

ment of Defense and the AbilityOne Commission to improve the delivery of goods and services to the Department of Defense; and

“(E) recommendations for administrative safeguards to ensure the Department of Defense and the AbilityOne Commission are in compliance with the requirements of the Javits-Wagner-O’Day Act [see 41 U.S.C. 8501 et seq.], Federal civil rights law, and regulations and policy related to the performance of contracts of the Department of Defense with qualified nonprofit agencies and the contracts of the AbilityOne Commission with central nonprofit agencies.

“(j) SUNSET.—The Panel shall terminate on the date of submission of the last annual report required under subsection (i).

“(k) INAPPLICABILITY OF FACA.—The requirements of the Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the Panel established pursuant to subsection (a).

“(l) DEFENSE ACQUISITION UNIVERSITY TRAINING.—

“(1) IN GENERAL.—The Secretary of Defense shall establish a training program at the Defense Acquisition University established under section 1746 of title 10, United States Code. Such training shall include—

“(A) information about—

“(i) the mission of the AbilityOne Commission;

“(ii) the employment of significantly disabled veterans through contracts from the procurement list maintained by the AbilityOne Commission;

“(iii) reasonable accommodations and accessibility requirements for the blind and other severely disabled individuals; and

“(iv) Executive orders and other subjects related to the blind and other severely disabled individuals, as determined by the Secretary of Defense; and

“(B) procurement, acquisition, program management, and other training specific to procuring goods and services for the Department of Defense pursuant to the Javits-Wagner-O’Day Act.

“(2) ACQUISITION WORKFORCE ASSIGNMENT.—Members of the acquisition workforce (as defined in section 101 of title 10, United States Code) who have participated in the training described in paragraph (1) are eligible for a detail to the AbilityOne Commission.

“(3) ABILITYONE COMMISSION ASSIGNMENT.—Career employees of the AbilityOne Commission may participate in the training program described in paragraph (1) on a non-reimbursable basis for up to three years and on a non-reimbursable or reimbursable basis thereafter.

“(4) FUNDING.—Amounts from the Department of Defense Acquisition Workforce Development Fund established under section 1705 of title 10, United States Code, are authorized for use for the detail of members of the acquisition workforce to the AbilityOne Commission.

“(m) DEFINITIONS.—In this section:

“(1) The term ‘AbilityOne Commission’ means the Committee for Purchase From People Who Are Blind or Severely Disabled established under section 8502 of title 41, United States Code.

“(2) The terms ‘blind’, ‘qualified nonprofit agency for the blind’, ‘qualified nonprofit agency for other severely disabled’, and ‘severely disabled individual’ have the meanings given such terms under section 8501 of such title.

“(3) The term ‘central nonprofit agency’ means a central nonprofit agency designated under section 8503(c) of such title.

“(4) The term ‘executive agency’ has the meaning given such term in section 133 of such title.

“(5) The term ‘Javits-Wagner-O’Day Act’ means chapter 85 of such title.

“(6) The term ‘qualified nonprofit agency’ means—

“(A) a qualified nonprofit agency for the blind; or

“(B) a qualified nonprofit agency for other severely disabled.

“(7) The term ‘significantly disabled veteran’ means a veteran (as defined in section 101 of title 38,

United States Code) who is a severely disabled individual.”

MITIGATING POTENTIAL UNFAIR COMPETITIVE ADVANTAGE OF TECHNICAL ADVISORS TO ACQUISITION PROGRAMS

Pub. L. 114-92, div. A, title VIII, §895, Nov. 25, 2015, 129 Stat. 954, provided that: “Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review, and as necessary revise or issue, policy guidance pertaining to the identification, mitigation, and prevention of potential unfair competitive advantage conferred to technical advisors to acquisition programs.”

§ 4751. Determinations and decisions

(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under any chapter 137 legacy provision by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 3531(a), 3803, or 3841(c)(2)(B) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

(2) Each finding referred to in paragraph (1) is final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.

(Aug. 10, 1956, ch. 1041, 70A Stat. 132, §2310; Pub. L. 85-800, §10, Aug. 28, 1958, 72 Stat. 967; Pub. L. 87-653, §1(f), Sept. 10, 1962, 76 Stat. 529; Pub. L. 89-607, §1(1), Sept. 27, 1966, 80 Stat. 850; Pub. L. 90-378, §2, July 5, 1968, 82 Stat. 290; Pub. L. 98-369, div. B, title VII, §2725, July 18, 1984, 98 Stat. 1193; Pub. L. 99-145, title XIII, §1303(a)(16), Nov. 8, 1985, 99 Stat. 739; Pub. L. 103-355, title I, §1504, Oct. 13, 1994, 108 Stat. 3297; renumbered §4751 and amended Pub. L. 116-283, div. A, title XVIII, §1864(b), (c), Jan. 1, 2021, 134 Stat. 4279.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2310(a)	41:156(a) (1st sentence).	Feb. 19, 1948, ch. 65, §7(a)
2310(b)	41:156(c).	(1st sentence), (c), 62 Stat. 24.

