

(Added and amended Pub. L. 116–283, div. A, title XVIII, § 1810(a), (b)(3), Jan. 1, 2021, 134 Stat. 4162, 4163.)

Editorial Notes

CODIFICATION

The text of subsec. (c) of section 2333 of this title, which was transferred to this section and amended by Pub. L. 116–283, § 1810(b)(3), was based on Pub. L. 109–364, div. A, title VIII, § 854(a)(1), Oct. 17, 2006, 120 Stat. 2343.

AMENDMENTS

2021—Pub. L. 116–283, § 1810(b)(3), transferred subsec. (c) of section 2333 of this title to this section and, in introductory provisions, struck out subsec. (c) designation and heading “Contingency Program Management Matters Covered” at beginning and substituted “section 3151 of this title” for “subsection (a)”.

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.

ENHANCEMENT OF INTERAGENCY SUPPORT DURING CONTINGENCY OPERATIONS AND TRANSITION PERIODS

Pub. L. 114–328, div. A, title XII, § 1281, Dec. 23, 2016, 130 Stat. 2541, provided that:

“(a) AUTHORITY.—The Secretary of Defense and the Secretary of State may enter into an agreement under which each Secretary may provide covered support, supplies, and services on a reimbursement basis, or by exchange of covered support, supplies, and services, to the other Secretary during a contingency operation and related transition period for up to 2 years following the end of such contingency operation.

“(b) AGREEMENT.—An agreement entered into under this section shall be in writing and shall include the following terms:

“(1) The price charged by a supplying agency shall be the direct costs that such agency incurred by providing the covered support, supplies, or services to the requesting agency under this section.

“(2) Credits and liabilities of the agencies accrued as a result of acquisitions and transfers of covered support, supplies, and services under this section shall be liquidated not less often than once every 3 months by direct payment to the agency supplying such support, supplies, or services by the agency receiving such support, supplies, or services.

“(3) Exchange entitlements accrued as a result of acquisitions and transfers of covered support, supplies, and services under this section shall be satisfied within 12 months after the date of the delivery of the covered support, supplies, or services. Exchange entitlements not so satisfied shall be immediately liquidated by direct payment to the agency supplying such covered support, supplies, or services.

“(c) EFFECT OF OBLIGATION AND AVAILABILITY OF FUNDS.—An order placed by an agency pursuant to an agreement under this section is deemed to be an obligation in the same manner that a similar order placed under a contract with, or a contract for similar goods or services awarded to, a private contractor is an obligation. Appropriations remain available to pay an obligation to the servicing agency in the same manner as appropriations remain available to pay an obligation to a private contractor.

“(d) DEFINITIONS.—In this section:

“(1) COVERED SUPPORT, SUPPLIES, AND SERVICES.—The term ‘covered support, supplies, and services’ means food, billeting, transportation (including air-

lift), petroleum, oils, lubricants, communications services, medical services, ammunition, base operations support, use of facilities, spare parts and components, repair and maintenance services, and calibration services.

“(2) CONTINGENCY OPERATION.—The term ‘contingency operation’ has the meaning given that term in section 101(a)(13) of title 10, United States Code.

“(e) CREDITING OF RECEIPTS.—Any receipt as a result of an agreement entered into under this section shall be credited, at the option of the Secretary of Defense with respect to the Department of Defense and the Secretary of State with respect to the Department of State, to—

“(1) the appropriation, fund, or account used in incurring the obligation; or

“(2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

“(f) NOTIFICATION.—Not later than 30 days after the end of a fiscal year in which covered support, supplies, and services are provided or exchanged pursuant to an agreement under this section, the Secretary of Defense and the Secretary of State shall jointly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a notification that contains a copy of such agreement and a description of such covered support, supplies, and services.”

§ 3154. Contingency contracting matters covered

(a) IN GENERAL.—The joint policy for contingency contracting required by section 3151 of this title shall, at a minimum, provide for the following:

(1) The designation of a senior commissioned officer or civilian member of the senior executive service in each military department with the responsibility for administering the policy.

(2) The assignment of a senior commissioned officer with appropriate acquisition experience and qualifications to act as head of contingency contracting during combat operations, post-conflict operations, and contingency operations, who shall report directly to the commander of the combatant command in whose area of responsibility the operations occur.

(3) A sourcing approach to contingency contracting that is designed to ensure that each military department is prepared to conduct contingency contracting during combat operations, post-conflict operations, and contingency operations, including stabilization and reconstruction operations involving inter-agency organizations, if required.

