

title 5, United States Code, or which would otherwise be prohibited from disclosure under section 1832 or 1905 of title 18, United States Code.”

CHAPTER 305—UNIVERSITIES

- Sec.
4141. Award of grants and contracts to colleges and universities: requirement of competition.
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Editorial Notes

CODIFICATION

Pub. L. 116-283, div. A, title XVIII, §1843(a), Jan. 1, 2021, 134 Stat. 4244, initially enacted chapter 305 of this title, consisting of sections 4103, 4111, and 4112, which was to become effective Jan. 1, 2022. However, Pub. L. 117-81, div. A, title XVII, §1701(u)(4)(A), (5)(A), Dec. 27, 2021, 135 Stat. 2153, repealed section 1843(a), and enacted a new section 1844(a), of Pub. L. 116-283, effective as if included therein, which eliminated the initial chapter 305 and enacted the current one.

Statutory Notes and Related Subsidiaries

INFRASTRUCTURE TO SUPPORT RESEARCH, DEVELOPMENT, TEST, AND EVALUATION MISSIONS

Pub. L. 116-92, div. A, title II, §252, Dec. 20, 2019, 133 Stat. 1285, as amended by Pub. L. 117-81, div. A, title II, §215(d)(9), Dec. 27, 2021, 135 Stat. 1594, provided that:

“(a) MASTER PLAN REQUIRED.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering and in coordination with the Secretaries of the military departments, shall develop and implement a master plan that addresses the research, development, test, and evaluation infrastructure and modernization requirements of the Department of Defense, including the science and technology reinvention laboratories and the facilities of the Major Range and Test Facility Base.

“(b) ELEMENTS.—The master plan required under subsection (a) shall include, with respect to the research, development, test, and evaluation infrastructure of the Department of Defense, the following:

“(1) A summary of deficiencies in the infrastructure, by location, and the effect of the deficiencies on the ability of the Department—

“(A) to meet current and future military requirements identified in the National Defense Strategy;

“(B) to support science and technology development and acquisition programs; and

“(C) to recruit and train qualified personnel.

“(2) A summary of existing and emerging military research, development, test, and evaluation mission areas, by location, that require modernization investments in the infrastructure—

“(A) to improve operations in a manner that may benefit all users;

“(B) to enhance the overall capabilities of the research, development, test, and evaluation infrastructure, including facilities and resources;

“(C) to improve safety for personnel and facilities; and

“(D) to reduce the long-term cost of operation and maintenance.

“(3) Identification of specific infrastructure projects that are required to address the infrastructure deficiencies identified under paragraph (1) or to support the existing and emerging mission areas identified under paragraph (2).

“(4) For each project identified under paragraph (3)—

“(A) a description of the scope of work;

“(B) a cost estimate;

“(C) a summary of the plan for the project;

“(D) an explanation of the level of priority that will be given to the project; and

“(E) a schedule of required infrastructure investments.

“(5) A description of how the Department, including each military department concerned, will carry out the infrastructure projects identified in paragraph (3) using the range of authorities and methods available to the Department, including—

“(A) military construction authority under section 2802 of title 10, United States Code;

“(B) unspecified minor military construction authority under section 2805(a) of such title;

“(C) laboratory revitalization authority under section 2805(d) of such title;

“(D) the authority to carry out facility repair projects, including the conversion of existing facilities, under section 2811 of such title;

“(E) the authority provided under the Defense Laboratory Modernization Pilot Program under section 2803 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 2358 note [now 10 U.S.C. 4121 note prec.]);

“(F) methods that leverage funding from entities outside the Department, including public-private partnerships, enhanced use leases and real property exchanges;

“(G) the authority to conduct commercial test and evaluation activities at a Major Range and Test Facility Installation, under section 2681 of title 10, United States Code [now 10 U.S.C. 4175]; and

“(H) any other authorities and methods determined to be appropriate by the Secretary of Defense.

“(6) Identification of any regulatory or policy barriers to the effective and efficient implementation of the master plan.

“(c) CONSULTATION AND COORDINATION.—In developing and implementing the plan required under subsection (a), the Secretary of Defense shall—

“(1) consult with existing and anticipated customers and users of the capabilities of the Major Range and Test Facility Base and science and technology reinvention laboratories;

“(2) ensure consistency with the science and technology roadmaps and strategies of the Department of Defense and the Armed Forces; and

“(3) ensure consistency with the strategic plan for test and evaluation resources required by section 196(d) of title 10, United States Code [now 10 U.S.C. 4173(d)].

