

Subsec. (f)(2)(B). Pub. L. 103-35, §201(g)(6), substituted “aide” for “aid” after “for placement as a teacher’s”.

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.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-160 not applicable with respect to persons selected by Secretary of Defense before Nov. 30, 1993, to participate in teacher and teacher’s aide placement programs established pursuant to sections 1598 and 4703 of this title and former section 1151 of this title or agreements entered into by Secretary before such date with local educational agencies under such sections, see section 1331(h) of Pub. L. 103-160, set out as a note under section 1598 of this title.

SAVINGS PROVISION

Amendments by section 576 of Pub. L. 104-201 not to affect obligations under agreements entered into in accordance with section 1598 or 4703 of this title or former section 1151 of this title before Sept. 23, 1996, see section 576(d) of Pub. L. 104-201, set out as a note under section 1598 of this title.

§ 4704. Defense contractors: listing of suitable employment openings with local employment service office

(a) REGULATIONS.—The Secretary of Defense shall promulgate regulations containing the requirement described in subsection (b) and such other provisions as the Secretary considers necessary to administer such requirement. Such regulations shall require that each contract described in subsection (c) shall contain a clause requiring the contractor to comply with such regulations.

(b) REQUIREMENT.—The regulations promulgated under this section shall require each contractor carrying out a contract described in subsection (c) to list immediately with the appropriate local employment service office, and where appropriate the Interstate Job Bank (established by the United States Employment Service), all of its suitable employment openings under such contract.

(c) COVERED CONTRACTS.—The regulations promulgated under this section shall apply to any contract entered into with the Department of Defense in an amount of \$500,000 or more.

(Added Pub. L. 102-484, div. D, title XLIV, §4470(a)(1), Oct. 23, 1992, 106 Stat. 2753, §2410d; renumbered §2410k and amended Pub. L. 103-35, title II, §§201(b)(1)(A), 202(a)(18)(A), May 31, 1993, 107 Stat. 97, 102; renumbered §4704, Pub. L. 116-283, div. A, title XVIII, §1863(b), Jan. 1, 2021, 134 Stat. 4278.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4711, act Aug. 10, 1956, ch. 1041, 70A Stat. 263, related to inquests, prior to repeal by Pub. L. 106-65, div. A, title VII, §721(b), Oct. 5, 1999, 113 Stat. 694.

A prior section 4712 was renumbered section 7712 of this title.

A prior section 4713, acts Aug. 10, 1956, ch. 1041, 70A Stat. 265; Dec. 12, 1980, Pub. L. 96-513, title V, §512(21)(A), (B), 94 Stat. 2930; Nov. 8, 1985, Pub. L. 99-145, title XIII, §1301(b)(4)(B), 99 Stat. 736; Nov. 29, 1989, Pub. L. 101-189, div. A, title XVI, §1621(a)(1), 103 Stat. 1602, related to disposition of effects of deceased persons by Soldiers’ and Airmen’s Home, prior to repeal by Pub. L. 101-510, div. A, title XV, §§1533(a)(7)(A), 1541, Nov. 5, 1990, 104 Stat. 1734, 1736, effective one year after Nov. 5, 1990.

Prior sections 4714 and 4721 to 4727 were renumbered sections 7714 and 7721 to 7727 of this title, respectively.

A prior section 4741, act Aug. 10, 1956, ch. 1041, 70A Stat. 266, related to control and supervision of transportation of members, munitions of war, equipment, military property, and stores of the Army throughout the United States, prior to repeal by Pub. L. 108-375, div. A, title X, §1072(c), Oct. 28, 2004, 118 Stat. 2058.

A prior section 4742 was renumbered section 2644 of this title.

A prior section 4743, act Aug. 10, 1956, ch. 1041, 70A Stat. 266, related to use of transportation by officers of the Army, prior to repeal by Pub. L. 108-375, div. A, title X, §1072(c), Oct. 28, 2004, 118 Stat. 2058.

Prior sections 4744 to 4747 were renumbered sections 2648 to 2651 of this title, respectively.

A prior section 4748, act Aug. 10, 1956, ch. 1041, 70A Stat. 268, related to transportation of motor vehicles for members on permanent change of station, prior to repeal by Pub. L. 87-651, title I, §119(1), Sept. 7, 1962, 76 Stat. 513.

A prior section 4749 was renumbered section 7749 of this title.

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2410k of this title as this section.

1993—Pub. L. 103-35, §201(b)(1)(A), renumbered section 2410d of this title as section 2410k.