(4) A requirement to provide training (including training under a program to be created by the Defense Acquisition University) to contingency contracting personnel in—

(A) the use of law, regulations, policies, and directives related to contingency contracting operations;

(B) the appropriate use of rapid acquisition methods, including the use of exceptions to competition requirements under sections 3201 through 3205 of this title, sealed bidding, letter contracts, indefinite delivery-indefinite quantity task orders, set asides under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), undefinitized contract ac-

tions, and other tools available to expedite the delivery of goods and services during combat operations or post-conflict operations;

(C) the appropriate use of rapid acquisition authority, commanders' emergency response program funds, and other tools unique to contingency contracting; and

(D) instruction on the necessity for the prompt transition from the use of rapid acquisition authority to the use of full and open competition and other methods of contracting that maximize transparency in the acquisition process.

(5) Appropriate steps to ensure that training is maintained for such personnel even when they are not deployed in a contingency operation.

(6) Such steps as may be needed to ensure jointness and cross-service coordination in the area of contingency contracting.

(b) INTERAGENCY PLANS.—To the extent practicable, the joint policy for contingency contracting required by section 3151 of this title should be taken into account in the development of interagency plans for stabilization and reconstruction operations, consistent with the report submitted by the President under section 1035 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2388) on interagency operating procedures for the planning and conduct of stabilization and reconstruction operations.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1810(a), (b)(4), (c), Jan. 1, 2021, 134 Stat. 4162-4164.)

Editorial Notes

REFERENCES IN TEXT

Section 1035 of the John Warner National Defense Authorization Act for Fiscal Year 2007, referred to in subsec. (b), is section 1035 of Pub. L. 109-364, div. A, title X, Oct. 17, 2006, 120 Stat. 2388, which is not classified to the Code.

CODIFICATION

The text of subsec. (d) of section 2333 of this title, which was transferred to this section and amended by Pub. L. 116-283, §1810(b)(4), (c), was based on Pub. L. 109-364, div. A, title VIII, §854(a)(1), Oct. 17, 2006, 120 Stat. 2343; Pub. L. 111-84, div. A, title X, §1073(a)(23)(A), (B), Oct. 28, 2009, 123 Stat. 2473.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283, §1810(b)(4)(A), (C), (D), substituted “In General” for “Contingency Contracting Matters Covered” in heading and “section 3151 of this title” for “subsection (a)” in introductory provisions, struck out par. (1) designation at beginning, redesignated subpars. (A) to (F) as pars. (1) to (6), respectively, and, in par. (4), redesignated cls. (i) to (iv) as subpars. (A) to (D), respectively. Former par. (2) redesignated subsec. (b).

Pub. L. 116-283, §1810(b)(4), redesignated subsec. (d) of section 2333 of this title as subsec. (a) of this section.

Subsec. (a)(4)(B). Pub. L. 116-283, §1810(c), substituted “sections 3201 through 3205” for “section 2304”.

Subsec. (b). Pub. L. 116-283, §1810(b)(4)(B), (C), redesignated par. (2) of subsec. (a) as subsec. (b), inserted heading, and substituted “section 3151 of this title” for “subsection (a)”.

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.

§ 3155. Training for personnel outside acquisition workforce

(a) REQUIRED TRAINING.—The joint policy for requirements definition, contingency program management, and contingency contracting required by section 3151 of this title shall provide for training of military personnel outside the acquisition workforce (including operational field commanders and officers performing key staff functions for operational field commanders) who are expected to have acquisition responsibility, including oversight duties associated with contracts or contractors, during combat operations, post-conflict operations, and contingency operations.

(b) SCOPE OF TRAINING.—Training under subsection (a) shall be sufficient to ensure that the military personnel referred to in that subsection—

(1) understand the scope and scale of contractor support they will experience in contingency operations; and

(2) are prepared for their roles and responsibilities with regard to—

(A) requirements definition;

(B) program management (including contractor oversight); and

(C) contingency contracting.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1810(a), (b)(5), Jan. 1, 2021, 134 Stat. 4162, 4163.)

Editorial Notes

CODIFICATION

The text of subsec. (e)(1) and (2) of section 2333 of this title, which was transferred to this section and amended by Pub. L. 116-283, §1810(b)(5), was based on Pub. L. 110-181, div. A, title VIII, §849(a), Jan. 28, 2008, 122 Stat. 245.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283, §1810(b)(5)(A), (B), redesignated subsec. (e)(1) and (2) of section 2333 of this title as subsec. (a) of this section, in heading, substituted “Required Training” for “Training for Personnel Outside Acquisition Workforce”, and, in text, struck out par. (1) designation at beginning and substituted “section 3151 of this title” for “subsection (a)”. Par. (2) subsequently redesignated subsec. (b).

Subsec. (b). Pub. L. 116-283, §1810(b)(5)(C), redesignated subsec. (a)(2) as (b), inserted heading, and substituted “Training under subsection (a)” for “Training under paragraph (1)” and “referred to in that subsection—” and pars. (1) and (2) for “referred to in that paragraph understand the scope and scale of contractor support they will experience in contingency operations and are prepared for their roles and responsibilities with regard to requirements definition, program management (including contractor oversight), and contingency contracting.”