

(d) NONAPPLICATION OF CERTAIN CONDITIONS.—The conditions of sections 3803 and 3804 of this title need not be applied if they would be inconsistent, as determined by the head of the agency, with commercial terms and conditions pursuant to this section.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (f), Jan. 1, 2021, 134 Stat. 4234, 4236.)

Editorial Notes

CODIFICATION

The text of subsec. (f) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1834(f), was based on Pub. L. 103–355, title II, §2001(f), Oct. 13, 1994, 108 Stat. 3302; Pub. L. 115–232, div. A, title VIII, §836(c)(6), Aug. 13, 2018, 132 Stat. 1866.

AMENDMENTS

2021—Pub. L. 116–283, §1834(f)(1)(A), transferred subsec. (f) of section 2307 of this title to this section and struck out subsec. (f) designation and heading “Conditions for Payments for Commercial Products and Commercial Services” at beginning.

Subsec. (a). Pub. L. 116–283, §1834(f)(1)(B), (4), after transfer of section 2307(f) of this title to this section, redesignated par. (1) as subsec. (a), inserted heading, and substituted “section 3801 of this title” for “subsection (a)”.

Subsec. (b). Pub. L. 116–283, §1834(f)(4), inserted heading.

Pub. L. 116–283, §1834(f)(2), which directed the designation of “the second sentence of subsection (a) as subsection (b)”, was executed by designating the second and third sentences of subsec. (a) as (b), to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 116–283, §1834(f)(1)(B), (5), after transfer of section 2307(f) of this title to this section, redesignated par. (2) as subsec. (c), inserted heading, and substituted “section 3801 of this title” for “subsection (a)”.

Subsec. (d). Pub. L. 116–283, §1834(f)(1)(B), (6), after transfer of section 2307(f) of this title to this section, redesignated par. (3) as subsec. (d), inserted heading, and substituted “sections 3803 and 3804 of this title” for “subsections (d) and (e)” and “this section” for “paragraphs (1) and (2)”.

Statutory Notes and Related Subsidiaries

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 Amendment note preceding section 3001 of this title.

§ 3806. Action in case of fraud

(a) REMEDY COORDINATION OFFICIAL DEFINED.—In this section, the term “remedy coordination official”, with respect to an agency, means the person or entity in that agency who coordinates within that agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.

(b) RECOMMENDATION TO REDUCE OR SUSPEND PAYMENTS.—In any case in which the remedy coordination official of an agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that agency

is based on fraud, the remedy coordination official shall recommend that the head of the agency reduce or suspend further payments to such contractor.

(c) REDUCTION OR SUSPENSION OF PAYMENTS.—The head of an agency receiving a recommendation under subsection (b) in the case of a contractor’s request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

(d) EXTENT OF REDUCTION OR SUSPENSION.—The extent of any reduction or suspension of payments by the head of an agency under subsection (c) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

(e) WRITTEN JUSTIFICATION.—A written justification for each decision of the head of an agency whether to reduce or suspend payments under subsection (c) and for each recommendation received by such agency head in connection with such decision shall be prepared and be retained in the files of such agency.

(f) NOTICE.—The head of an agency shall prescribe procedures to ensure that, before such agency head decides to reduce or suspend payments in the case of a contractor under subsection (c), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

(g) REVIEW.—Not later than 180 days after the date on which the head of an agency reduces or suspends payments to a contractor under subsection (c), the remedy coordination official of such agency shall—

(1) review the determination of fraud on which the reduction or suspension is based; and

(2) transmit a recommendation to the head of such agency whether the suspension or reduction should continue.

(h) ANNUAL REPORT.—The head of an agency shall prepare for each year a report containing the recommendations made by the remedy coordination official of that agency to reduce or suspend payments under subsection (c), the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. The Secretary of each military department shall transmit the annual report of such department to the Secretary of Defense. Each such report shall be available to any member of Congress upon request.

(i) RESTRICTION ON DELEGATION.—The head of an agency may not delegate responsibilities under this section to any person in a position below level IV of the Executive Schedule.

(j) INAPPLICABILITY TO COAST GUARD.—This section applies to the agencies named in paragraphs (1), (2), (3), (4), and (6) of section 3063 of this title.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1834(a), (g), Jan. 1, 2021, 134 Stat. 4234, 4237.)

Editorial Notes

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (i), is set out in section 5315 of Title 5, Government Organization and Employees.