“(d) SUBMITTAL TO CONGRESS.—Not later than January 1, 2021, the Secretary of Defense, in coordination with the Secretaries of the military departments, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the master plan developed under subsection (a).

“(e) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION INFRASTRUCTURE DEFINED.—In this section, the term ‘research, development, test, and evaluation infrastructure’ means the infrastructure of—

“(1) the science and technology reinvention laboratories (as designated under section 4121(b) of title 10, United States Code);

“(2) the Major Range and Test Facility Base (as defined in section 2358a(f)(3) of title 10, United States Code [now 10 U.S.C. 4091(g)(3)]); and

“(3) other facilities that support the research development, test, and evaluation activities of the Department.”

PILOT PROGRAM FOR THE ENHANCEMENT OF THE RESEARCH, DEVELOPMENT, TEST, AND EVALUATION CENTERS OF THE DEPARTMENT OF DEFENSE

Pub. L. 114-328, div. A, title II, §233, Dec. 23, 2016, 130 Stat. 2061, as amended by Pub. L. 115-91, div. A, title II,

§ 235, title X, § 1081(d)(2), Dec. 12, 2017, 131 Stat. 1341, 1600; Pub. L. 116-92, div. A, title XVII, § 1731(d), Dec. 20, 2019, 133 Stat. 1816; Pub. L. 116-283, div. A, title II, § 216(a), (b), Jan. 1, 2021, 134 Stat. 3460; Pub. L. 117-81, div. A, title II, §§ 215(d)(7), 219, Dec. 27, 2021, 135 Stat. 1594, 1597, provided that:

“(a) PILOT PROGRAM REQUIRED.—

“(1) IN GENERAL.—The Secretary of Defense and the Secretaries of the military departments shall jointly carry out a pilot program to demonstrate methods for the more effective development of technology and management of functions at eligible centers.

“(2) ELIGIBLE CENTERS.—For purposes of the pilot program, the eligible centers are—

“(A) the science and technology reinvention laboratories, as designated under section 4121(b) of title 10, United States Code;

“(B) the test and evaluation centers which are activities specified as part of the Major Range and Test Facility Base in Department of Defense Directive 3200.11; and

“(C) the Defense Advanced Research Projects Agency.

“(b) SELECTION.—

“(1) IN GENERAL.—The Secretaries described in subsection (a) shall ensure that participation in the pilot program includes—

“(A) the Defense Advanced Research Projects Agency; and

“(B) in accordance with paragraph (2)—

“(i) five additional eligible centers described in subparagraph (A) of subsection (a)(2) from each of the military departments; and

“(ii) five additional eligible centers described in subparagraph (B) of such subsection from each of the military departments.

“(2) SELECTION PROCEDURES.—(A) The head of an eligible center described in subparagraph (A) or (B) of subsection (a)(2) seeking to participate in the pilot program shall submit to the appropriate reviewer an application therefor at such time, in such manner, and containing such information as the appropriate reviewer shall specify.

“(B) Not later than 120 days after the date of such submittal, each appropriate reviewer shall—

“(i) evaluate each application received under subparagraph (A); and

“(ii) approve or disapprove of the application.

“(C) If the head of an eligible center submits an application under subparagraph (A) in accordance with the requirements specified by the appropriate reviewer for purposes of such subparagraph and the appropriate reviewer neither approves nor disapproves such application pursuant to subparagraph (B)(ii) on or before the date that is 120 days after the date of such submittal, such eligible center shall be considered a participant in the pilot program.

“(D) For purposes of this paragraph, the appropriate reviewer is—

“(i) in the case of an eligible center described in subparagraph (A) of subsection (a)(2), the Laboratory Quality Enhancement Program; and

“(ii) in the case of an eligible center described in subparagraph (B) of such subsection, the Director of the Test Resource Management Center.

“(c) PARTICIPATION IN PROGRAM.—

“(1) IN GENERAL.—Subject to paragraph (2), the head of each eligible center selected under subsection (b)(1) shall submit to the Assistant Secretary concerned a proposal on, and implement, alternative and innovative methods of effective management and operations of eligible centers, rapid project delivery, support, experimentation, prototyping, and partnership with universities and private sector entities to—

“(A) generate greater value and efficiencies in research and development activities;

“(B) enable more efficient and effective operations of supporting activities, such as—

“(i) facility management, construction, and repair;

“(ii) business operations;

“(iii) personnel management policies and practices; and

“(iv) intramural and public outreach; and

“(C) enable more rapid deployment of warfighter capabilities.

