

“(B) identifying, and serving as a clearinghouse for information regarding, best practices in software development and acquisition in both the public and private sectors.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘Defense Agency’ has the meaning given the term in section 101(a)(11) of title 10, United States Code.

“(2) The term ‘major defense acquisition program’ has the meaning given such term in section 139(a)(2)(B) of title 10, United States Code.”

§ 4576. Requirement for consideration of certain matters during acquisition of noncommercial computer software

(a) CONSIDERATION REQUIRED.—As part of any negotiation for the acquisition of noncommercial computer software, the Secretary of Defense shall ensure that such negotiations consider, to the maximum extent practicable, acquisition, at the appropriate time in the life cycle of the noncommercial computer software, of all software and related materials necessary—

(1) to reproduce, build, or recompile the software from original source code and required libraries;

(2) to conduct required computer software testing; and

(3) to deploy working computer software system binary files on relevant system hardware.

(b) DELIVERY OF SOFTWARE AND RELATED MATERIALS.—Any noncommercial computer software or related materials required to be delivered as a result of considerations in subsection (a) shall, to the extent appropriate as determined by the Secretary—

(1) include computer software delivered in a useable, digital format;

(2) not rely on external or additional software code or data, unless such software code or data is included in the items to be delivered; and

(3) in the case of negotiated terms that do not allow for the inclusion of dependent software code or data, sufficient documentation to support maintenance and understanding of interfaces and software revision history.

(Added Pub. L. 115–91, div. A, title VIII, § 871(a)(1), Dec. 12, 2017, 131 Stat. 1496, § 2322a; renumbered § 4576, Pub. L. 116–283, div. A, title XVIII, § 1857(c), Jan. 1, 2021, 134 Stat. 4276.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 4591 to 4595 were renumbered sections 7591 to 7595 of this title, respectively.

AMENDMENTS

2021—Pub. L. 116–283 renumbered section 2322a of this title as this section.

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.

GUIDANCE

Pub. L. 115–91, div. A, title VIII, § 871(b), Dec. 12, 2017, 131 Stat. 1497, provided that: “Not later than 180 days

after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall issue updated guidance to implement section 2322a of title 10, United States Code [now 10 U.S.C. 4576], as added by subsection (a).”

Subpart H—Contract Management

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–232, div. A, title VIII, § 801(a), Aug. 13, 2018, 132 Stat. 1830, added subpart heading.

CHAPTER 361—CONTRACT ADMINISTRATION

Sec.

4601. Electronic submission and processing of claims for contract payments.

4602. Contracted property and services: prompt payment of vouchers.

4603. Advance notification of contract performance outside the United States.

Editorial Notes

PRIOR PROVISIONS

A prior chapter 361 “CONTRACT ADMINISTRATION”, consisting of reserved section 4601, was repealed by Pub. L. 116–283, div. A, title XVIII, § 1861(a), Jan. 1, 2021, 134 Stat. 4277.

Another prior chapter 361, consisting of sections 3811 to 3820 relating to separation for various reasons, some of which had previously been repealed, was repealed in its entirety by Pub. L. 103–337, div. A, title XVI, §§ 1629(a)(2), 1691(b)(1), Oct. 5, 1994, 108 Stat. 2963, 3026, effective Oct. 1, 1996.

Statutory Notes and Related Subsidiaries

CONTRACT CLOSEOUT AUTHORITY

Pub. L. 114–328, div. A, title VIII, § 836, Dec. 23, 2016, 130 Stat. 2285, as amended by Pub. L. 115–91, div. A, title VIII, § 824, Dec. 12, 2017, 131 Stat. 1465; Pub. L. 116–283, div. A, title VIII, § 820, Jan. 1, 2021, 134 Stat. 3752, provided that:

“(a) AUTHORITY.—The Secretary of Defense may close out a contract or group of contracts as described in subsection (b) through the issuance of one or more modifications to such contracts without completing a reconciliation audit or other corrective action. To accomplish closeout of such contracts—

“(1) remaining contract balances may be offset with balances in other contract line items within a contract regardless of the year or type of appropriation obligated to fund each contract line item and regardless of whether the appropriation for such contract line item has closed; and

“(2) remaining contract balances may be offset with balances on other contracts regardless of the year or type of appropriation obligated to fund each contract and regardless of whether the appropriation has closed.

“(b) COVERED CONTRACTS.—This section covers any contract or group of contracts between the Department of Defense and a defense contractor, each one of which—

“(1) was entered into—

“(A) with respect to a contract or group of contracts not described in subparagraph (B), at least 7 fiscal years before the current fiscal year; and

“(B) with respect to a contract or group of contracts for military construction (as defined in section 2801 of title 10, United States Code) or shipbuilding, at least 10 fiscal years before the current fiscal year;

“(2) the performance or delivery has been completed at least 4 years before the current fiscal year; and