) a qualified nonprofit agency for other severely disabled, as defined in section 8501(6) of title 41; and

(C) a central nonprofit agency designated by the Committee for Purchase from People Who Are Blind or Severely Disabled under section 8503(c) of title 41.

(Added Pub. L. 102-484, div. A, title VIII, § 808(b)(1), Oct. 23, 1992, 106 Stat. 2449, § 2410d; amended Pub. L. 103-337, div. A, title VIII, § 804, Oct. 5, 1994, 108 Stat. 2815; Pub. L. 104-106, div. D, title XLIII, § 4321(b)(15), Feb. 10, 1996, 110 Stat. 673; Pub. L. 105-85, div. A, title VIII, § 835, Nov. 18, 1997, 111 Stat. 1843; Pub. L. 106-65, div. A, title VIII, § 807, Oct. 5, 1999, 113 Stat. 705; Pub. L. 111-350, § 5(b)(29), Jan. 4, 2011, 124 Stat. 3845; renumbered § 3903, Pub. L. 116-283, div. A, title

XVIII, § 1838(b), Jan. 1, 2021, 134 Stat. 4242; Pub. L. 117-81, div. A, title XVII, § 1701(v)(2)(A), Dec. 27, 2021, 135 Stat. 2154.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, § 1838(b), as amended by Pub. L. 117-81, § 1701(v)(2)(A), renumbered section 2410d of this title as this section.

2011—Subsec. (b)(2)(A). Pub. L. 111-350, § 5(b)(29)(A), substituted “section 8501(7) of title 41” for “section 5(3) of the Javits-Wagner-O’Day Act (41 U.S.C. 48b(3))”.

Subsec. (b)(2)(B). Pub. L. 111-350, § 5(b)(29)(B), substituted “disabled, as defined in section 8501(6) of title 41” for “handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4))”.

Subsec. (b)(2)(C). Pub. L. 111-350, § 5(b)(29)(C), substituted “section 8503(c) of title 41” for “section 2(c) of such Act (41 U.S.C. 47(c))”.

1999—Subsec. (c). Pub. L. 106-65 struck out heading and text of subsec. (c). Text read as follows: “Subsection (a) shall cease to be effective at the end of September 30, 1999.”

1997—Subsec. (c). Pub. L. 105-85 substituted “September 30, 1999” for “September 30, 1997”.

1996—Subsec. (b)(3). Pub. L. 104-106 struck out par. (3) which read as follows: “The term ‘Javits-Wagner-O’Day Act’ means the Act entitled ‘An Act to create a Committee on Purchases of Blind-made Products, and for other purposes’, approved June 25, 1938 (41 U.S.C. 46-48c), commonly referred to as the Wagner-O’Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O’Day Act.”

1994—Subsec. (b)(2)(C). Pub. L. 103-337, § 804(1)(A), added subpar. (C).

Subsec. (b)(3), (4). Pub. L. 103-337, § 804(1)(B), (C), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “The terms ‘approved commodity’ and ‘approved service’ mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of such Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.”

Subsec. (c). Pub. L. 103-337, § 804(2), substituted “September 30, 1997” for “September 30, 1994”.

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 note below.

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 1997 AMENDMENT

Pub. L. 105-85, div. A, title VIII, § 835, Nov. 18, 1997, 111 Stat. 1843, provided that the amendment made by that section is effective as of Sept. 30, 1997.

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.

EFFECTIVE DATE

Pub. L. 102-484, div. A, title VIII, § 808(c), Oct. 23, 1992, 106 Stat. 2450, provided that: “Sections 2301(d) [repealed] and 2410d [now 10 U.S.C. 3903] of title 10, United States Code (as added by subsections (a) and (b), respectively), shall take effect on October 1, 1993.”