“(2) IMPLEMENTATION.—(A) The head of an eligible center described in subparagraph (A) or (B) of subsection (a)(2) shall implement each method proposed under paragraph (1) unless such method is disapproved in writing by the Assistant Secretary concerned within 60 days of receiving a proposal from an eligible center selected under subsection (b)(1) by such Assistant Secretary.

“(B) The Director of the Defense Advanced Research Projects Agency shall implement each method proposed under paragraph (1) unless such method is disapproved in writing by the Deputy Secretary of Defense or a designee of the Deputy Secretary within 60 days of receiving a proposal from the Director.

“(C) In this paragraph, the term ‘Assistant Secretary concerned’ means—

“(i) the Assistant Secretary of the Air Force for Acquisition [now Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics], with respect to matters concerning the Air Force;

“(ii) the Assistant Secretary of the Army for Acquisition, Logistics, and Technology, with respect to matters concerning the Army; and

“(iii) the Assistant Secretary of the Navy for Research, Development, and Acquisition, with respect to matters concerning the Navy.

“(d) WAIVER AUTHORITY FOR DEMONSTRATION AND IMPLEMENTATION.—Until the termination of the pilot program under subsection (e), the head of an eligible center selected under subsection (b)(1) may waive any regulation, restriction, requirement, guidance, policy, procedure, or departmental instruction that would affect the implementation of a method proposed under subsection (c)(1), unless such implementation would be prohibited by a provision of a Federal statute or common law.

“(e) TERMINATION.—The pilot program shall terminate on September 30, 2027.

“(f) REPORT.—

“(1) IN GENERAL.—Not later than one year after the date of the enactment of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 [Pub. L. 116-283; approved Jan. 1, 2021], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the status of the pilot program.

“(2) CONTENTS.—The report required by paragraph (1) shall include the following:

“(A) Identification of the eligible centers participating in the pilot program.

“(B) Identification of the eligible centers whose applications to participate in the pilot program were disapproved under subsection (b), including justifications for such disapprovals.

“(C) A description of the methods implemented pursuant to subsection (c).

“(D) A description of the methods that were proposed pursuant to paragraph (1) of subsection (c) but disapproved under paragraph (2) of such subsection.

“(E) An assessment of how methods implemented pursuant to subsection (c) have contributed to the objectives identified in subparagraphs (A), (B), and (C) of paragraph (1) of such subsection.

“(F) With respect to any military department not participating in the pilot program, an explanation for such nonparticipation, including identification of—

“(i) any issues that may be preventing such participation; and

“(ii) any offices or other elements of the Department of Defense that may be responsible for the delay in participation.”

[Pub. L. 116-283, div. A, title II, §216(b), Jan. 1, 2021, 134 Stat. 3460, provided in part that the amendment made to section 233(c)(2)(C)(i) of Pub. L. 114-328, set out above, by section 216(b) of Pub. L. 116-283 is effective as of Dec. 23, 2016, and as if included in such section 233(c)(2)(C)(i) as enacted.]

[Pub. L. 116-92, §1731(d), and Pub. L. 116-283, §216(b), made identical amendments to section 233(c)(2)(C)(ii) of Pub. L. 114-328, set out above, by substituting “Assistant Secretary of the Army for Acquisition, Logistics, and Technology” for “Assistant Secretary of the Army for Acquisition, Technology, and Logistics”, both effective as of Dec. 23, 2016, and as if included in such section as enacted. However, the substitution reflects execution of the amendment made by Pub. L. 116-283 and not by Pub. L. 116-92, as the latter directed amendment of the “National Defense Authorization Act for Fiscal Year 2018”, and Pub. L. 114-328 is known as the “National Defense Authorization Act for Fiscal Year 2017”.]

§ 4141. Award of grants and contracts to colleges and universities: requirement of competition

(a) The Secretary of Defense may not make a grant or award a contract to a college or university for the performance of research and development, or for the construction of any research or other facility, unless—

- (1) in the case of a grant, the grant is made using competitive procedures; and
- (2) in the case of a contract, the contract is awarded in accordance with section 2304¹ of this title (other than pursuant to subsection (c)(5)¹ of that section).

