

gram 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)(ii) 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)(ii) 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.

¹ See References in Text note below.

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 “inconsistent”.

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

“(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and 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) The reports under paragraph (1) shall cover the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report.

“(3) A report is not required under paragraph (1) for any period beginning after December 31, 1993.”

1990—Subsec. (c)(1). Pub. L. 101-510, §1311(4)(A), substituted “an annual report” for “a semiannual report” in introductory provisions.

Subsec. (c)(2). Pub. L. 101-510, §1311(4)(B), substituted “the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report” for “the six-month periods ending on June 30 and December 31 of each year. Each such report shall be submitted within 30 days after the end of the period covered by the report”.

1989—Subsec. (a). Pub. L. 101-189, §252(a), substituted “unless—” for “unless” and pars. (1) and (2) for “the

grant or contract is made or awarded using competitive procedures.”

Subsec. (b). Pub. L. 101-189, §252(b)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “A provision of law enacted after the date of the enactment of this section may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes the provisions of this section.”

Subsec. (c). Pub. L. 101-189, §252(c)(1), added subsec. (c).

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 note below.

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

Pub. L. 103-160, div. A, title VIII, §821(b), Nov. 30, 1993, 107 Stat. 1704, provided that the amendment made by that section is effective Feb. 1, 1994.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title II, §252(b)(2), Nov. 29, 1989, 103 Stat. 1405, provided that: “Subsection (b) of section 2361 of title 10, United States Code [now 10 U.S.C. 4141(b)], as amended by paragraph (1), applies with respect to any provision of law enacted after September 30, 1989.”

EFFECTIVE DATE

Pub. L. 100-456, div. A, title II, §220(c), Sept. 29, 1988, 102 Stat. 1941, provided that: “The limitation specified in section 2361(a) of title 10, United States Code [now 10 U.S.C. 4141(a)] (as added by subsection (a)), on the authority of the Secretary of Defense to make grants and award contracts shall take effect on October 1, 1989.”

§ 4142. Extramural acquisition innovation and research activities

(a) ESTABLISHMENT.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Sustainment and in coordination with the Under Secretary of Defense for Research and Engineering, shall establish and maintain extramural acquisition innovation and research activities as described in subsection (d), which shall include an acquisition research organization within a civilian college or university that is not owned or operated by the Federal Government that is established to provide and maintain essential research and development capabilities through a long-term strategic relationship with the Department of Defense.

(b) GOALS.—The goal of any activity conducted pursuant to this section shall be to provide academic analyses and policy alternatives for innovation in defense acquisition policies and practices to policymakers in the Federal Government by using a variety of means intended to widely disseminate research findings from such an activity, in addition to executing demonstration and pilot programs of innovative acquisition policies and practices.