

Date of 1994 Amendment note under section 8752 of this title.

CONFORMING REGULATIONS

Pub. L. 117-263, div. A, title VIII, §805(c), Dec. 23, 2022, 136 Stat. 2702, provided that: “Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to implement the requirements of section 3862 of title 10, United States Code, as amended by subsection (a).”

CONFORMING POLICY GUIDANCE

Pub. L. 117-263, div. A, title VIII, §805(d), Dec. 23, 2022, 136 Stat. 2702, provided that: “Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall revise applicable policy guidance on other transactions to implement the requirements of section 3862 of title 10, United States Code, as amended by subsection (a).”

§ 3863. Retention of amounts collected from contractor during the pendency of contract dispute

(a) **RETENTION OF FUNDS.**—Notwithstanding sections 1552(a) and 3302(b) of title 31, any amount, including interest, collected from a contractor as a result of a claim made by a military department or Defense Agency under chapter 71 of title 41, shall remain available in accordance with this section to pay—

(1) any settlement of the claim by the parties;

(2) any judgment rendered in the contractor's favor on an appeal of the decision on that claim to the Armed Services Board of Contract Appeals under section 7104(a) of title 41; or

(3) any judgment rendered in the contractor's favor in an action on that claim in a court of the United States.

(b) **PERIOD OF AVAILABILITY.**—(1) The period of availability of an amount under subsection (a), in connection with a claim—

(A) expires 180 days after the expiration of the period for bringing an action on that claim in the United States Court of Federal Claims under section 7104(b) of title 41 if, within that 180-day period—

(i) no appeal on the claim is commenced at the Armed Services Board of Contract Appeals under section 7104(a) of such title; and

(ii) no action on the claim is commenced in a court of the United States; or

(B) if not expiring under subparagraph (A), expires—

(i) in the case of a settlement of the claim, 180 days after the date of the settlement; or

(ii) in the case of a judgment rendered on the claim in an appeal to the Armed Services Board of Contract Appeals under section 7104(a) of title 41 or an action in a court of the United States, 180 days after the date on which the judgment becomes final and not appealable.

(2) While available under this section, an amount may be obligated or expended only for a purpose described in subsection (a).

(3) Upon the expiration of the period of availability of an amount under paragraph (1), the

amount shall be covered into the Treasury as miscellaneous receipts.

(Added Pub. L. 105-85, div. A, title VIII, §831(a), Nov. 18, 1997, 111 Stat. 1841, §2410m; amended Pub. L. 108-136, div. A, title X, §1031(a)(21), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 111-350, §5(b)(32), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 112-81, div. A, title X, §1061(15), Dec. 31, 2011, 125 Stat. 1583; Pub. L. 113-291, div. A, title X, §1071(a)(8), Dec. 19, 2014, 128 Stat. 3504; renumbered §3863, Pub. L. 116-283, div. A, title XVIII, §1836(b), Jan. 1, 2021, 134 Stat. 4241.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 3881 and 3882 were repealed by Pub. L. 85-155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

Section 3881, act Aug. 10, 1956, ch. 1041, 70A Stat. 222, authorized Secretary of the Army to retire regular commissioned officers of Army Nurse Corps or Women's Medical Specialist Corps whose regular grade is below major.

Section 3882, act Aug. 10, 1956, ch. 1041, 70A Stat. 222, authorized Secretary of the Army to retire regular commissioned officers of Army Nurse Corps or Women's Medical Specialist Corps whose regular grade is above captain.

Prior sections 3883 to 3886 were repealed by Pub. L. 96-513, title II, §216, title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981.

Section 3883, acts Aug. 10, 1956, ch. 1041, 70A Stat. 222; Aug. 6, 1958, Pub. L. 85-600, §1(6), 72 Stat. 522; Nov. 2, 1966, Pub. L. 89-718, §3, 80 Stat. 1115; Oct. 30, 1978, Pub. L. 95-551, §2, 92 Stat. 2069, provided that, unless retired or separated at an earlier date, each commissioned officer whose regular grade is below major general, other than a professor or the director of admissions of the United States Military Academy, be retired when he becomes 60 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

Section 3884, acts Aug. 10, 1956, ch. 1041, 70A Stat. 222; Nov. 2, 1966, Pub. L. 89-718, §3, 80 Stat. 1115, provided that, unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 3923 of this title has been deferred under cl. (1) of that section, be retired when he becomes 60 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