CODIFICATION

The text of subsec. (i) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116-283, §1834(g), was based on Pub. L. 101-510, div. A, title VIII, §836(a), Nov. 5, 1990, 104 Stat. 1615; Pub. L. 102-25, title VII, §701(j)(2)(A), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102-484, div. A, title X, §1052(24), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103-355, title II, §2001(a)(7), Oct. 13, 1994, 108 Stat. 3301; Pub. L. 105-85, div. A, title VIII, §802(1), Nov. 18, 1997, 111 Stat. 1831; Pub. L. 106-391, title III, §306, Oct. 30, 2000, 114 Stat. 1592.

AMENDMENTS

2021—Pub. L. 116-283, §1834(g)(1), (2), (11), transferred subsec. (i) of section 2307 of this title to this section, struck out subsec. (i) designation and heading “Action in Case of Fraud” at beginning, and redesignated par. (10) as subsec. (a), pars. (1) to (7) as subsecs. (b) to (h), respectively, and pars. (9) and (8) as subsecs. (i) and (j), respectively.

Subsec. (a). Pub. L. 116-283, §1834(g)(3), inserted heading and substituted “this section” for “this subsection”.

Subsec. (b). Pub. L. 116-283, §1834(g)(4), inserted heading.

Subsec. (c). Pub. L. 116-283, §1834(g)(5), inserted heading and substituted “subsection (b)” for “paragraph (1)”.

Subsec. (d). Pub. L. 116-283, §1834(g)(6), inserted heading and substituted “subsection (c)” for “paragraph (2)”.

Subsec. (e). Pub. L. 116-283, §1834(g)(7), inserted heading and substituted “subsection (c)” for “paragraph (2)”.

Subsec. (f). Pub. L. 116-283, §1834(g)(8), inserted heading and substituted “subsection (c)” for “paragraph (2)”.

Subsec. (g). Pub. L. 116-283, §1834(g)(9), inserted heading, substituted “subsection (c)” for “paragraph (2)” in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (h). Pub. L. 116-283, §1834(g)(10), inserted heading and substituted “subsection (c)” for “paragraph (2)”.

Subsec. (i). Pub. L. 116-283, §1834(g)(12), inserted heading and substituted “this section” for “this subsection”.

Subsec. (j). Pub. L. 116-283, §1834(g)(13), inserted heading and substituted “section applies” for “subsection applies” and “section 3063” for “section 2303(a)”.

Statutory Notes and Related Subsidiaries

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 Amendment note preceding section 3001 of this title.

§ 3807. Vesting of title in the United States

If a contract paid by a method authorized under section 3801(a) of this title provides for title to property to vest in the United States, the title to the property shall vest in accordance with the terms of the contract, regardless of any security interest in the property that is asserted before or after the contract is entered into.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1834(a), (h), Jan. 1, 2021, 134 Stat. 4234, 4239; Pub. L. 117-81, div. A, title XVII, §1701(b)(13), Dec. 27, 2021, 135 Stat. 2134.)

Editorial Notes

CODIFICATION

The text of subsec. (h) of section 2307 of this title, which was transferred to this section and amended by Pub. L. 116-283, §1834(h), was based on Pub. L. 105-85, div. A, title VIII, §802(2), Nov. 18, 1997, 111 Stat. 1831.

AMENDMENTS

2021—Pub. L. 116-283, §1834(h), as amended by Pub. L. 117-81, §1701(b)(13), transferred subsec. (h) of section 2307 of this title to this section, struck out subsec. (h) designation and heading “Vesting of Title in the United States” at beginning, and substituted “section 3801(a) of this title” for “subsection (a)(1)”.

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 Amendment note preceding section 3001 of this title.

§ 3808. Certain Navy contracts

(a) REPAIR, MAINTENANCE, OR OVERHAUL OF NAVAL VESSELS: RATE FOR PROGRESS PAYMENTS.—The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

(1) 95 percent, in the case of a firm considered to be a small business; and

(2) 90 percent, in the case of any other firm.

(b) AUTHORITY TO ADVANCE FUNDS FOR IMMEDIATE SALVAGE OPERATIONS.—The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this subsection shall be made on terms that the Secretary considers adequate for the protection of the United States.

(c) SECURITY FOR CONSTRUCTION AND CONVERSION OF NAVAL VESSELS.—The Secretary of the Navy shall provide, in each contract for construction or conversion of a naval vessel, that, when partial, progress, or other payments are made under such contract, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1834(a), (i)(1)–(4), as added and amended Pub. L. 117-81, div. A, title XVII, §1701(n)(1)(B), (2), Dec. 27, 2021, 135 Stat. 2145.)