

(2) to develop a comprehensive strategy for recruiting, training, and deploying employees to meet the requirements for such skills and competencies; and

(3) to ensure that the military departments and Defense Agencies have staff and administrative support that are adequate to effectively perform their duties under this section and section 4502 of this title.

(d) **CONTRACT SERVICES ACQUISITION CATEGORIES.**—The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary shall establish contract services acquisition categories, based on dollar thresholds, for the purpose of establishing the level of review, decision authority, and applicable procedures in such categories.

(e) **OVERSIGHT OF IMPLEMENTATION.**—The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary shall oversee the implementation of the requirements of this section and section 4502 of this title and the policies, procedures, and best practices guidelines established pursuant to subsection (b).

(f) **CONTRACT SERVICES.**—In this section, the term “contract services” has the meaning given that term in section 4502(d)(2) of this title.

(Added Pub. L. 107–107, div. A, title VIII, § 801(b)(1), Dec. 28, 2001, 115 Stat. 1174, § 2330; amended Pub. L. 107–314, div. A, title X, § 1062(a)(8), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 109–163, div. A, title VIII, § 812(a)(1), Jan. 6, 2006, 119 Stat. 3376; Pub. L. 112–239, div. A, title VIII, § 845(d), Jan. 2, 2013, 126 Stat. 1848; Pub. L. 116–92, div. A, title IX, § 902(51), Dec. 20, 2019, 133 Stat. 1548; renumbered § 4501 and amended Pub. L. 116–283, div. A, title XVIII, § 1856(c)–(e), Jan. 1, 2021, 134 Stat. 4274.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 4501, act Aug. 10, 1956, ch. 1041, 70A Stat. 251, which related to industrial mobilization by the President in time of war, was repealed by Pub. L. 103–160, div. A, title VIII, § 822(a)(2), Nov. 30, 1993, 107 Stat. 1705. See section 4882 of this title.

##### AMENDMENTS

2021—Pub. L. 116–283, § 1856(e)(2), redesignated par. (1) of subsec. (a) as subsec. (b) and subpars. (B) to (D) of former par. (1) as subsecs. (c) to (e), respectively.

Pub. L. 116–283, § 1856(d), transferred subsecs. (a)(2), (3), (b), and (c) to section 4502 of this title. Amendment notes below prior to 2021 relate to section as it read before such provisions were transferred.

Pub. L. 116–283, § 1856(c), renumbered section 2330 of this title as this section.

Subsec. (a). Pub. L. 116–283, § 1856(e)(1), substituted “for the matters specified in subsections (b), (c), (d), and (e).” for “for the following:”.

Subsec. (b). Pub. L. 116–283, § 1856(e)(3), inserted heading, substituted “The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary of Defense for Acquisition and Sustainment shall develop and maintain” for “The Under Secretary of Defense for Acquisition and Sustainment shall—(A) develop and maintain”, redesignated cls. (i) to (vi) as pars. (1) to (6), respectively, substituted period for semicolon at end of par. (6), and realigned margins.

Subsec. (c). Pub. L. 116–283, § 1856(e)(4)(A)–(C), inserted heading, substituted “The management structure im-

plemented pursuant to subsection (a) shall provide that the Under Secretary shall work with” for “work with” in introductory provisions, redesignated cls. (i) to (iii) as pars. (1) to (3), respectively, and realigned margins.

Subsec. (c)(3). Pub. L. 116–283, § 1856(e)(4)(D), (E), substituted “under this section and section 4502 of this title.” for “under this section;”.

Subsec. (d). Pub. L. 116–283, § 1856(e)(5), inserted heading, substituted “The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary shall establish contract” for “establish contract” and period for “; and”, and realigned margins.

Subsec. (e). Pub. L. 116–283, § 1856(e)(6), inserted heading, substituted “The management structure implemented pursuant to subsection (a) shall provide that the Under Secretary shall oversee the” for “oversee the” and “subsection (b)” for “subparagraph (A)”, inserted “and section 4502 of this title” after “of this section”, and realigned margins.

