

in connection with the decision, shall be prepared and be retained in the files of the executive agency.

(f) NOTICE.—The head of each executive agency shall prescribe procedures to ensure that, before the head of the executive agency decides to reduce or suspend payments in the case of a contractor under subsection (c), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the executive agency in response to the proposed reduction or suspension.

(g) REVIEW.—Not later than 180 days after the date on which the head of an executive agency reduces or suspends payments to a contractor under subsection (c), the remedy coordination official of the executive agency shall—

(1) review the determination of fraud on which the reduction or suspension is based; and

(2) transmit a recommendation to the head of the executive agency whether the suspension or reduction should continue.

(h) REPORT.—The head of each executive agency who receives recommendations made by the remedy coordination official of the executive agency to reduce or suspend payments under subsection (c) during a fiscal year shall prepare for that year a report that contains the recommendations, the actions taken on the recommendations, and the reasons for those actions, and an assessment of the effects of those actions on the Federal Government. The report shall be available to any Member of Congress on request.

(i) RESTRICTION ON DELEGATION.—The head of an executive agency may not delegate responsibilities under this section to an individual in a position below level IV of the Executive Schedule.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3792.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
4506 .....	41:255(g).	June 30, 1949, ch. 288, title III, § 305(g), as added Pub. L. 103-355, title II, § 2051(e), Oct. 13, 1994, 108 Stat. 3305, as amended Pub. L. 104-106, title XLIII, § 4321(a)(4), Feb. 10, 1996, 110 Stat. 671.

#### CHAPTER 47—MISCELLANEOUS

<i>Sec.</i>	
4701.	Determinations and decisions.
4702.	Prohibition on release of contractor proposals.
4703.	Validation of proprietary data restrictions.
4704.	Prohibition of contractors limiting subcontractor sales directly to Federal Government.
4705.	Protection of contractor employees from reprisal for disclosure of certain information.
4706.	Examination of facilities and records of contractor.
4707.	Remission of liquidated damages.
4708.	Payment of reimbursable indirect costs in cost-type research and development contracts with educational institutions.
4709.	Implementation of electronic commerce capability.

<i>Sec.</i>	
4710.	Limitations on tiering of subcontractors.
4711.	Linking of award and incentive fees to acquisition outcomes.
4712.	Enhancement of contractor protection from reprisal for disclosure of certain information.
4713.	Authorities relating to mitigating supply chain risks in the procurement of covered articles.
4714.	Prohibition on criminal history inquiries by contractors prior to conditional offer.

#### Editorial Notes

##### AMENDMENTS

2019—Pub. L. 116-92, div. A, title XI, § 1123(a)(2), Dec. 20, 2019, 133 Stat. 1612, added item 4714.

2018—Pub. L. 115-390, title II, § 203(b), Dec. 21, 2018, 132 Stat. 5192, added item 4713.

2016—Pub. L. 114-261, § 1(a)(3)(B), Dec. 14, 2016, 130 Stat. 1362, added item 4712 and struck out former item 4712 ‘‘Pilot program for enhancement of contractor protection from reprisal for disclosure of certain information’’.

2013—Pub. L. 112-239, div. A, title VIII, § 828(a)(2), Jan. 2, 2013, 126 Stat. 1840, added item 4712.

#### § 4701. Determinations and decisions

(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—

(1) IN GENERAL.—Determinations and decisions required to be made under this division by the head of an executive agency or provided in this division or chapters 1 to 11 of title 40 to be made by the Administrator of General Services or other agency head may be made for an individual purchase or contract or, except for determinations or decisions made under sections 3105, 3301, 3303 to 3305, 3306(a)–(e), and 3308, chapter 37, and section 4702 of this title or to the extent expressly prohibited by another law, for a class of purchases or contracts.

(2) DELEGATION.—Except as provided in section 3304(a)(7) of this title, and except as provided in section 121(d)(1) and (2) of title 40 with respect to the Administrator of General Services, the agency head, in the discretion and subject to the direction of the agency head, may delegate powers provided by this division or chapters 1 to 11 of title 40, including the making of determinations and decisions described in paragraph (1), to other officers or officials of the agency.

(3) FINALITY.—The determinations and decisions are final.

(b) WRITTEN FINDINGS.—

(1) BASIS FOR CERTAIN DETERMINATIONS.—Each determination or decision under section 3901, 3905, 4503, or 4706(d)(2)(B) of this title shall be based on a written finding by the individual making the determination or decision. A finding under section 4503 or 4706(d)(2)(B) shall set out facts and circumstances that support the determination or decision.

(2) FINALITY.—Each finding referred to in paragraph (1) is final.

(3) MAINTAINING COPIES OF FINDINGS.—The head of an executive agency shall maintain for a period of not less than 6 years a copy of each finding referred to in paragraph (1) that is made by an individual in that executive agen-