implementation and applicability of existing law, see sec-
section 1801(d) of Pub. L. 116–283, set out as an Effective
Date of 2021 Amendment note preceding section 3001 of
this title.

ENHANCED POST-AWARD DEBRIEFING RIGHTS; RELEASE
OF CONTRACT AWARD INFORMATION
131 Stat. 1463, provided that: "Not later than 180 days
after the date of the enactment of this Act (Dec. 12,
2017), the Secretary of Defense shall revise the Depart-
ment of Defense Supplement to the Federal Acquisition
Regulation to require that all required post-award
debriefings, while protecting the confidential and pro-
prietary information of other offerors, include, at a
minimum, the following:

(1) In the case of a contract award in excess of
$100,000,000, a requirement for disclosure of the agen-
cy’s written source selection award determination,
redacted to protect the confidential and proprietary
information of other offerors, include, at a
minimum, the following:

(1) A requirement for a written or oral debriefing
for all contract awards and task or delivery orders
valued at $10,000,000 or higher.
(2) Provisions ensuring that both unsuccessful
winning offerors are entitled to the disclosure de-
scribed in paragraph (1) and the debriefing de-
scribed in paragraph (2).
(3) Robust procedures, consistent with section
2305(b)(5)(D) of title 10, United States Code [now 10
U.S.C. 3304(d)], and provisions implementing that sec-
tion in the Federal Acquisition Regulation, to pro-
protect the confidential and proprietary information
of other offerors.''

§ 3305. Pre-award debriefings

(a) REQUEST FOR DEBRIEFING.—When the con-
tacting officer excludes an offeror submitting a
competitive proposal from the competitive
range (or otherwise excludes such an offeror
from further consideration prior to the final
source selection decision), the excluded offeror
may request in writing, within three days after
the date on which the excluded offeror receives
notice of its exclusion, a debriefing prior to
award.

(b) WHEN DEBRIEFING TO BE CONDUCTED.—The
contracting officer shall make every effort to
debrief the unsuccessful offeror as soon as prac-
ticable but may refuse the request for a debrief-
ing if it is not in the best interests of the Gov-
ernment to conduct a debriefing at that time.

(c) PRECONDITION FOR POST-AWARD DEBRI-
FEING.—The contracting officer is required to de-
brief an excluded offeror in accordance with sec-
tion 3304 of this title only if that offeror re-
quested and was refused a preaward debriefing
under subsections (a) and (b).

(d) INFORMATION TO BE PROVIDED.—The
debriefing conducted under subsections (a) and (b)
shall include—
(1) the executive agency’s evaluation of the
significant elements in the offeror’s offer;
(2) a summary of the rationale for the
offeror’s exclusion; and
(3) reasonable responses to relevant ques-
tions posed by the debriefed offeror as to
whether source selection procedures set forth in
the solicitation, applicable regulations, and
other applicable authorities were followed by
the executive agency.

(e) INFORMATION NOT TO BE DISCLOSED.—The
debriefing conducted under subsections (a) and
(b) may not disclose the number or identity of
other offerors and shall not disclose information
about the content, ranking, or evaluation of other
offerors’ proposals.

(f) SUMMARY TO BE INCLUDED IN FILE.—The
contracting officer shall include a summary of
any debriefing conducted under this section in
the contract file.

4182, 4183; Pub. L. 117–81, div. A, title XVII,
§ 1701(b)(6)(B), Dec. 27, 2021, 135 Stat. 2133.)

Editorial Notes

CODIFICATION

The text of subsec. (b)(6) of section 3305 of this title,
which was transferred to this section, redesignated as
subsecs. (a) to (e), and amended by Pub. L. 116–283,
§ 1816(c)(1), (2)(E), (7)(A), (C)(f), was based on Pub. L.

The text of subsec. (b)(7) of section 3305 of this title,
which was transferred to this section, redesignated as
subsec. (f), and amended by Pub. L. 116–283, § 1816(c)(1),
(2)(E), (7)(B), (J), was based on Pub. L. 104–106, div. D,

PRIOR PROVISIONS

A prior section 3305, act Aug. 10, 1966, ch. 1041, 70A
Stat. 189; Pub. L. 85–155, title I, § 101(16), Aug. 21, 1957,
71 Stat. 379; Pub. L. 90–130, § 1(10)(D), (E), Nov. 8, 1967,
81 Stat. 735, related to promotion of officers in regular
grade of lieutenant colonel to grade of colonel, prior to
repeal by Pub. L. 96–513, title II, § 204, title VII, § 701,
See section 619 et seq. of this title.

AMENDMENTS

2021—Pub. L. 116–283, § 1816(c)(7)(A), transferred sub-
sec. (b)(6) of section 3305 of this title to this section and
struck out par. (6) designation at beginning.

Subsec. (a). Pub. L. 116–283, § 1816(c)(7)(C), (E), redesign-
ated subpar. (A) of former section 2305(b)(6) of this
title as subsec. (a) of this section and inserted heading.

(Former second sentence of subsec. (a) designated sub-
sec. (b).)

Subsec. (b). Pub. L. 116–283, § 1816(c)(7)(D), (F), desig-
ated second sentence of subsec. (a) as subsec. (b) of
this section and inserted heading.

Subsec. (c). Pub. L. 116–283, § 1816(c)(7)(B), (G), redesign-
ated subpar. (B) of former section 2305(b)(6) of this
title as subsec. (c) of this section, inserted heading,
and substituted "section 3304 of this title" for "paragraph
(5)" and "subsections (a) and (b)" for "subparagraph
(A)".

Subsec. (d). Pub. L. 116–283, § 1816(c)(7)(B), (H), redesign-
ated subpar. (C) of former section 2305(b)(6) of this
title and its cls. (i) to (iii) as subsec. (d) of this section and
pars. (1) to (3), respectively, inserted heading, and
substituted "subsections (a) and (b)" for "subparagraph
(A)" in introductory provisions.

Subsec. (e). Pub. L. 116–283, § 1816(c)(7)(B), (I), redesign-
ated subpar. (D) of former section 2305(b)(6) of this
title as subsec. (e) of this section, inserted heading, and
substituted "subsections (a) and (b)" for "subparagraph
(A)".

Subsec. (f). Pub. L. 116–283, § 1816(c)(7)(B), (J), as
amended by Pub. L. 117–81, § 1701(b)(6)(B), redesignated
subsec. (b)(7) of section 2305 of this title as subsec. (f)
of this section, inserted heading, and substituted "under this section" for "under paragraph (5) or (6)".

See section 619 et seq. of this title.
§ 3306. Encouragement of alternative dispute resolution

The Federal Acquisition Regulation shall include a provision encouraging the use of alternative dispute resolution techniques to provide informal, expeditious, and inexpensive procedures for an offeror to consider using before filing a protest, prior to the award of a contract, of the exclusion of the offeror from the competitive range (or otherwise from further consideration) for that contract.


Editorial Notes

CODIFICATION


PRIOR PROVISIONS


AMENDMENTS

2021—Pub. L. 116–283, §1816(c)(9), transferred subsec. (b)(9) of section 2305 of this title to this section and struck out par. (9) designation at beginning.

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.

§ 3307. Antitrust violations

If the head of an agency considers that a bid or proposal evidences a violation of the antitrust laws, he shall refer the bid or proposal to the Attorney General for appropriate action.


Editorial Notes

CODIFICATION

The text of subsec. (e) of section 2305 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116–283, §1816(e), was based on Pub. L. 103–355, title I, §1015, Oct. 13, 1994.