to the beginning of the section and redesignated it as (a), and redesignated former subsec. (a) to (h) as (b) to (l), respectively.

Subsec. (b)(1). Pub. L. 116–283, §1820(d)(3), substituted "section 3006" for "section 3034" and "section 4004" for "section 2304d".

Subsec. (e). Pub. L. 116–283, §1820(d)(4)(A), (B), as amended by Pub. L. 117–81, 170C(h)(b)(C), inserted par. headings, substituted "section 3004(b)" for "section 2304a(b)" in par. (1), and realigned margin of par. (2).

Subsec. (f). Pub. L. 116–283, §1820(d)(5), inserted par. headings and realigned margins of pars. (2) and (3).


Subsec. (g)(2). Pub. L. 116–283, §1820(d)(6)(B), (C), inserted heading, realigned margin, and substituted "subsection (a) of section 3204" for "subsection (c) of section 2304" and "subsection (e)" for "subsection (f)".


Subsec. (h)(1). Pub. L. 116–283, §1820(d)(7)(A), (B), inserted heading, and substituted "subsection (c)" for "subsection (b)" and "subsection (f)" for "subsection (e)".


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

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 8752 of this title.

Provisions Not Affected by Pub. L. 103–355

This section not to be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under former 40 U.S.C. 759 or chapter 11 of Title 40, Public Buildings, Property, and Works, see section 1004(d) of Pub. L. 103–355, set out as a note preceding section 3401 of this title.

§ 3406. Task and delivery order contracts: orders

(a) APPLICABILITY.—This section applies to task and delivery order contracts entered into under sections 3403 and 3405 of this title.

(b) ISSUANCE OF ORDERS.—The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

(1) A separate notice for such order under section 1708 of title 41 or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

(2) Except as provided in subsection (c), a competition (or a waiver of competition approved in accordance with section 3204(e) of this title) that is separate from that used for entering into the contract.

(c) MULTIPLE AWARD CONTRACTS.—When multiple task or delivery order contracts are award-
(g) TASK AND DELIVERY ORDER OMBUDSMAN.—

(1) APPOINTMENT OR DESIGNATION AND RESPONSIBILITIES.—Each head of an agency who awards multiple task or delivery order contracts pursuant to section 3403(d)(1)(B) or 3405(f) of this title shall appoint or designate a task and delivery order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task or delivery orders when required under subsection (c).

(2) WHO IS ELIGIBLE.—The task and delivery order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency’s competition advocate.


Section 3441, act Aug. 10, 1956, ch. 1041, 70A Stat. 196, provided that temporary appointments be made in the Army without specification of component. A prior section 3442, act Aug. 10, 1956, ch. 1041, 70A Stat. 196, provided that a regular commissioned officer, or a reserve commissioned officer who is serving on active duty, may be appointed, based upon ability and efficiency, in the temporary grade assigned to him at the time he entered active duty, in grade of lieutenant colonel and above, to the benefits of all laws and regulations applicable to the retirement, pensions, and disability of members of the Army on active duty. See section 602 of this title.

A prior section 3449, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided that temporary appointments made in warrant officer grades be governed by such regulations as the Secretary of the Army prescribe. See section 602 of this title.


Section 3444, act Aug. 10, 1956, ch. 1041, 70A Stat. 196; Sept. 2, 1958, Pub. L. 85–603, § 305, 72 Stat. 1570, authorized the President, in time of war or national emergency, to appoint qualified persons as warrant officers, with such appointments to continue at the pleasure of the President, and such warrant officers entitled to count all periods of active duty under the appointment as warrant or enlisted service for all purposes and to the benefits of all laws and regulations applicable to the retirement, pensions, and disability of members of the Army on active duty. See section 602 of this title.

A prior section 3450, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided for suspension of laws for promotion or mandatory retirement or separation during war or emergency of temporary warrant officers of the Army, prior to repeal by Pub. L. 90–235, § 3(b)(1), Jan. 2, 1968, 81 Stat. 758.


Section 3447, acts Aug. 10, 1956, ch. 1041, 70A Stat. 196; Sept. 2, 1958, Pub. L. 85–603, § 304, 72 Stat. 1570, provided that temporary appointments of commissioned officers in the Regular Army be made by the President alone in grades below lieutenant colonel and by the President, by and with the consent of the Senate, in grades of lieutenant colonel and above, temporary appointments of commissioned officers in the reserve components of the Army be made by the President alone in grades below lieutenant colonel and by the President, by and with the consent of the Senate, in grades above major, and that the President may vacate at any time a temporary appointment in a commissioned grade. See section 601 of this title.