Pub. L. 103-35, §202(a)(18)(A), made technical amendment to directory language of Pub. L. 102-484, which enacted 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.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 202(a)(18)(A) of Pub. L. 103-35 applicable as if included in the enactment of Pub. L. 102-484, see section 202(b) of Pub. L. 103-35, set out as a note under section 155 of this title.

EFFECTIVE DATE

Pub. L. 102-484, div. D, title XLIV, §4470(b), Oct. 23, 1992, 106 Stat. 2753, provided that: “Section 2410d of title 10, United States Code [now 10 U.S.C. 4704], as added by subsection (a), shall apply with respect to contracts entered into beginning 120 days after the date of the enactment of this Act [Oct. 23, 1992].”

CHAPTER 367—OTHER ADMINISTRATIVE MATTERS

Sec.	
4751.	Determinations and decisions.
4752.	Remission of liquidated damages.
4753.	Supplies: identification of supplier and sources.
4754.	Management of purchase cards.

Editorial Notes

PRIOR PROVISIONS

A prior chapter 367 “OTHER ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS”, consisting of re-

served section 4751, was repealed by Pub. L. 116-283, div. A, title XVIII, § 1864(a), Jan. 1, 2021, 134 Stat. 4279.

Another prior chapter 367 was renumbered chapter 741 of this title.

Statutory Notes and Related Subsidiaries

PILOT PROGRAM ON ENHANCING INFORMATION SHARING FOR SECURITY OF SUPPLY CHAIN

Pub. L. 115-91, div. A, title XVI, § 1696, Dec. 12, 2017, 131 Stat. 1793, provided that:

“(a) ESTABLISHMENT.—Not later than June 1, 2019, the Secretary of Defense shall establish a pilot program to enhance information sharing with cleared defense contractors to ensure all source information is appropriately, singularly, and exclusively shared for the purpose of ensuring the security or integrity of the supply chain of covered programs.

“(b) SELECTION.—The Secretary shall select not more than 10 acquisition or sustainment programs of the Department of Defense to participate in the pilot program under subsection (a), of which—

“(1) not fewer than one program shall be related to nuclear weapons;

“(2) not fewer than one program shall be related to nuclear command, control, and communications;

“(3) not fewer than one program shall be related to continuity of government;

“(4) not fewer than one program shall be related to ballistic missile defense;

“(5) not fewer than one program shall be related to other command and control systems; and

“(6) not fewer than one program shall be related to space systems.

“(c) REPORT.—Not later than March 1, 2018, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

“(1) details on how the Secretary will establish the pilot program under subsection (a) to ensure all source information is appropriately, singularly, and exclusively shared for the purpose of ensuring the security or integrity of the supply chain of covered programs;

“(2) details of any personnel, funding, or statutory constraints in carrying out the pilot program; and

“(3) the identification of any legislative action or administrative action required to provide the Secretary with specific additional authorities required to fully implement the pilot program.

“(d) CLEARED DEFENSE CONTRACTORS DEFINED.—In this section, the term ‘cleared defense contractors’ means contractors of the Department of Defense who have a security clearance, including contractor facilities that have a security clearance.”

ESTABLISHMENT OF PANEL ON DEPARTMENT OF DEFENSE AND ABILITYONE CONTRACTING OVERSIGHT, ACCOUNTABILITY, AND INTEGRITY; DEFENSE ACQUISITION UNIVERSITY TRAINING

Pub. L. 114-328, div. A, title VIII, § 898, Dec. 23, 2016, 130 Stat. 2327, as amended by Pub. L. 116-92, div. A, title IX, § 902(32), Dec. 20, 2019, 133 Stat. 1546, provided that:

“(a) ESTABLISHMENT OF PANEL ON DEPARTMENT OF DEFENSE AND ABILITYONE CONTRACTING OVERSIGHT, ACCOUNTABILITY, AND INTEGRITY.—

“(1) IN GENERAL.—The Secretary of Defense shall establish a panel to be known as the ‘Panel on Department of Defense and AbilityOne Contracting Oversight, Accountability, and Integrity’ (hereafter in this section referred to as the ‘Panel’). The Panel shall be supported by the Defense Acquisition University, established under section 1746 of title 10, United States Code, and the National Defense University, including administrative support.

“(2) COMPOSITION.—The Panel shall be composed of the following:

“(A) A representative of the Under Secretary of Defense for Acquisition and Sustainment, who shall be the chairman of the Panel.

“(B) A representative from the AbilityOne Commission.

“(C) A representative of the service acquisition executive of each military department and Defense Agency (as such terms are defined, respectively, in section 101 of title 10, United States Code).