(b)(1) A provision of law may not be construed as modifying or superseding the provisions of subsection (a), or as requiring funds to be made available by the Secretary of Defense to a particular college or university by grant or contract, unless that provision of law—

- (A) specifically refers to this section;
- (B) specifically states that such provision of law modifies or supersedes the provisions of this section; and
- (C) specifically identifies the particular college or university involved and states that the grant to be made or the contract to be awarded, as the case may be, pursuant to such provision of law is being made or awarded in contravention of subsection (a).

(2) A grant may not be made, or a contract awarded, pursuant to a provision of law that authorizes or requires the making of the grant, or the awarding of the contract, in a manner that is inconsistent with subsection (a) until—

- (A) the Secretary of Defense submits to Congress a notice in writing of the intent to make the grant or award the contract; and
- (B) a period of 180 days has elapsed after the date on which the notice is received by Congress.

(Added Pub. L. 100-456, div. A, title II, §220(a), Sept. 29, 1988, 102 Stat. 1940, §2361; amended Pub. L. 101-189, div. A, title II, §252(a), (b)(1), (c)(1), Nov. 29, 1989, 103 Stat. 1404, 1405; Pub. L. 101-510, div. A, title XIII, §1311(4), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 103-35, title II, §201(g)(5), May 31, 1993, 107 Stat. 100; Pub. L. 103-160, div. A, title VIII, §821(b), Nov. 30, 1993, 107 Stat. 1704; Pub. L.

103-337, div. A, title VIII, §813, Oct. 5, 1994, 108 Stat. 2816; Pub. L. 104-106, div. A, title II, §264, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 237, 502; Pub. L. 104-201, div. A, title II, §265, Sept. 23, 1996, 110 Stat. 2466; renumbered §4141, Pub. L. 116-283, div. A, title XVIII, §1844(b), as added Pub. L. 117-81, div. A, title XVII, §1701(u)(5)(B), Dec. 27, 2021, 135 Stat. 2154; Pub. L. 116-283, div. A, title XVIII, §§1841(c), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4243, 4294; Pub. L. 117-81, div. A, title XVII, §1701(u)(2)(D), Dec. 27, 2021, 135 Stat. 2151.)

Editorial Notes

REFERENCES IN TEXT

Section 2304 of this title, referred to in subsec. (a)(2), was repealed by Pub. L. 116-283, div. A, title XVIII, §§1801(d), 1881(a), Jan. 1, 2021, 134 Stat. 4151, 4293, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law. Subsecs. (a) to (l) of section 2304 were transferred to various provisions in chapter 221 of this title, with the same effective date and conditions, by Pub. L. 116-283, div. A, title XVIII, §1811(c)(2)–(5), (d)(2)–(9), Jan. 1, 2021, 134 Stat. 4165–4170. Subsection (c)(5) of section 2304 was transferred to section 3204(a)(5) of this title.

AMENDMENTS

2021—Pub. L. 116-283, §1844(b), as added by Pub. L. 117-81, §1701(u)(5)(B), renumbered section 2361 of this title as this section.

Pub. L. 116-283, §1841(c), which directed the renumbering of section 2361 of this title as section 4015 instead of this section, was amended generally by Pub. L. 117-81, §1701(u)(2)(D), effective as if included therein, so that such renumbering was no longer directed.

Subsec. (a)(2). Pub. L. 116-283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116-283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated section, was not executed with respect to “section 2304”, which was redesignated as multiple sections.

1996—Subsec. (c). Pub. L. 104-201 struck out subsec. (c) which read as follows:

“(1) The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives an annual report on the use of competitive procedures for the award of research and development contracts, and the award of construction contracts, to colleges and universities. Each such report shall include—

“(A) a list of each college and university that, during the period covered by the report, received more than \$1,000,000 in such contracts through the use of procedures other than competitive procedures; and

“(B) the cumulative amount of such contracts received during that period by each such college and university.

“(2) Each report under paragraph (1) shall cover the preceding fiscal year and shall be submitted not later than February 1 of the fiscal year after the fiscal year covered by the report.”

Subsec. (c)(1). Pub. L. 104-106, §1502(a)(1), substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

Subsec. (c)(2). Pub. L. 104-106, §264, substituted “preceding fiscal year” for “preceding calendar year” and “the fiscal year after the fiscal year” for “the year after the year”.

1994—Subsec. (c). Pub. L. 103-337 added subsec. (c).

1993—Subsec. (b)(2). Pub. L. 103-35 substituted “inconsistent” for “inconsist”.

Subsec. (c). Pub. L. 103-160 struck out subsec. (c) which read as follows:

¹ See References in Text note below.