

of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))”.

Subsec. (a)(4)(B). Pub. L. 111-350, §5(b)(26)(B), substituted “section 103 of title 41” for “section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))”.

1996—Subsec. (a)(3). Pub. L. 104-106 struck out at end “If the five-year period is waived, the Secretary shall submit to Congress a report stating the reasons for the waiver.”

1994—Subsec. (a)(4). Pub. L. 103-355, §4102(g), added introductory provisions and subpar. (A).

Subsec. (a)(4)(B). Pub. L. 103-355, §8105(h)(1), added subpar. (B).

Subsec. (a)(4)(C). Pub. L. 103-355, §8105(h)(2), inserted “or (B)” before period at end.

Pub. L. 103-355, §4102(g), added subpar. (C).

1992—Subsec. (c). Pub. L. 102-484 added subsec. (c).

1990—Subsec. (a)(1)(A). Pub. L. 101-510, §812(a)(1), inserted before period at end “or any first tier subcontract of a defense contract”.

Subsec. (a)(1)(B). Pub. L. 101-510, §812(a)(2), inserted before period at end “or any subcontractor awarded a contract directly by a defense contractor”.

Subsec. (a)(1)(C). Pub. L. 101-510, §812(a)(3), inserted before period at end “or any subcontractor awarded a contract directly by a defense contractor”.

Subsec. (a)(1)(D). Pub. L. 101-510, §812(a)(4), inserted before period at end “or first tier subcontract of a defense contract”.

Subsec. (b). Pub. L. 101-510, §812(b), inserted “or subcontractor” after “contractor” wherever appearing.

1988—Subsec. (a). Pub. L. 100-456 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “A person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one year from the date of the conviction.”

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 2302 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 831(b) of Pub. L. 100-456 provided that: “Section 2408(a) of title 10, United States Code, as amended by subsection (a), shall apply with respect to individuals convicted after the date of the enactment of this Act [Sept. 29, 1988].”

EFFECTIVE DATE

Section 101(c) [title X, §941(c)] of Pub. L. 99-500 and Pub. L. 99-591, and section 941(c) of title IX, formerly title IV, of Pub. L. 99-661, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: “Section 2408 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to employment or service on a board of directors after the date of the enactment of this Act [Oct. 18, 1986].”

DEADLINE FOR SINGLE POINT OF CONTACT

Pub. L. 102-484, div. A, title VIII, §815(b), Oct. 23, 1992, 106 Stat. 2454, directed that the single point of contact required by subsec. (c) of this section be established not later than 120 days after Oct. 23, 1992.

§ 2409. Contractor employees: protection from reprisal for disclosure of certain information

(a) PROHIBITION OF REPRISALS.—An employee of a contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress, a representative of a committee of Congress, an In-

pector General, the Government Accountability Office, a Department of Defense employee responsible for contract oversight or management, or an authorized official of an agency or the Department of Justice information that the employee reasonably believes is evidence of gross mismanagement of a Department of Defense contract or grant, a gross waste of Department of Defense funds, a substantial and specific danger to public health or safety, or a violation of law related to a Department of Defense contract (including the competition for or negotiation of a contract) or grant.

(b) INVESTIGATION OF COMPLAINTS.—(1) A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the Department of Defense, or the Inspector General of the National Aeronautics and Space Administration in the case of a complaint regarding the National Aeronautics and Space Administration. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency.

(2)(A) Except as provided under subparagraph (B), the Inspector General shall make a determination that a complaint is frivolous or submit a report under paragraph (1) within 180 days after receiving the complaint.

(B) If the Inspector General is unable to complete an investigation in time to submit a report within the 180-day period specified in subparagraph (A) and the person submitting the complaint agrees to an extension of time, the Inspector General shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the Inspector General and the person submitting the complaint.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:

(A) Order the contractor to take affirmative action to abate the reprisal.

(B) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency.

(2) If the head of an executive agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under paragraph (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the contractor to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

(3) An Inspector General determination and an agency head order denying relief under paragraph (2) shall be admissible in evidence in any de novo action at law or equity brought pursuant to this subsection.

