

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-