Subsec. (f). Pub. L. 116–283, § 1856(e)(7), added subsec. (f).

2019—Subsecs. (a)(1), (3), (b)(2), (3)(A). Pub. L. 116–92 substituted “Under Secretary of Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

2013—Subsec. (c)(2). Pub. L. 112–239 substituted “including services in support of contingency operations. The term does not include services relating to research and development or military construction.” for “other than services relating to research and development or military construction.”

2006—Pub. L. 109–163 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to requirement for management structure, contracting responsibilities of designated officials, and definitions.

2002—Subsec. (c). Pub. L. 107–314 inserted comma after “a task order”.

#### 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.

#### § 4502. Procurement of contract services: senior officials responsible for management of acquisition of contract services

(a) **SENIOR OFFICIALS.**—The management structure implemented pursuant to section 4501 of this title shall provide for the following:

(1) The service acquisition executive of each military department shall be the senior official responsible for the management of acquisition of contract services for or on behalf of the military department.

(2) The Under Secretary of Defense for Acquisition and Sustainment shall be the senior official responsible for the management of acquisition of contract services for or on behalf of the Defense Agencies and other components of the Department of Defense outside the military departments.

(b) **DUTIES AND RESPONSIBILITIES OF SENIOR OFFICIALS RESPONSIBLE FOR THE MANAGEMENT OF ACQUISITION OF CONTRACT SERVICES.**—(1) Except as provided in paragraph (2), the senior officials responsible for the management of acquisition of contract services shall assign responsibility for the review and approval of procurements in each contract services acquisition category es-

tablished under section 4501(d) of this title to specific Department of Defense officials, subject to the direction, supervision, and oversight of such senior officials.

(2) With respect to the acquisition of contract services by a component or command of the Department of Defense the primary mission of which is the acquisition of products and services, such acquisition shall be conducted in accordance with policies, procedures, and best practices guidelines developed and maintained by the Under Secretary of Defense for Acquisition and Sustainment pursuant to section 4501 of this title, subject to oversight by the senior officials referred to in paragraph (1).

(c) **DUTIES AND RESPONSIBILITIES.**—In carrying out subsection (b)(1), each senior official responsible for the management of acquisition of contract services shall—

(1) implement the requirements of this section and section 4501 of this title and the policies, procedures, and best practices guidelines developed by the Under Secretary of Defense for Acquisition and Sustainment pursuant to section 4501(b) of this title;

(2) authorize the procurement of contract services through contracts entered into by agencies outside the Department of Defense in appropriate circumstances, in accordance with the requirements of section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (10 U.S.C. 2304 note), section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (31 U.S.C. 1535 note), and the regulations implementing such sections;

(3) dedicate full-time commodity managers to coordinate the procurement of key categories of services;

(4) ensure that contract services are procured by means of procurement actions that are in the best interests of the Department of Defense and are entered into and managed in compliance with applicable laws, regulations, directives, and requirements;

(5) ensure that competitive procedures and performance-based contracting are used to the maximum extent practicable for the procurement of contract services; and

(6) monitor data collection under section 4505 of this title, and periodically conduct spending analyses, to ensure that funds expended for the procurement of contract services are being expended in the most rational and economical manner practicable.

(d) **DEFINITIONS.**—In this section:

(1) The term “procurement action” includes the following actions:

(A) Entry into a contract or any other form of agreement.

(B) Issuance of a task order, delivery order, or military interdepartmental purchase request.

(2) The term “contract services” includes all services acquired from private sector entities by or for the Department of Defense, including services in support of contingency operations. The term does not include services relating to research and development or military construction.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1856(d), (f), Jan. 1, 2021, 134 Stat. 4274, 4275; Pub. L. 117-81, div. A, title XVII, §1701(b)(19)(A), Dec. 27, 2021, 135 Stat. 2135.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, referred to in subsec. (c)(2), is section 854 of div. A of Pub. L. 108-375, which is set out as a note under section 2304 of this title.

