§ 1701(v)(2)(A), Dec. 27, 2021, 135 Stat. 2154, amended sec-


(a) Of the funds for the procurement of supplies or services appropriated by this Act [see Tables for classification] and hereafter, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year and hereafter, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting the subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase ‘qualified nonprofit agency for the blind or other severely handicapped’ means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under chapter 85 of title 41, United States Code.”

Similar provisions were contained in the following prior appropriation acts:


§ 3904. Omitted

Editorial Notes

Codification


Another amendment by Pub. L. 117–81 resulted in the transfer of section 2362 to section 4144 of this title.

§ 3905. Products of Federal Prison Industries: procedural requirements

(a) PRODUCTS FOR WHICH FEDERAL PRISON INDUSTRIES DOES NOT HAVE SIGNIFICANT MARKET SHARE.—(1) Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18 for which Federal Prison Industries does not have a significant market share, the Secretary of Defense shall conduct market research to determine whether the product is comparable to products available from the private sector that best meet the needs of the Department in terms of price, quality, and time of delivery.

(b) PRODUCTS FOR WHICH FEDERAL PRISON INDUSTRIES HAS SIGNIFICANT MARKET SHARE.—(1) The Secretary of Defense may purchase a product listed in the latest edition of the Federal Prison Industries catalog for which Federal Prison Industries has a significant market share only if the Secretary uses competitive procedures for the procurement of the product or makes an individual purchase under a multiple award contract in accordance with the competition requirements applicable to such contract. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries.

(2) For purposes of this subsection, Federal Prison Industries shall be treated as having a significant share of the market for a product if—

A determination by a contracting officer regarding whether a product or service is comparable to products or services available from the private sector that best meet the Department’s needs in terms of price, quality, and time of delivery; and

(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the Department of Defense.

(3) MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet the Department’s needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.
(e) PERFORMANCE AS A SUBCONTRACTOR.—(1) A contractor or potential contractor of the Department of Defense may not be required to use Federal Prison Industries as a subcontractor or supplier of products or provider of services for the performance of a Department of Defense contract by any means, including means such as—

(A) a contract solicitation provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract;

(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.

(2) In this subsection, the term “contractor”, with respect to a contract, includes a subcontractor at any tier under the contract.

(f) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—The Secretary of Defense may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

(1) any data that is classified;

(2) any geographic data regarding the location of—

(A) surface and subsurface infrastructure providing communications or water or electrical power distribution;

(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

(C) other utilities; or

(3) any personal or financial information about any individual private citizen, including information relating to such person’s real property however described, without the prior consent of the individual.

(g) DEFINITIONS.—In this section:

(1) The term “competitive procedures” has the meaning given such term in section 3012 of this title.

(2) The term “market research” means obtaining specific information about the price, quality, and time of delivery of products available in the private sector through a variety of means, which may include—

(A) contacting knowledgeable individuals in government and industry;

(B) interactive communication among industry, acquisition personnel, and customers; and

(C) interchange meetings or pre-solicitation conferences with potential offerors.

5th anniversary of the date of his appointment in that regular grade, whichever is later, with authority for the Secretary of the Army to defer retirement in certain cases. See section 636 of this title.


Prior sections 3961 to 3966, 3991, and 3992 were renumbered sections 7344 to 7363 of this title.

Another prior section 3963, acts Aug. 10, 1966, ch. 1041, 70A Stat. 230; Sept. 2, 1958, Pub. L. 85–461, §1(60), (100), 72 Stat. 1462, 1488; Dec. 12, 1980, Pub. L. 96–513, title V, §502(23), 94 Stat. 2909, related to higher grade for service during certain periods for regular and reserve commissioned officers, prior to repeal by Pub. L. 99–145, title XIII, §1301(b)(2)(A), (C), Nov. 8, 1985, 99 Stat. 735, with such repeal not applicable in the case of a member of the Regular Army described in section 3963 of this title, as such section was in effect on the day before Nov. 8, 1985.

Prior sections 3964 to 3966, 3991, and 3992 were renumbered sections 7344 to 7363 of this title.

AMENDMENTS


2008—Subsecs. (a), (b). Pub. L. 110–181 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows: 

“(a) MARKET RESEARCH.—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 412(h) of title 18, the Secretary of Defense shall conduct market research to determine whether the Federal Prison Industries product is comparable to products available from the private sector that best meet the Department’s needs in terms of price, quality, and time of delivery.

