

CONTRACT PARTICIPATION BY AGENCIES FOR THE BLIND
OR OTHER SEVERELY HANDICAPPED

Pub. L. 108-87, title VIII, §8025, Sept. 30, 2003, 117 Stat. 1077, as amended by Pub. L. 113-291, div. A, title X, §1071(b)(6), Dec. 19, 2014, 128 Stat. 3507, provided that:

“(a) Of the funds for the procurement of supplies or services appropriated by this Act [see Tables for classification] and hereafter, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

“(b) During the current fiscal year and hereafter, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

“(c) For the purpose of this section, the phrase ‘qualified nonprofit agency for the blind or other severely handicapped’ means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under chapter 85 of title 41, United States Code.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107-248, title VIII, §8025, Oct. 23, 2002, 116 Stat. 1542.

Pub. L. 107-117, div. A, title VIII, §8028, Jan. 10, 2002, 115 Stat. 2253.

Pub. L. 106-259, title VIII, §8028, Aug. 9, 2000, 114 Stat. 680.

Pub. L. 106-79, title VIII, §8030, Oct. 25, 1999, 113 Stat. 1237.

Pub. L. 105-262, title VIII, §8030, Oct. 17, 1998, 112 Stat. 2303.

Pub. L. 105-56, title VIII, §8031, Oct. 8, 1997, 111 Stat. 1226.

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8033], Sept. 30, 1996, 110 Stat. 3009-71, 3009-95.

Pub. L. 104-61, title VIII, §8042, Dec. 1, 1995, 109 Stat. 660.

Pub. L. 103-335, title VIII, §8048, Sept. 30, 1994, 108 Stat. 2628.

Pub. L. 103-139, title VIII, §8055, Nov. 11, 1993, 107 Stat. 1452.

Pub. L. 102-396, title IX, §9077, Oct. 6, 1992, 106 Stat. 1918.

Pub. L. 102-172, title VIII, §8082, Nov. 26, 1991, 105 Stat. 1190.

Pub. L. 101-511, title VIII, §8117, Nov. 5, 1990, 104 Stat. 1905.

[§ 3904. Omitted]

Editorial Notes

CODIFICATION

Pub. L. 116-283, div. A, title XVIII, §1838(b), Jan. 1, 2021, 134 Stat. 4242, initially transferred section 2362 of this title to this section, to become effective Jan. 1, 2022. Subsequently, Pub. L. 117-81, div. A, title XVII, §1701(v)(2)(A), Dec. 27, 2021, 135 Stat. 2154, amended section 1838(b) of Pub. L. 116-283, effective as if included therein, by striking out the directive to make the transfer, thereby omitting this section before it took effect. Another amendment by Pub. L. 117-81 resulted in the transfer of section 2362 to section 4144 of this title.

§ 3905. Products of Federal Prison Industries: procedural requirements

(a) PRODUCTS FOR WHICH FEDERAL PRISON INDUSTRIES DOES NOT HAVE SIGNIFICANT MARKET

SHARE.—(1) Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18 for which Federal Prison Industries does not have a significant market share, the Secretary of Defense shall conduct market research to determine whether the product is comparable to products available from the private sector that best meet the needs of the Department in terms of price, quality, and time of delivery.

(2) If the Secretary determines that a Federal Prison Industries product described in paragraph (1) is not comparable in price, quality, or time of delivery to products of the private sector that best meets the needs of the Department in terms of price, quality, and time of delivery, the Secretary shall use competitive procedures for the procurement of the product, or shall make an individual purchase under a multiple award contract in accordance with the competition requirements applicable to such contract. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries.

(b) PRODUCTS FOR WHICH FEDERAL PRISON INDUSTRIES HAS SIGNIFICANT MARKET SHARE.—(1) The Secretary of Defense may purchase a product listed in the latest edition of the Federal Prison Industries catalog for which Federal Prison Industries has a significant market share only if the Secretary uses competitive procedures for the procurement of the product or makes an individual purchase under a multiple award contract in accordance with the competition requirements applicable to such contract. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries.

(2) For purposes of this subsection, Federal Prison Industries shall be treated as having a significant share of the market for a product if the Secretary, in consultation with the Administrator of Federal Procurement Policy, determines that the Federal Prison Industries share of the Department of Defense market for the category of products including such product is greater than 5 percent.

(c) IMPLEMENTATION BY SECRETARY OF DEFENSE.—The Secretary of Defense shall ensure that—

(1) the Department of Defense does not purchase a Federal Prison Industries product or service unless a contracting officer of the Department determines that the product or service is comparable to products or services available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery; and

(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the Department of Defense.

(d) MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.