(4) Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(5) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5.

(d) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

(e) DEFINITIONS.—In this section:

(1) The term “agency” means an agency named in section 2303 of this title.

(2) The term “head of an agency” has the meaning provided by section 2302(1) of this title.

(3) The term “contract” means a contract awarded by the head of an agency.

(4) The term “contractor” means a person awarded a contract or a grant with an agency.

(5) The term “Inspector General” means an Inspector General appointed under the Inspector General Act of 1978 and any Inspector General that receives funding from, or has oversight over contracts awarded for or on behalf of, the Secretary of Defense.

(Added Pub. L. 99-500, §101(c) [title X, §942(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-162, and Pub. L. 99-591, §101(c) [title X, §942(a)(1)], Oct. 30, 1986,

100 Stat. 3341-82, 3341-162; Pub. L. 99-661, div. A, title IX, formerly title IV, §942(a)(1), Nov. 14, 1986, 100 Stat. 3942, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 102-25, title VII, §701(k)(1), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102-484, div. A, title X, §1052(30)(A), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103-355, title VI, §6005(a), Oct. 13, 1994, 108 Stat. 3364; Pub. L. 104-106, div. D, title XLIII, §4321(a)(10), Feb. 10, 1996, 110 Stat. 671; Pub. L. 110-181, div. A, title VIII, §846, Jan. 28, 2008, 122 Stat. 241.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (e)(5), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 added identical sections.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181, §846(a), substituted “disclosing to a Member of Congress, a representative of a committee of Congress, an Inspector General, the Government Accountability Office, a Department of Defense employee responsible for contract oversight or management,” for “disclosing to a Member of Congress” and “information that the employee reasonably believes is evidence of gross mismanagement of a Department of Defense contract or grant, a gross waste of Department of Defense funds, a substantial and specific danger to public health or safety, or a violation of law related to a Department of Defense contract (including the competition for or negotiation of a contract) or grant” for “information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract)”.

Subsec. (b). Pub. L. 110-181, §846(b), designated existing provisions as par. (1), substituted “the Department of Defense, or the Inspector General of the National Aeronautics and Space Administration in the case of a complaint regarding the National Aeronautics and Space Administration” for “an agency”, and added par. (2).

Subsec. (c)(1). Pub. L. 110-181, §846(c)(1), in introductory provisions, substituted “Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall” for “If the head of the agency determines that a contractor has subjected a person to a reprisal prohibited by subsection (a), the head of the agency may”.

Subsec. (c)(2) to (5). Pub. L. 110-181, §846(c)(2), (3), added pars. (2) and (3) and redesignated former pars. (2) and (3) as (4) and (5), respectively.

Subsec. (e)(4). Pub. L. 110-181, §846(d)(1), inserted “or a grant” after “a contract”.

Subsec. (e)(5). Pub. L. 110-181, §846(d)(2), inserted “and any Inspector General that receives funding from, or has oversight over contracts awarded for or on behalf of, the Secretary of Defense” before period at end.

1996—Pub. L. 104-106 made technical correction to Pub. L. 103-355, §6005(a). See 1994 Amendment note below.

1994—Pub. L. 103-355, §6005(a), as amended by Pub. L. 104-106, amended section generally. Prior to amendment, subsec. (a) related to prohibition of reprisals, subsec. (b) to investigation of complaints, subsec. (c) to construction of section, and subsec. (d) to coordination of section with former section 2409a of this title.

1992—Subsec. (d). Pub. L. 102-484 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as fol-

lows: “EFFECTIVE DATE.—This section shall not be in effect during the period when section 2409a of this title is in effect.”

1991—Subsec. (d), Pub. L. 102–25 added subsec. (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 4321(a) of Pub. L. 104–106 provided that the amendment made by that section is effective as of Oct. 13, 1994, and as if included in Pub. L. 103–355 as enacted.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 2302 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1052(30)(B) of Pub. L. 102–484 provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if enacted immediately following the enactment of Public Law 102–25 (105 Stat. 75).”