In subsection (a), the words “required * * * under” are substituted for the words “provided in”.

In subsection (b), the word “person” is substituted for the word “official”. The words “to which it applies” are inserted for clarity.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, §1864(b), renumbered section 2310 of this title as this section.

Subsec. (a). Pub. L. 116-283, §1864(c)(1), substituted “made under any chapter 137 legacy provision” for “made under this chapter”.

Subsec. (b). Pub. L. 116-283, §1864(c)(2), substituted “section 3531(a), 3803, or 3841(c)(2)(B)” for “section 2306(g)(1), 2307(d), or 2313(c)(2)(B)”.

1994—Pub. L. 103-355 amended section generally. Prior to amendment, section read as follows:

“(a) Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except for determinations and decisions under section 2304 or 2305 of this title, for a class of purchases or contracts. Such a determination or decision, including a determination or decision under section 2304 or 2305 of this title, is final.

“(b) Each determination or decision under section 2306(c), 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision, which finding shall set out facts and circumstances that—

“(1) clearly indicate why the type of contract selected under section 2306(c) of this title is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality required except under such a contract;

“(2) support the findings required by section 2306(g)(1) of this title;

“(3) clearly indicate why advance payments under section 2307(c) of this title would be in the public interest; or

“(4) clearly indicate why the application of section 2313(b) of this title to a contract or subcontract with a foreign contractor or foreign subcontractor would not be in the public interest.

Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies.”

1985—Subsec. (a). Pub. L. 99-145 inserted “this” after “2305 of”.

1984—Subsec. (a). Pub. L. 98-369, §2725(1), inserted “, except for determinations and decisions under section 2304 or 2305 of title,” and “, including a determination or decision under section 2304 or 2305 of this title.”.

Subsec. (b). Pub. L. 98-369, §2725(2), amended subsec. (b) generally, striking out requirement that determinations to negotiate contracts be based on written findings by the contracting officers making the determinations.

1968—Subsec. (b). Pub. L. 90-378 inserted “section 2306(g)(1),” after “clauses (11)–(16) of section 2304(a), section 2306(c),” and “(3) support the findings required by section 2306(g)(1),” after “kind or quality required except under such a contract,” and redesignated former cls. (3) to (5) as (4) to (6), respectively.

1966—Subsec. (b). Pub. L. 89-607 inserted reference to section 2313(c), added cl. (4), and redesignated former cl. (4) as (5).

1962—Subsec. (b). Pub. L. 87-653 substituted “section 2306(c)” for “section 2306”, required decisions to negotiate contracts under section 2304(a)(2), (7), (8), (10) to (12) of this title to be based on a written finding by the person making the decision, which findings shall set out facts and circumstances illustrative of conditions described in section 2304(a)(11) to (16), indicate why the type of contract selected under section 2306(c) is likely to be less costly than any other or that its impracticable to obtain the required property or services except under such contract, indicate why advance payments under section 2307(c) would be in the public interest, or establish with respect to section 2304(a), (2), (7), (8), (10) to (12) that formal advertising would not have been feasible and practicable.

1958—Subsec. (b). Pub. L. 85-800 substituted “2307(c)” for “2307(a)”.

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.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 8752 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. B, title VII, §2751, July 18, 1984, 98 Stat. 1203, provided that:

“(a) Except as provided in subsection (b), the amendments made by this title [see Tables for classification] shall apply with respect to any solicitation for bids or proposals issued after March 31, 1985.

“(b) The amendments made by section 2713 [amending section 759 of former Title 40, Public Buildings, Property, and Works, and enacting provisions set out as a note under section 759 of former Title 40] and subtitle D [enacting sections 3551 to 3556 of Title 31, Money and Finance] shall apply with respect to any protest filed after January 14, 1985.”

EFFECTIVE DATE OF 1962 AMENDMENT

For effective date of amendment by Pub. L. 87-653, see section 1(h) of Pub. L. 87-653, set out as a note under section 3065 of this title.

§ 4752. Remission of liquidated damages

Upon the recommendation of the head of an agency, the Secretary of the Treasury may remit all or part, as he considers just and equitable, of any liquidated damages assessed for delay in performing a contract, made by that agency, that provides for such damages.

(Aug. 10, 1956, ch. 1041, 70A Stat. 132, §2312; Pub. L. 104-316, title II, §202(c), Oct. 19, 1996, 110 Stat. 3842; renumbered §4752, Pub. L. 116-283, div. A, title XVIII, §1864(b), Jan. 1, 2021, 134 Stat. 4279.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2312	41:155.	Feb. 19, 1948, ch. 65, §6, 62 Stat. 24.

The words “a contract, made by that agency, that provides for” are substituted for the words “any contract made on behalf of the Government by the agency head or by officers authorized by him so to do includes a provision”.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2312 of this title as this section.

1996—Pub. L. 104-316 substituted “Secretary of the Treasury” for “Comptroller General”.

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.

§ 4753. Supplies: identification of supplier and sources

(a) The Secretary of Defense shall require that the contractor under a contract with the Department of Defense for the furnishing of sup-