“(D) A representative of the Under Secretary of Defense (Comptroller).

“(E) A representative of the Inspector General of the Department of Defense and the AbilityOne Commission.

“(F) A representative from each of the Army Audit Agency, the Navy Audit Service, the Air Force Audit Agency, and the Defense Contract Audit Agency.

“(G) The President of the Defense Acquisition University, or a designated representative.

“(H) One or more subject matter experts on veterans employment from a veterans service organization.

“(I) A representative of the Commission Directorate of Veteran Employment of the AbilityOne Commission whose duties include maximizing opportunities to employ significantly disabled veterans in accordance with the regulations of the AbilityOne Commission.

“(J) One or more representatives from the Department of Justice who are subject matter experts on compliance with disability rights laws applicable to contracts of the Department of Defense and the AbilityOne Commission.

“(K) One or more representatives from the Department of Justice who are subject matter experts on Department of Defense contracts, Federal Prison Industries, and the requirements of the Javits-Wagner-O’Day Act [see 41 U.S.C. 8501 et seq.].

“(L) Such other representatives as may be determined appropriate by the Under Secretary of Defense for Acquisition and Sustainment.

“(b) MEETINGS.—The Panel shall meet as determined necessary by the chairman of the Panel, but not less often than once every three months.

“(c) DUTIES.—The Panel shall—

“(1) review the status of and progress relating to the implementation of the recommendations of report number DODIG-2016-097 of the Inspector General of the Department of Defense titled ‘DoD Generally Provided Effective Oversight of AbilityOne Contracts’, published on June 17, 2016;

“(2) recommend actions the Department of Defense and the AbilityOne Commission may take to eliminate waste, fraud, and abuse with respect to contracts of the Department of Defense and the AbilityOne Commission;

“(3) recommend actions the Department of Defense and the AbilityOne Commission may take to ensure opportunities for the employment of significantly disabled veterans and the blind and other severely disabled individuals;

“(4) recommend changes to law, regulations, and policy that the Panel determines necessary to eliminate vulnerability to waste, fraud, and abuse with respect to the performance of contracts of the Department of Defense;

“(5) recommend criteria for veterans with disabilities to be eligible for employment opportunities through the programs of the AbilityOne Commission that considers the definitions of disability used by the Secretary of Veterans Affairs and the AbilityOne Commission;

“(6) recommend ways the Department of Defense and the AbilityOne Commission may explore opportunities for competition among qualified nonprofit agencies or central nonprofit agencies and ensure an equitable selection and allocation of work to qualified nonprofit agencies;

“(7) recommend changes to business practices, information systems, and training necessary to ensure that—

“(A) the AbilityOne Commission complies with regulatory requirements related to the establish-

ment and maintenance of the procurement list established pursuant to section 8503 of title 41, United States Code; and

“(B) the Department of Defense complies with the statutory and regulatory requirements for use of such procurement list; and

“(8) any other duties determined necessary by the Secretary of Defense.

“(d) CONSULTATION.—To carry out the duties described in subsection (c), the Panel may consult or contract with other executive agencies and with experts from qualified nonprofit agencies or central nonprofit agencies on—

“(1) compliance with disability rights laws applicable to contracts of the Department of Defense and the AbilityOne Commission;

“(2) employment of significantly disabled veterans; and

“(3) vocational rehabilitation.

“(e) AUTHORITY.—To carry out the duties described in subsection (c), the Panel may request documentation or other information needed from the AbilityOne Commission, central nonprofit agencies, and qualified nonprofit agencies.

“(f) PANEL RECOMMENDATIONS AND MILESTONE DATES.—

“(1) MILESTONE DATES FOR IMPLEMENTING RECOMMENDATIONS.—After consulting with central nonprofit agencies and qualified nonprofit agencies, the Panel shall suggest milestone dates for the implementation of the recommendations made under subsection (c) and shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, qualified nonprofit agencies, and central nonprofit agencies of such dates.

“(2) NOTIFICATION OF IMPLEMENTATION OF RECOMMENDATIONS.—After the establishment of milestone dates under paragraph (1), the Panel may review the activities, including contracts, of the AbilityOne Commission, the central nonprofit agencies, and the relevant qualified nonprofit agencies to determine if the recommendations made under subsection (c) are being substantially implemented in good faith by the AbilityOne Commission or such agencies. If the Panel determines that the AbilityOne Commission or any such agency is not implementing the recommendations, the Panel shall notify the Secretary of Defense, the congressional defense committees, the Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

“(g) REMEDIES.—

“(1) IN GENERAL.—Upon receiving notification under subsection (f)(2) and subject to the limitation in paragraph (2), the Secretary of Defense may take one of the following actions:

“(A) With respect to a notification relating to the AbilityOne Commission, the Secretary may suspend compliance with the requirement to procure a product or service in section 8504 of title 41, United States Code, until the date on which the Secretary notifies Congress, in writing, that the AbilityOne Commission is substantially implementing the recommendations made under subsection (c).