Section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, referred to in subsec. (c)(2), is section 814 of div. A of Pub. L. 105-261, which was formerly set out as a note under section 1535 of Title 31, Money and Finance.

#### CODIFICATION

The text of subsecs. (a)(2), (3), (b), and (c) of section 4501 of this title, which was transferred to this section by Pub. L. 116-283, §1856(d), was based on Pub. L. 107-107, div. A, title VIII, §801(b)(1), Dec. 28, 2001, 115 Stat. 1174, §2330; Pub. L. 107-314, div. A, title X, §1062(a)(8), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 109-163, div. A, title VIII, §812(a)(1), Jan. 6, 2006, 119 Stat. 3376; Pub. L. 112-239, div. A, title VIII, §845(d), Jan. 2, 2013, 126 Stat. 1848; Pub. L. 116-92, div. A, title IX, §902(51)(B)–(D), Dec. 20, 2019, 133 Stat. 1549; renumbered §4501, Pub. L. 116-283, div. A, title XVIII, §1856(c), Jan. 1, 2021, 134 Stat. 4274. Amendment notes prior to 2021 relevant to this section can be found under section 4501 of this title.

#### PRIOR PROVISIONS

A prior section 4502, act Aug. 10, 1956, ch. 1041, 70A Stat. 252, which related to maintenance by Secretary of the Army of lists of plants equipped to manufacture arms or ammunition and of plants convertible into ammunition factories and provided for a Board on Mobilization of Industries Essential for Military Preparedness, was repealed by Pub. L. 103-160, div. A, title VIII, §822(a)(2), Nov. 30, 1993, 107 Stat. 1705. See sections 4883 and 4884 of this title.

Prior sections 4503 and 4504 were repealed by Pub. L. 103-160, div. A, title VIII, §§822(c)(2), 827(c), Nov. 30, 1993, 107 Stat. 1707, 1713.

Section 4503, act Aug. 10, 1956, ch. 1041, 70A Stat. 252, related to research and development programs of the Army.

Section 4504, act Aug. 10, 1956, ch. 1041, 70A Stat. 252, related to procurement of ordnance, signal, and chemical warfare supplies for experimental purposes by Secretary of the Army. See section 4004 of this title.

#### AMENDMENTS

2021—Pub. L. 116-283, §1856(d), transferred subsecs. (a)(2), (3), (b), and (c) of section 4501 of this title to this section and inserted subsec. (a) designation, heading, and introductory provisions.

Subsec. (a). Pub. L. 116-283, §1856(f)(1), redesignated pars. (2) and (3) as (1) and (2), respectively.

Subsec. (b)(1). Pub. L. 116-283, §1856(f)(2)(A), substituted “section 4501(d) of this title” for “subsection (a)(1)(C)”.

Subsec. (b)(2). Pub. L. 116-283, §1856(f)(2)(B), substituted “section 4501 of this title” for “subsection (a)(1)”.

Subsec. (b)(3). Pub. L. 116-283, §1856(f)(4), redesignated par. (3) as subsec. (c).

Subsec. (c). Pub. L. 116-283, §1856(f)(5)(A), as amended by Pub. L. 117-81, §1701(b)(19)(A), inserted heading and substituted “In carrying out subsection (b)(1)” for “In carrying out paragraph (1)” in introductory provisions.

Pub. L. 116-283, §1856(f)(4), redesignated par. (3) of subsec. (b) as subsec. (c) and subpars. (A) to (F) as pars. (1) to (6), respectively.

Pub. L. 116-283, §1856(f)(3), redesignated subsec. (c) as (d).

Subsec. (c)(1). Pub. L. 116-283, §1856(f)(5)(B), inserted “and section 4501 of this title” after “of this section” and substituted “section 4501(b) of this title” for “subsection (a)(1)(A)”.

