

cluded 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 Effective Date note below.

#### EFFECTIVE DATE

Section 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.

### § 3172. [Reserved]

(Added Pub. L. 116-283, div. A, title XVIII, §1810(d), Jan. 1, 2021, 134 Stat. 4164; amended Pub. L. 117-81, div. A, title XVII, §1701(i)(2)(B), Dec. 27, 2021, 135 Stat. 2141.)

#### Editorial Notes

##### AMENDMENTS

2021—Pub. L. 117-81, §1701(i)(2)(B), amended Pub. L. 116-283, §1810(d), which enacted this section, by substituting “[Reserved]” for “Operational contract support: chain of authority and responsibility within Department of Defense” in section catchline.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment made to Pub. L. 116-283 by Pub. L. 117-81, resulting in omission of this section, 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 Effective Date note below.

#### EFFECTIVE DATE

Section 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.

## Subpart B—Acquisition Planning

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, added subpart heading.

### CHAPTER 221—PLANNING AND SOLICITATION GENERALLY

|       |                                                                                           |
|-------|-------------------------------------------------------------------------------------------|
| Sec.  |                                                                                           |
| 3201. | Full and open competition.                                                                |
| 3202. | [Reserved].                                                                               |
| 3203. | Exclusion of particular source or restriction of solicitation to small business concerns. |
| 3204. | Use of procedures other than competitive procedures.                                      |
| 3205. | Simplified procedures for small purchases.                                                |
| 3206. | Planning and solicitation requirements.                                                   |
| 3207. | Assessment before contract for acquisition of supplies is entered into.                   |
| 3208. | Planning for future competition in contracts for major systems.                           |

#### Editorial Notes

##### PRIOR PROVISIONS

A prior chapter 221 “PLANNING AND SOLICITATION GENERALLY”, as added by Pub. L. 115-232, div. A, title VIII, §801(a), Aug. 13, 2018, 132 Stat. 1827, and consisting of reserved section 3201, was repealed by

Pub. L. 116-283, div. A, title XVIII, §1811(b), Jan. 1, 2021, 134 Stat. 4164.

#### Statutory Notes and Related Subsidiaries

##### POLICY ON QUALIFICATIONS OF CONTRACTORS FOR INTO-PLANE FUEL DELIVERIES FOR HEAVY-LIFT AIRCRAFT

Pub. L. 118-159, div. A, title I, §163, Dec. 23, 2024, 138 Stat. 1817, provided that:

“(a) ESTABLISHMENT OF POLICY.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Director of the Defense Logistics Agency shall develop and implement a policy pursuant to which acquisition planning shall be performed for any contract providing for the into-plane procurement for heavy-lift aircraft of an estimated 5,000,000 gallons or more of aviation fuel per year within the continental United States.

“(b) USE OF EVALUATION FACTORS.—As part of the acquisition planning required under subsection (a), the Director of the Defense Logistics Agency shall determine whether to use evaluation factors to assess the qualifications of fixed-based operators bidding on contracts described in such subsection. In the event the Director determines it is appropriate to use such evaluation factors, the factors may include the following:

“(1) Whether the fixed-base operator is able to maintain sufficient onsite fuel storage.

“(2) Whether the fixed-base operator’s total number of employees is sufficient to service military customers.

“(3) Whether the fixed-based operator is capable of performing a sufficient range of cargo on-load, off-load, and handling operations, including for dangerous goods and cargo, for military aircraft of all sizes.

“(4) Whether the fixed-based operator has acceptable past performance history on similar procurements.

“(5) Any other factors the Director determines appropriate.

“(c) CONSULTATION.—The Director of the Defense Logistics Agency shall, as appropriate, consult with appropriate personnel of the military departments in developing mission requirements at commercial airports for purposes of the acquisition planning required under subsection (a).

“(d) HEAVY-LIFT AIRCRAFT DEFINED.—In this section, the term ‘heavy-lift aircraft’ means an aircraft with a maximum gross takeoff weight in excess of 107,000 pounds.”

##### PROCUREMENT OF CLEANING PRODUCTS

Pub. L. 118-159, div. A, title VIII, §856, Dec. 23, 2024, 138 Stat. 1997, provided that: “The Secretary of Defense shall procure, to the maximum extent practicable, only those cleaning products that are identified—

“(1) under the Safer Choice program; or

“(2) by an independent third-party organization that provides certifications in a manner consistent with the Safer Choice program.”

##### PROCUREMENT OF COVERED HEARING PROTECTION DEVICES

Pub. L. 118-159, div. A, title VIII, §858, Dec. 23, 2024, 138 Stat. 1998, provided that:

“(a) IN GENERAL.—The Secretary of Defense, in coordination with the head of the Hearing Center of Excellence, may enter into one or more contracts to procure covered hearing protection devices for members of the Armed Forces.

“(b) PRIORITIZATION.—The Secretary shall prioritize the award of such a contract to a domestic offeror.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘covered hearing protection device’ means an active hearing protection device—

“(A) that is a commercially available off-the-shelf item (as defined in section 104 of title 41, United States Code); and