"(4) REPORT.—Not later than one year after the date of the enactment of this Act (Oct. 17, 2006), 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 steps taken to implement the requirements of this subsection, including—

"(A) any standards for determining when no, or negligible, value has been added to a contract by a contractor or subcontractor;

"(B) any procedures established for preventing excessive pass-through charges; and

"(C) any exceptions determined by the Secretary to be necessary in the interest of the national defense.

"(5) EFFECTIVE DATE.—The regulations prescribed under this subsection shall apply to contracts awarded for or on behalf of the Department of Defense on or after May 1, 2007.

REIMBURSEMENT OF INDIRECT COSTS OF INSTITUTIONS OF HIGHER EDUCATION UNDER DEPARTMENT OF DEFENSE CONTRACTS


Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283, §1832(j)(2), renumbered section 2325 of this title as this section.

Subsec. (a). Pub. L. 116–283, §1832(j)(5)(B), (E), in introductory provisions, struck out par. (1) designation before “The Secretary” and substituted “subchapter I” for “section 2324 of this title” and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively. Former par. (2) of subsec. (a) redesignated subsec. (b).

Subsec. (b). Pub. L. 116–283, §1832(j)(3)(C)–(E), redesignated par. (2) of subsec. (a) as subsec. (b), inserted heading, substituted “subsection (a)” for “paragraph (1)” in introductory provisions, and redesignated subpars. (A) and (B) as paras. (1) and (2), respectively. Former subsec. (b) redesignated (c).


2013—Subsec. (b). Pub. L. 112–239 redesignated subsec. (c) as (b) and struck out former subsec. (b) which required reports relating to business combinations occurring on or after August 15, 1994.

2004—Subsec. (a)(2). Pub. L. 108–375 substituted “paragraph (1), with respect to a business combination, to an official of the Department of Defense—” for “paragraph (1) to an official of the Department of Defense below the level of an Assistant Secretary of Defense.” and added subpars. (A) and (B).


Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

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

Pub. L. 105–85, div. A, title VIII, §804(c), Nov. 18, 1997, 111 Stat. 1834, provided that: “Section 2325(a) of title 10, United States Code (now 10 U.S.C. 3761(a)), as added by subsection (a), shall apply with respect to business combinations that occur after the date of the enactment of this Act (Nov. 18, 1997).”
§ 3762. Independent research and development costs: allowable costs

(a) Regulations.—The Secretary of Defense shall prescribe regulations governing the payment by the Department of Defense of expenses incurred by contractors for independent research and development costs. Such regulations shall provide that expenses incurred for independent research and development shall be reported independently from other allowable indirect costs.

(b) Costs Treated as Fair and Reasonable, and Allowable, Expenses.—The regulations prescribed under subsection (a) shall provide that independent research and development costs shall be considered a fair and reasonable, and allowable indirect expense on Department of Defense contracts.

(c) Additional Controls.—Subject to subsection (d), the regulations prescribed under subsection (a) may include the following provisions:

(1) Controls on the reimbursement of costs to the contractor for expenses incurred for independent research and development to ensure that such costs were incurred for independent research and development.

(2) Implementation of regular methods for transmission—

(A) from the Department of Defense to contractors, in a reasonable manner, of timely and comprehensive information regarding planned or expected needs of the Department of Defense for future technology and advanced capability; and

(B) from contractors to the Department of Defense, in a reasonable manner, of information regarding progress by the contractor on the independent research and development programs of the contractor.

(d) Limitations on Regulations.—Regulations prescribed under subsection (a) may not include provisions that would infringe on the independence of a contractor to choose which technologies to pursue in its independent research and development program if the chief executive officer of the contractor determines that expenditures will advance the needs of the Department of Defense for future technology and advanced capability as transmitted pursuant to subsection (c)(2)(A).

(e) Effective Date.—The regulations prescribed under subsection (a) shall apply to indirect costs incurred on or after October 1, 2017.

(Amended Pub. L. 116–283, renumbered section 3722 of this title as this section.


1993—Subsec. (g)(5). Pub. L. 103–35 substituted “section 2596” for “section 2522”.


1991—Pub. L. 102–190 substituted section catchline for one which read “Independent research and development” and amended text generally, substituting present provisions for provisions authorizing payment of independent research and development or bid and proposal costs, encouraging contractors to engage in research and development activities, and authorizing advance agreements regarding the manner and extent in which the Department of Defense may pay independent research and development costs or bid and proposal costs.

Subsec. (d)(2)(B). Pub. L. 102–25 substituted “subsection (b), including “subsection (b) or”.

Statutory Notes and Related Subsidiaries

Effective Date of 2021 Amendment

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 1996 Amendment

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2220 of this title.

Effective Date of 1991 Amendment

Pub. L. 102–190, div. A, title VIII, § 802(e), Dec. 5, 1991, 105 Stat. 1414, provided that: “The amendments made by this section [amending this section and section 4501 of this title] shall take effect on October 1, 1992, and shall apply to independent research and development and bid and proposal costs incurred by a contractor during fiscal years of that contractor that begin on or after that date.’’

Regulations

Pub. L. 102–190, div. A, title VIII, § 802(b), Dec. 5, 1991, 105 Stat. 1414, provided that: “The Secretary of Defense shall prescribe proposed regulations to implement the amendment made by subsection (a)(1) [amending this section] not later than April 1, 1992, and shall prescribe final regulations for that purpose not later than June 1, 1992.’’

§ 3763. Bid and proposal costs: allowable costs

(a) Regulations.—The Secretary of Defense shall prescribe regulations governing the payment by the Department of Defense of expenses incurred by contractors for bid and proposal costs. Such regulations shall provide that expenses incurred for bid and proposal costs shall be reported independently from other allowable indirect costs.

(b) Costs Allowable as Indirect Expenses.—The regulations prescribed under subsection (a)