“(B) With respect to a notification relating to a qualified nonprofit agency, the Secretary may terminate a contract with such agency that is in existence on the date of receipt of such notification, or elect to not enter into a contract with such agency after such date, until the date on which the AbilityOne Commission certifies to the Secretary that such agency is substantially implementing the recommendations made under subsection (c).

“(C) With respect to a notification relating to a central nonprofit agency, the Secretary may include a term in a contract entered into after the date of receipt of such notification with a qualified nonprofit agency that is under such central nonprofit agency that states that such qualified nonprofit agency shall not pay a fee to such central nonprofit agency until the date on which the AbilityOne Commission certifies to the Secretary that such central nonprofit agency is substantially implementing the recommendations made under subsection (c).

“(2) LIMITATION.—If the Secretary of Defense takes any of the actions described in paragraph (1), the Secretary shall coordinate with the AbilityOne Commission or the relevant central nonprofit agency, as appropriate, to fully implement the recommendations made under subsection (c). On the date on which such recommendations are fully implemented, the Secretary shall notify Congress, in writing, and the Secretary’s authority under paragraph (1) shall terminate.

“(h) PROGRESS REPORTS.—

“(1) CONSULTATION ON RECOMMENDATIONS.—Before submitting the progress report required under paragraph (2), the Panel shall consult with the AbilityOne Commission on draft recommendations made pursuant to subsection (c). The Panel shall include any recommendations of the AbilityOne Commission in the progress report submitted under paragraph (2).

“(2) PROGRESS REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Panel shall submit to the Secretary of Defense, the Chairman of the AbilityOne Commission, the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a progress report on the activities of the Panel.

“(i) ANNUAL REPORT.—

“(1) CONSULTATION ON REPORT.—Before submitting the annual report required under paragraph (2), the Panel shall consult with the AbilityOne Commission on the contents of the report. The Panel shall include any recommendations of the AbilityOne Commission in the report submitted under paragraph (2).

“(2) REPORT.—Not later than September 30, 2017, and annually thereafter for the next three years, the Panel shall submit to the Secretary of Defense, the Chairman of the AbilityOne Commission, the congressional defense committees, the Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that includes—

“(A) a summary of findings and recommendations for the year covered by the report;

“(B) a summary of the progress of the relevant qualified nonprofit agencies or central nonprofit agencies in implementing recommendations of the previous year’s report, if applicable;

“(C) an examination of the current structure of the AbilityOne Commission to eliminate waste, fraud, and abuse and to ensure contracting integrity and accountability for any violations of law or regulations;

“(D) recommendations for any changes to the acquisition and contracting practices of the Department of Defense and the AbilityOne Commission to improve the delivery of goods and services to the Department of Defense; and

“(E) recommendations for administrative safeguards to ensure the Department of Defense and the AbilityOne Commission are in compliance with the requirements of the Javits-Wagner-O’Day Act [see 41 U.S.C. 8501 et seq.], Federal civil rights law, and

regulations and policy related to the performance of contracts of the Department of Defense with qualified nonprofit agencies and the contracts of the AbilityOne Commission with central nonprofit agencies.

“(j) SUNSET.—The Panel shall terminate on the date of submission of the last annual report required under subsection (i).

“(k) INAPPLICABILITY OF FACA.—The requirements of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel established pursuant to subsection (a).

“(l) DEFENSE ACQUISITION UNIVERSITY TRAINING.—

“(1) IN GENERAL.—The Secretary of Defense shall establish a training program at the Defense Acquisition University established under section 1746 of title 10, United States Code. Such training shall include—

“(A) information about—

“(i) the mission of the AbilityOne Commission;

“(ii) the employment of significantly disabled veterans through contracts from the procurement list maintained by the AbilityOne Commission;

“(iii) reasonable accommodations and accessibility requirements for the blind and other severely disabled individuals; and

“(iv) Executive orders and other subjects related to the blind and other severely disabled individuals, as determined by the Secretary of Defense; and

“(B) procurement, acquisition, program management, and other training specific to procuring goods and services for the Department of Defense pursuant to the Javits-Wagner-O’Day Act.

