Section 4 was subsequently repealed by Pub. L. 111–350, §7(b), Jan. 4, 2012, 124 Stat. 3855, which Act enacted Title 41, Public Contracts.

**Codification**


**Prior Provisions**

A prior section 3744 was renumbered section 7274 of this title.

**Amendments**

2021—Pub. L. 116–283, §1832(d)(1), transferred subsec. (e) of section 3234 of this title to this section, struck out subsec. (e) designation and heading “Specific Costs Not Allowable” at beginning, and redesignated pars. (1), (3), (4), and (2) as subsecs. (a) to (d), respectively.

Subsec. (a). Pub. L. 116–283, §1832(d)(2)(A), (B), after redesignation of par. (1) of section 2324(e) of this title as subsec. (a) of this section, inserted heading and redesignated subpars. (A) to (Q) as pars. (1) to (17), respectively, including two subpars. (P) both redesignated par. (16).

Subsec. (a)(15). Pub. L. 116–283, §1832(d)(2)(C), substituted “section 3750 of this title” for “subsection (k)(1)”.

Subsec. (a)(17). Pub. L. 116–283, §1832(d)(2)(D), substituted “section 3750(c) of this title” for “subsection (k)(2)”.

Subsec. (b). Pub. L. 116–283, §1832(d)(3)(A), (B), after redesignation of par. (3) of section 2324(e) of this title as subsec. (b) of this section, inserted heading and redesignated subpars. (A) to (C) as pars. (1) to (3), respectively.

Subsec. (b)(1). Pub. L. 116–283, §1832(d)(3)(A), (C), inserted heading, substituted “subsection (d)” for “paragraph (2)” and “subsections (a)(9), (10) and (a)(14)” for “paragraphs (1)(M) and (1)(N)” in introductory provisions, and redesignated cls. (i) to (iii) of former section 2324(e)(3)(A) as subpars. (A) to (C), respectively.

Subsec. (b)(2). Pub. L. 116–283, §1832(d)(3)(B), inserted heading, realigned margin, redesignated cls. (i) and (ii) of former section 2324(e)(3)(B) as subpars. (A) and (B), respectively, and, in subpar. (A), substituted “paragraph (1)” for “subparagraph (A)”.

Subsec. (b)(3). Pub. L. 116–283, §1832(d)(3)(C), inserted heading, realigned margin, and substituted “paragraph (1)” for “subparagraph (A)”.

Subsec. (c). Pub. L. 116–283, §1832(d)(4), after redesignation of par. (4) of section 2324(e)(3) of this title as subsec. (c) of this section, inserted heading and substituted “this subchapter” for “this section”.

Subsec. (d). Pub. L. 116–283, §1832(d)(5)(A), (B), after redesignation of par. (2) of section 2324(e)(3) of this title as subsec. (d) of this section, inserted heading, redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and realigned margins.

**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.

**Regulations**

Pub. L. 99–145, title IX, §911(b), Nov. 8, 1985, 99 Stat. 685, provided that:

“(1) Not later than 150 days after the date of the enactment of this Act [Nov. 8, 1985], the Secretary of Defense shall prescribe the regulations required by subsections (e) and (f) of section 3234 of title 10, United States Code [see U.S.C. 3741, 3745]; as added by subsection (a).” Such regulations shall be published in accordance with section 22 of the Office of Federal Procurement Policy Act (former 41 U.S.C. 418b) [now 41 U.S.C. 1707].

“(2) The Secretary shall review such regulations at least once every five years. The results of each such review shall be made public.”

**§3745. Required regulations**

(a) IN GENERAL.—The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts.

(b) SPECIFIC ITEMS.—The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

(1) Air shows.

(2) Membership in civic, community, and professional organizations.

(3) Recruitment.

(4) Employee morale and welfare.

(5) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

(6) Community relations.

(7) Dining facilities.

(8) Professional and consulting services, including legal services.

(9) Compensation.

(10) Selling and marketing.

(11) Travel.

(12) Public relations.

(13) Hotel and meal expenses.

(14) Expense of corporate aircraft.

(15) Company-furnished automobiles.

(16) Advertising.

(17) Conventions.


(c) ADDITIONAL REQUIREMENTS.—

(1) WHEN QUESTIONED COSTS MAY BE RESOLVED.—The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until he has obtained—

(A) adequate documentation with respect to such costs; and

(B) the opinion of the contract auditor on the allowability of such costs.

(2) PRESENCE OF CONTRACT AUDITOR.—The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, the contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

(3) SETTLEMENT TO REFLECT AMOUNT OF INDIVIDUAL QUESTIONED COSTS.—The Federal Acquisition Regulation shall require that all categories of costs designated in the report of the contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.


Editorial Notes

CODIFICATION


A prior section 3745 was renumbered section 7275 of this title.

AMENDMENTS

2021—Pub. L. 116–283, §1832(e), transferred subsec. (g) of section 2324 of this title to this section, struck out subsec. (g) designation and heading “Applicability of Regulations to Subcontractors” at beginning, and substituted “sections 3744 and 3745(a) and (b) of this title” for “subsections (e) and (f)(1)”.

Statutory Notes and Related Subsidiaries

EDITORIAL NOTES

CODIFICATION


Another section 1832(e) of Pub. L. 116–283 amended section 3745 of this title.

PRIOR PROVISIONS

A prior section 3745 was renumbered section 7275 of this title.

§ 3747. Contractor certification

(a) CONTENT AND FORM.—A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official’s knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed in the Federal Acquisition Regulation.

(b) WAIVER.—The head of the agency or the Secretary of the military department concerned may, in an exceptional case, waive the requirement for certification under subsection (a) in the case of any contract if the head of the agency or the Secretary—