Section 3448, acts Aug. 10, 1956, ch. 1041, 70A Stat. 197; Aug. 8, 1958, Pub. L. 85–603, § 305. The President authorized the Secretary of the Army, upon his determination of need, to appoint qualified persons as warrant officers, with such appointments to continue at the pleasure of the Secretary, and such warrant officers entitled to count all periods of active duty under the appointment as warrant or enlisted service for all purposes and to the benefits of all laws and regulations applicable to the retirement, pensions, and disability of members of the Army on active duty. See section 602 of this title.

Section 3449, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided that temporary promotions in warrant officer grades be governed by such regulations as the Secretary of the Army prescribe. See section 602 of this title.

A prior section 3450, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided for suspension of laws for promotion or mandatory retirement or separation during war or emergency of temporary warrant officers of the Army, prior to repeal by Pub. L. 90–235, § 3(b)(1), Jan. 2, 1968, 81 Stat. 758.

Amendments

2021—Pub. L. 116–283, § 1820(e)(1), (2), substituted section 2304c of this title for this section, redesignated subsecs. (g), (a), (b), (c), (e), and (f) as (a), (b), (c), (e), (f), and (g), respectively, and renumbered subsec. accordingly.

Subsec. (a). Pub. L. 116–283, § 1820(e)(3), substituted “sections 3403 and 3405” for “sections 2304a and 2304b”.

Subsec. (b)(2). Pub. L. 116–283, § 1820(e)(4), substituted “subsection (c)” for “subsection (b)”.

Subsec. (c)(5). Pub. L. 116–283, § 1820(e)(5), which designated first and second sentences as pars. (1) and (2), respectively, and inserted headings and, in par. (1), substituted “subsection (d)” for “subsection (c)”.

Subsec. (d). Pub. L. 116–283, § 1820(e)(6), substituted “subsection (c)” for “subsection (b)”.

CHAPTER 247—PROCUREMENT OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

Sec. 3451. Definitions.

3452. Relationship of other provisions of law to procurement of commercial products and commercial services.

3453. Preference for commercial products and commercial services.

3454. Procurement of a major weapon system as a commercial product: requirement for prior determination by Secretary of Defense and notification to Congress.

3455. Commercial product and commercial service determinations by Department of Defense.

3456. Treatment of certain products and services as commercial products and commercial services.

3457. Authority to acquire innovative commercial products and commercial services using general solicitation competitive procedures.

Editorial Notes

Prior Provisions


Amendments


Pub. L. 116–233, div. A, title XVIII, §1234(a)(1), (3), (b)(1)(B), (7)(C), Jan. 1, 2021, 134 Stat. 4194–4196, transferred chapter 140 of this title to this chapter, renumbered items 2375, 2376, 2377, 2379, 2380, and 2380a as 3452, 3453, 3454, 3456, 3457, respectively, moved item 3451 so as to precede item 3452, and struck out item 2380b “Treatment of commingled items purchased by contractors as commercial products”.

Statutory Notes and Related Subsidiaries

PROCUREMENT OF COMMERCIAL SERVICES


“(a) Regulations Required.—Not later than 180 days after the date of the enactment of this Act (Jan. 28, 2008), the Secretary of Defense shall modify the regulations of the Department of Defense for the procurement of commercial services for or on behalf of the Department of Defense.

“(b) Applicability of Commercial Procedures.—

“(1) SERVICES OF A TYPE SOLD IN MARKETPLACE.—The regulations modified pursuant to subsection (a) shall ensure that services that are not offered and sold competitively in substantial quantities in the commercial marketplace, but are of a type offered and sold competitively in substantial quantities in the commercial marketplace, may be treated as commercial services for purposes of section 2306a of title 10, United States Code (see 10 U.S.C. §2306a) (relating to truth in negotiations), only if the contracting officer determines in writing that the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such services.

“(2) INFORMATION SUBMITTED.—To the extent necessary to make a determination under paragraph (1), the contracting officer may request the offeror to submit—

“(A) prices paid for the same or similar commercial services under comparable terms and conditions by both government and commercial customers; and

“(B) if the contracting officer determines that the information described in subparagraph (A) is not sufficient to determine the reasonableness of price, other relevant information regarding the basis for price or cost, including information on labor costs, material costs, and overhead rates.

“(c) Time-and-Materials Contracts.—

“(1) COMMERCIAL SERVICES ACQUISITIONS.—The regulations modified pursuant to subsection (a) shall en-