Subsec. (c)(6). Pub. L. 116-283, §1856(f)(5)(C), substituted “section 4505” for “section 2330a”.

Subsec. (d). Pub. L. 116-283, §1856(f)(3), redesignated subsec. (c) as (d).

#### 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 Effective Date note below.

##### EFFECTIVE DATE

Section and 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 an Effective Date of 2021 note preceding section 3001 of this title.

#### § 4505. Procurement of services: tracking of purchases

(a) **DATA COLLECTION REQUIRED.**—The Secretary of Defense shall establish a data collection system to provide management information with regard to each purchase of services by a military department or Defense Agency in excess of \$3,000,000, regardless of whether such a purchase is made in the form of a contract, task order, delivery order, military interdepartmental purchase request, or any other form of interagency agreement, for services in the following service acquisition portfolio groups:

- (1) Logistics management services.
- (2) Equipment related services.
- (3) Knowledge-based services.
- (4) Electronics and communications services.

(b) **DATA TO BE COLLECTED.**—The data required to be collected under subsection (a) includes the following:

- (1) The services purchased.
- (2) The total dollar amount of the purchase.
- (3) The form of contracting action used to make the purchase.
- (4) Whether the purchase was made through—
  - (A) a performance-based contract, performance-based task order, or other performance-based arrangement that contains firm fixed prices for the specific tasks to be performed;
  - (B) any other performance-based contract, performance-based task order, or performance-based arrangement; or
  - (C) any contract, task order, or other arrangement that is not performance based.
- (5) In the case of a purchase made through an agency other than the Department of Defense, the agency through which the purchase is made.
- (6) The extent of competition provided in making the purchase and whether there was more than one offer.
- (7) Whether the purchase was made from—
  - (A) a small business concern;

(B) a small business concern owned and controlled by socially and economically disadvantaged individuals; or

(C) a small business concern owned and controlled by women.

(c) **INVENTORY SUMMARY.**—(1) Not later than the end of the third quarter of each fiscal year, the Secretary of Defense shall prepare an annual inventory, and submit to Congress a summary of the inventory, of activities performed during the preceding fiscal year pursuant to staff augmentation contracts and contracts closely associated with inherently governmental functions on behalf of the Department of Defense. The guidance for compiling the inventory shall be issued by the Under Secretary of Defense for Personnel and Readiness, the Under Secretary of Defense (Comptroller), and the Under Secretary of Defense for Acquisition and Sustainment, as follows:

(A) The Under Secretary of Defense for Personnel and Readiness, as supported by the Under Secretary of Defense (Comptroller), shall be responsible for developing guidance for—

(i) the collection of data regarding functions and missions performed by contractors in a manner that is comparable to the manpower data elements used in inventories of functions performed by Department of Defense employees;

(ii) the calculation of contractor full-time equivalents for direct labor, using direct labor hours in a manner that is comparable to the calculation of Department of Defense civilian full-time employees; and

(iii) the conduct and completion of the annual review required under subsection (e)(1).

(B) The Under Secretary of Defense for Acquisition and Sustainment shall be responsible for developing guidance on other data elements and implementing procedures for requirements relating to acquisition.

(2) The entry for an activity on an inventory under this subsection shall include, for the fiscal year covered by such entry, the following:

(A) The functions and missions performed by the contractor.

(B) The contracting organization, the component of the Department of Defense administering the contract, and the organization whose requirements are being met through contractor performance of the function.

(C) The funding source for the contract under which the function is performed by appropriation and operating agency.

(D) The fiscal year for which the activity first appeared on an inventory under this section.

(E) The number of contractor employees, expressed as full-time equivalents for direct labor, using direct labor hours and associated cost data collected from contractors (except that estimates may be used where such data is not available and cannot reasonably be made available in a timely manner for the purpose of the inventory).

(F) A determination whether the contract pursuant to which the activity is performed is a personal services contract.