pealed] and 2410d [now 10 U.S.C. 3903] of title 10, United States Code (as added by subsections (a) and (b), respectively), shall take effect on October 1, 1993.'"

**Contract Participation by Agencies for the Blind or Other Severely Handicapped**


(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 that 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:


§ 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.

(2) If the Secretary determines that a Federal Prison Industries product described in paragraph (1) is not comparable in price, quality, or time of delivery to products of the private sector that best meet the needs of the Department 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 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.

(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 the Secretary, in consultation with the Administrator of Federal Procurement Policy, determines that the Federal Prison Industries share of the Department of Defense market for the category of products including such product is greater than 5 percent.

(c) **Implementation by Secretary of Defense.** —The Secretary of Defense shall ensure that—

(1) the Department of Defense does not purchase a Federal Prison Industries product or service unless a contracting officer of the Department determines that the 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.

(d) **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

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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.


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Prior Provisions

A prior section 3911 was renumbered section 7311 of this title.

A prior section 3912, act Aug. 10, 1966, ch. 1041, 70A Stat. 225, permitted the Secretary of the Army, upon the officer's request, to retire a commissioned officer of the Regular Army in the Army Nurse Corps or Women's Medical Specialist Corps who has at least 20 years of service computed under former section 3928 of this title, prior to repeal by Pub. L. 85–155, title IV, §401(1), Aug. 1, 1957, 71 Stat. 390.


A prior section 3914 was renumbered section 7314 of this title.


Prior sections 3917 and 3918 were renumbered sections 7317 and 7318 of this title, respectively.

A prior section 3919, act Aug. 10, 1966, ch. 1041, 70A Stat. 226, authorized Secretary of the Army, when he determined that there were too many commissioned officers on active list of Regular Army in any grade who have at least 30 years of service, to convene a board of at least five general officers of Regular Army to make recommendations for retirement and to retire any officer so recommended, prior to repeal by Pub. L. 96–513, title II, §217(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2966, 2965, effective Sept. 15, 1981.

A prior section 3920 was renumbered section 7320 of this title.

A prior section 3921 was renumbered section 7321 of this title.

Another prior section 3921, acts Aug. 10, 1956, ch. 1041, 70A Stat. 226; Nov. 2, 1966, Pub. L. 89–718, §3, 80 Stat. 1115, provided for retirement of a promotion-list colonel, except as provided by section 3801 of title 5, on the 30th day after he completes 30 years of service or the 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, prior to repeal by Pub. L. 96–513, title II, §217(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2966, 2965, effective Sept. 15, 1981.


A prior section 3929 was renumbered section 7329 of this title.

Prior sections 3961 and 3962 were renumbered sections 7341 and 7342 of this title, respectively.


Prior sections 3964 to 3966, 3991, and 3992 were renumbered sections 7344 to 7346, 7391, and 7362 of this title, respectively.

AMENDMENTS


Subsec. (g)(1). Pub. L. 116-283, §1837(b)(2), substituted "section 3912" for "section 3002(b)" in text.

2006—Subsecs. (a), (b), Pub. L. 109-183 added subsec. (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 4124(d) of title 18, the Secretary of Defense shall conduct market research to determine whether the Federal Prison Industries product is comparable in price, quality, and 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.

(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.


1996—Pub. L. 104-167 substituted “market research” for “market research” in subsection (a).

2001—Pub. L. 107-206, §309(b), substituted “market research” for “market research” in subsection (a).

1996—Pub. L. 104-167 substituted “market research” for “market research” in subsection (a).

2001—Pub. L. 107-206, §309(b), substituted “market research” for “market research” in subsection (a).

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.
4111. [Reserved].
4112. [Reserved].
4113. [Reserved].
4114. 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.

Disclosure requirements for recipients of research and development funds.

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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;

(2) through one or more military departments;

(3) by using employees and consultants of the Department of Defense;

(4) by mutual agreement with the head of any other department or agency of the Federal Government;