Section 3885, acts Aug. 10, 1956, ch. 1041, 70A Stat. 222; Nov. 2, 1966, Pub. L. 89-718, §3, 80 Stat. 1115, provided that, unless retired or separated at an earlier date or unless retained under section 3923(2) of this title, each commissioned officer whose regular grade is major general be retired when he becomes 62 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

Section 3886, acts Aug. 10, 1956, ch. 1041, 70A Stat. 222; Aug. 6, 1958, Pub. L. 85-600, §1(7), 72 Stat. 522; Nov. 2, 1966, Pub. L. 89-718, §3, 80 Stat. 1115; Oct. 30, 1978, Pub. L. 95-551, §2, 92 Stat. 2069, provided that, unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 3923 of this title has been deferred under cl. (2) of that section, and each permanent professor and the director of admissions of the United States Military Academy, be retired when he becomes 64 years of age, except as provided by section 8301 of title 5. See section 1251 of this title.

A prior section 3887, act Aug. 10, 1956, ch. 1041, 70A Stat. 223, related to computation of years of service of commissioned officers of Army Nurse Corps or Women's Medical Specialist Corps for purposes of retirement under former sections 3881 or 3882 of this title, or retirement pay under section 3991 of this title, prior to repeal by Pub. L. 85-155, title IV, §401(1), Aug. 21, 1957, 71 Stat. 390.

Prior sections 3888 and 3889 were repealed by Pub. L. 96-513, title II, § 216, title VII, § 701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981.

Section 3888, acts Aug. 10, 1956, ch. 1041, 70A Stat. 223; Aug. 21, 1957, Pub. L. 85-155, title I, § 101(18), 71 Stat. 379; May 20, 1958, Pub. L. 85-422, § 11(a)(3), 72 Stat. 131; Sept. 2, 1958, Pub. L. 85-861, § 1(96), 72 Stat. 1487, related to computation of service for determining retired pay of a commissioned officer of Regular Army retired under former section 3883, 3884, 3885, or 3886 of this title.

Section 3889, act Aug. 10, 1956, ch. 1041, 70A Stat. 224, provided that a member of Army retired under this chapter be entitled to retired pay computed under chapter 745 of this title.

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2410m of this title as this section.

2014—Subsec. (b)(1)(A)(i). Pub. L. 113-291, § 1071(a)(8)(A), substituted “section 7104(a) of such title” for “section 7 of such Act”.

Subsec. (b)(1)(B)(ii). Pub. L. 113-291, § 1071(a)(8)(B), substituted “section 7104(a) of title 41” for “section 7 of the Contract Disputes Act of 1978”.

2011—Subsec. (a). Pub. L. 111-350, § 5(b)(32)(A), substituted “chapter 71 of title 41” for “the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.)” in introductory provisions.

Subsec. (a)(2). Pub. L. 111-350, § 5(b)(32)(B), substituted “section 7104(a) of title 41” for “section 7 of such Act (41 U.S.C. 606)”.

Subsec. (b)(1)(A). Pub. L. 111-350, § 5(b)(32)(C), substituted “section 7104(b) of title 41” for “section 10(a) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a))” in introductory provisions.

Subsec. (c). Pub. L. 112-81 struck out subsec. (c), which required submission of annual report on amounts available for obligation.

2003—Subsec. (c). Pub. L. 108-136, § 1031(a)(21)(A), substituted “Annual Report” for “Reporting Requirement” in heading and “Not later than 60 days after the end of each fiscal year” for “Each year” in introductory provisions.

Subsec. (c)(1). Pub. L. 108-136, § 1031(a)(21)(B), inserted “at the end of such fiscal year” before period at end.

Subsec. (c)(2). Pub. L. 108-136, § 1031(a)(21)(C), substituted “under this section during that fiscal year” for “during the year preceding the year in which the report is submitted”.

Subsec. (c)(3). Pub. L. 108-136, § 1031(a)(21)(D), substituted “under this section during that fiscal year” for “in such preceding year”.

Subsec. (c)(4). Pub. L. 108-136, § 1031(a)(21)(E), substituted “under this section during that fiscal year” for “in such preceding year”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

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 a note preceding section 3001 of this title.