“(2) ACQUISITION WORKFORCE ASSIGNMENT.—Members of the acquisition workforce (as defined in section 101 of title 10, United States Code) who have participated in the training described in paragraph (1) are eligible for a detail to the AbilityOne Commission.

“(3) ABILITYONE COMMISSION ASSIGNMENT.—Career employees of the AbilityOne Commission may participate in the training program described in paragraph (1) on a non-reimbursable basis for up to three years and on a non-reimbursable or reimbursable basis thereafter.

“(4) FUNDING.—Amounts from the Department of Defense Acquisition Workforce Development Fund established under section 1705 of title 10, United States Code, are authorized for use for the detail of members of the acquisition workforce to the AbilityOne Commission.

“(m) DEFINITIONS.—In this section:

“(1) The term ‘AbilityOne Commission’ means the Committee for Purchase From People Who Are Blind or Severely Disabled established under section 8502 of title 41, United States Code.

“(2) The terms ‘blind’, ‘qualified nonprofit agency for the blind’, ‘qualified nonprofit agency for other severely disabled’, and ‘severely disabled individual’ have the meanings given such terms under section 8501 of such title.

“(3) The term ‘central nonprofit agency’ means a central nonprofit agency designated under section 8503(c) of such title.

“(4) The term ‘executive agency’ has the meaning given such term in section 133 of such title.

“(5) The term ‘Javits-Wagner-O’Day Act’ means chapter 85 of such title.

“(6) The term ‘qualified nonprofit agency’ means—

“(A) a qualified nonprofit agency for the blind; or

“(B) a qualified nonprofit agency for other severely disabled.

“(7) The term ‘significantly disabled veteran’ means a veteran (as defined in section 101 of title 38, United States Code) who is a severely disabled individual.”

MITIGATING POTENTIAL UNFAIR COMPETITIVE ADVANTAGE OF TECHNICAL ADVISORS TO ACQUISITION PROGRAMS

Pub. L. 114-92, div. A, title VIII, § 895, Nov. 25, 2015, 129 Stat. 954, provided that: “Not later than 180 days after

the date of the enactment of this Act [Nov. 25, 2015], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review, and as necessary revise or issue, policy guidance pertaining to the identification, mitigation, and prevention of potential unfair competitive advantage conferred to technical advisors to acquisition programs.”

§ 4751. Determinations and decisions

(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under any chapter 137 legacy provision by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 3531(a), 3803, or 3841(c)(2)(B) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

(2) Each finding referred to in paragraph (1) is final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.

(Aug. 10, 1956, ch. 1041, 70A Stat. 132, § 2310; Pub. L. 85-800, § 10, Aug. 28, 1958, 72 Stat. 967; Pub. L. 87-653, § 1(f), Sept. 10, 1962, 76 Stat. 529; Pub. L. 89-607, § 1(1), Sept. 27, 1966, 80 Stat. 850; Pub. L. 90-378, § 2, July 5, 1968, 82 Stat. 290; Pub. L. 98-369, div. B, title VII, § 2725, July 18, 1984, 98 Stat. 1193; Pub. L. 99-145, title XIII, § 1303(a)(16), Nov. 8, 1985, 99 Stat. 739; Pub. L. 103-355, title I, § 1504, Oct. 13, 1994, 108 Stat. 3297; renumbered § 4751 and amended Pub. L. 116-283, div. A, title XVIII, § 1864(b), (c), Jan. 1, 2021, 134 Stat. 4279.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2310(a)	41:156(a) (1st sentence).	Feb. 19, 1948, ch. 65, § 7(a) (1st sentence), (c), 62 Stat. 24.
2310(b)	41:156(c).	

In subsection (a), the words “required * * * under” are substituted for the words “provided in”.

In subsection (b), the word “person” is substituted for the word “official”. The words “to which it applies” are inserted for clarity.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, § 1864(b), renumbered section 2310 of this title as this section.

Subsec. (a). Pub. L. 116-283, § 1864(c)(1), substituted “made under any chapter 137 legacy provision” for “made under this chapter”.

Subsec. (b). Pub. L. 116-283, § 1864(c)(2), substituted “section 3531(a), 3803, or 3841(c)(2)(B)” for “section 2306(g)(1), 2307(d), or 2313(c)(2)(B)”.

1994—Pub. L. 103-355 amended section generally. Prior to amendment, section read as follows:

“(a) Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except for determinations and decisions under section 2304 or 2305 of this title, for a class of purchases or contracts. Such a determination or decision, including a