EFFECTIVE DATE

Section 101(c) [title X, §942(b)] of Pub. L. 99–500 and Pub. L. 99–591, and section 942(b) of title IX, formerly title IV, of Pub. L. 99–661, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: “Section 2409 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to any reprisal action taken on or after the date of the enactment of this Act [Oct. 18, 1986].”

INFORMATION FOR DEPARTMENT OF DEFENSE CONTRACTOR EMPLOYEES ON THEIR WHISTLEBLOWER RIGHTS

Pub. L. 110–417, [div. A], title VIII, §842, Oct. 14, 2008, 122 Stat. 4539, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall ensure that contractors of the Department of Defense inform their employees in writing of employee whistleblower rights and protections under section 2409 of title 10, United States Code, as implemented by subpart 3.9 of part I of title 48, Code of Federal Regulations.

“(b) CONTRACTOR DEFINED.—In this section, the term ‘contractor’ has the meaning given that term in section 2409(e)(4) of title 10, United States Code.”

[§ 2409a. Repealed. Pub. L. 103–355, title VI, § 6005(b)(1), Oct. 13, 1994, 108 Stat. 3365]

Section, added Pub. L. 101–510, div. A, title VIII, §837(a)(1), Nov. 5, 1990, 104 Stat. 1616; amended Pub. L. 102–25, title VII, §701(j)(4), (k)(2), Apr. 6, 1991, 105 Stat. 116, 117, required promulgation of regulations prohibiting defense contractor from discharging or discriminating against employee for disclosing to Government official information concerning contract between contractor and Department of Defense evidencing violation of Federal law or regulation and providing certain complaint and investigation provisions and provided procedures for review and enforcement.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 2302 of this title.

§ 2410. Requests for equitable adjustment or other relief: certification

(a) CERTIFICATION REQUIREMENT.—A request for equitable adjustment to contract terms or request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) that exceeds the simplified acquisition threshold may not be paid unless a person authorized to certify the request on behalf of the contractor certifies, at the time the request is submitted, that—

(1) the request is made in good faith, and

(2) the supporting data are accurate and complete to the best of that person’s knowledge and belief.

(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after September 30, 1994, that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

(1) specifically refers to this subsection; and

(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.

(c) DEFINITION.—In this section, the term “simplified acquisition threshold” has the meaning given that term in section 134 of title 41.

(Added Pub. L. 103–355, title II, §2301(a), Oct. 13, 1994, 108 Stat. 3320; amended Pub. L. 111–350, §5(b)(27), Jan. 4, 2011, 124 Stat. 3845.)

REFERENCES IN TEXT

Public Law 85–804, referred to in subsecs. (a) and (b), is Pub. L. 85–804, Aug. 28, 1958, 72 Stat. 972, which is classified generally to chapter 29 (§1431 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section, added Pub. L. 100–370, §1(h)(2), July 19, 1988, 102 Stat. 847, provided that contract claims, requests for equitable adjustments, requests for relief under section 1431 et seq. of Title 50, War and National Defense, and other similar requests by contractors exceeding \$100,000 were not to be paid unless senior official of contractor certified that claim or request was made in good faith and that data submitted was accurate and complete to the best of such official’s knowledge and belief, prior to repeal by Pub. L. 102–484, div. A, title VIII, §813(b), Oct. 23, 1992, 106 Stat. 2453, effective upon promulgation of regulations pursuant to former section 2410e of this title [Interim rules, effective Apr. 30, 1993, were promulgated and published in the Federal Register, 58 F.R. 28458, May 13, 1993, and final rules, effective May 27, 1994, were promulgated and published in the Federal Register, 59 F.R. 27662, May 27, 1994].

AMENDMENTS

2011—Subsec. (c), Pub. L. 111–350 substituted “section 134 of title 41” for “section 4(11) of the Office of Federal Procurement Policy Act”.

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 2302 of this title.

§ 2410a. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property

(a) AUTHORITY.—(1) The Secretary of Defense, the Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may enter into a contract