CHAPTER 283—[RESERVED]

Editorial Notes

PRIOR PROVISIONS

A prior chapter 283 “FOREIGN ACQUISITIONS”, as added by Pub. L. 115-232, div. A, title VIII, § 801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3881, was repealed by Pub. L. 116-283, div. A, title XVIII, § 1837, Jan. 1, 2021, 134 Stat. 4241, as amended by Pub. L. 117-81, div. A, title XVII, § 1701(i)(8)(B), Dec. 27, 2021, 135 Stat. 2142.

CODIFICATION

Pub. L. 116-283, div. A, title XVIII, § 1837, Jan. 1, 2021, 134 Stat. 4241, enacted this chapter “FOREIGN ACQUI-

SITIONS”, which consisted of subchapters I “General” and II “Prohibition on Contracting with the Enemy”. Subchapter I consisted of section 3881 “Contracts: consideration of national security objectives”, as transferred from section 2327 of this title, and subchapter II consisted of reserved sections 3891 to 3893. Subsequently, Pub. L. 117-81, div. A, title XVII, § 1701(i)(8)(B), Dec. 27, 2021, 135 Stat. 2142, generally amended section 1837 of Pub. L. 116-283, effective as if included therein, so that this chapter would consist only of the chapter 283 designation and “[RESERVED]”, thereby omitting the contents of this chapter in their entirety.

CHAPTER 287—OTHER CONTRACTING PROGRAMS

Sec.	
3901.	Contracts: prohibition on competition between Department of Defense and small businesses.
3902.	Credit for Indian contracting in meeting certain subcontracting goals for small disadvantaged businesses.
3903.	Subcontracting plans: credit for certain purchases.
3904.	[Reserved].
3905.	Products of Federal Prison Industries: procedural requirements.

Editorial Notes

PRIOR PROVISIONS

A prior chapter 285 “SMALL BUSINESS PROGRAMS”, as added by Pub. L. 115-232, div. A, title VIII, § 801(a), Aug. 13, 2018, 132 Stat. 1828, and consisting of reserved section 3901, was repealed by Pub. L. 116-283, div. A, title XVIII, § 1871(a)(1), Jan. 1, 2021, 134 Stat. 4287.

A prior chapter 287 “SOCIOECONOMIC PROGRAMS”, as added by Pub. L. 115-232, div. A, title VIII, § 801(a), Aug. 13, 2018, 132 Stat. 1829, and consisting of reserved section 3961, was repealed by Pub. L. 116-283, div. A, title XVIII, § 1838(a), Jan. 1, 2021, 134 Stat. 4242.

AMENDMENTS

2021—Pub. L. 117-81, div. A, title XVII, § 1701(j)(1)(B), (v)(2)(B), Dec. 27, 2021, 135 Stat. 2144, 2154, amended Pub. L. 116-283, div. A, title XVIII, § 1838(a), Jan. 1, 2021, 134 Stat. 4242, which added this analysis, by substituting “OTHER CONTRACTING” for “SOCIOECONOMIC” in chapter heading and “[Reserved]” for “Research and educational programs and activities: historically black colleges and universities and minority-serving institutions of higher education” in item 3904.

Statutory Notes and Related Subsidiaries

DEMONSTRATION PROJECT FOR CONTRACTORS EMPLOYING PERSONS WITH DISABILITIES

Pub. L. 115-232, div. A, title VIII, § 888, Aug. 13, 2018, 132 Stat. 1916, provided that: “Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall update the Defense Federal Acquisition Regulatory Supplement to include an instruction on the pilot program regarding employment of persons with disabilities authorized under section 853 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 10 U.S.C. 2302 note).”

Pub. L. 108-136, div. A, title VIII, § 853, Nov. 24, 2003, 117 Stat. 1557, as amended by Pub. L. 108-199, div. H, § 110, Jan. 23, 2004, 118 Stat. 438; Pub. L. 115-232, div. A, title VIII, § 812(a)(2)(C)(i), Aug. 13, 2018, 132 Stat. 1846, provided that:

“(a) AUTHORITY.—The Secretary of Defense may carry out a demonstration project by entering into one or more contracts with an eligible contractor for the purpose of providing defense contracting opportunities for severely disabled individuals.

“(b) EVALUATION FACTOR.—In evaluating an offer for a contract under the demonstration program, the per-