“(b) COMPETITION REQUIREMENT.—If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the Department’s needs in terms of price, quality, and time of delivery, the Secretary shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a competition or making such a purchase, the Secretary shall consider a timely offer from Federal Prison Industries.’’


2002—Subsec. (a). Pub. L. 107–154, §189(a)(1)(A), substituted “Market Research” for “Market Research Before Purchase” in heading and “comparable to products available from the private sector that best meet the Department’s needs in terms of price, quality, and time of delivery” for “comparable in price, quality, and time of delivery to products available from the private sector”.

Subsec. (b). Pub. L. 107–314, §189(a)(1)(B), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: “If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, and time of delivery to products available from the private sector, the Secretary shall use competitive procedures for the procurement of the product. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries for award in accordance with the specifications and evaluation factors specified in the solicitation.”

Subsecs. (c) to (g). Pub. L. 107–314, §189(a)(1)(C), added subsecs. (c) to (g).

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 2008 AMENDMENT


EFFECTIVE DATE OF 2002 AMENDMENT


EFFECTIVE DATE


REGULATORY IMPLEMENTATION


“(1) Proposed revisions to the Department of Defense Supplement to the Federal Acquisition Regulation to implement this section shall be published not later than 90 days after the date of the enactment of this Act [Dec. 2, 2002], and not less than 60 days shall be provided for public comment on the proposed revisions.

“(2) Final regulations shall be published not later than 180 days after the date of the enactment of this Act and shall be effective on the date that is 30 days after the date of the publication.”
"(1) Initial List.—Not later than 60 days after the date of the enactment of this Act (Jan. 28, 2008), the Secretary of Defense shall publish a list of product categories for which Federal Prison Industries’ share of the Department of Defense market is greater than 5 percent, based on the most recent fiscal year for which data is available.

"(2) Modification.—The Secretary may modify the list published under paragraph (1) at any time if the Secretary determines that new data require adding a product category to the list or omitting a product category from the list.

"(3) Consultation.—The Secretary shall carry out this subsection in consultation with the Administrator for Federal Procurement Policy.’’

**Subpart E—Research and Engineering**

**Editorial Notes**

**Prior Provisions**


**CHAPTER 301—RESEARCH AND ENGINEERING GENERALLY**

**SUBCHAPTER I—GENERAL**

Sec.

4001. Research and development projects.

4002. [Reserved].

4003. [Reserved].

4004. Contract authority for development and demonstration of initial or additional prototype units.

4005. [Reserved].

4006. [Reserved].

4007. Science and technology programs to be conducted so as to foster the transition of science and technology to higher levels of research, development, test, and evaluation.

4008. [Reserved].

4009. [Reserved].

4100. Defense Established Program to Stimulate Competitive Research.

4101. [Reserved].

4102. [Reserved].

4103. [Reserved].

4104. Coordination and communication of defense research activities and technology domain awareness.

4105. Omitted.

**SUBCHAPTER II—AGREEMENTS**

4201. Research projects: transactions other than contracts and grants.

4202. Authority of the Department of Defense to carry out certain prototype projects.

4203. Procurement for experimental purposes.

4204. Merit-based award of grants for research and development.

4205. Prizes for advanced technology achievements.

4206. Cooperative research and development agreements under Stevenson-Wydler Technology.

4207. Disclosure requirements for recipients of research and development funds.3

**Editorial Notes**

**Codification**

Item 4027 was added to this analysis by section 1701(e)(4)(B) of Pub. L. 117–81 in conjunction with the transfer of section 2374b of this title to section 4027. However, the transfer was not executed in light of the repeal of section 2374b, which took effect just prior to the transfer. See Codification note under section 4027 of this title.

**Prior Provisions**


A prior chapter 301 was renumbered chapter 701 of this title.

**Amendments**


**SUBCHAPTER I—GENERAL**

**Editorial Notes**

**Amendments**


§ 4001. Research and development projects

(a) Authority.—The Secretary of Defense or the Secretary of a military department may engage in basic research, applied research, advanced research, and development projects that—

(1) are necessary to the responsibilities of such Secretary’s department in the field of research and development; and

(2) either—

(A) relate to weapon systems and other military needs; or

(B) are of potential interest to the Department of Defense.

(b) Authorized Means.—The Secretary of Defense or the Secretary of a military department may perform research and development projects—

(1) by contract, cooperative agreement, or grant, in accordance with chapter 63 of title 31;

3 See Codification note below.