

AMENDMENTS

2021—Pub. L. 116–283, §1872(a)(8), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(D), renumbered section 2416 of this title as this section and inserted headings in subsecs. (a) to (d).

2004—Subsec. (d). Pub. L. 108–375 substituted “\$1,000,000” for “\$500,000”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 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 note below.

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

Pub. L. 99–500, §101(c) [title X, §957(b)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–175, Pub. L. 99–591, §101(c) [title X, §957(b)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–175, and Pub. L. 99–661, div. A, title IX, formerly title IV, §957(b), Nov. 14, 1986, 100 Stat. 3955, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: “Section 2416 of title 10, United States Code [now 10 U.S.C. 4957], as added by subsection (a), shall take effect on January 1, 1987.”

§ 4958. Authority to provide certain types of technical assistance

(a) ASSISTANCE RELATING TO CERTAIN NON-DEFENSE CONTRACTS.—The procurement technical assistance furnished by eligible entities assisted by the Department of Defense under this chapter may include technical assistance relating to contracts entered into with (1) Federal departments and agencies other than the Department of Defense, and (2) State and local governments.

(b) INFORMATION RELATING TO ASSISTANCE AND OTHER PROGRAMS AVAILABLE.—An eligible entity assisted by the Department of Defense under this chapter also may furnish information relating to assistance and other programs available pursuant to the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992.

(c) EDUCATION ON REQUIREMENTS APPLICABLE TO SMALL BUSINESSES UNDER CERTAIN REGULATIONS.—An eligible entity assisted by the Department of Defense under this chapter also may furnish education on the requirements applicable to small businesses under the regulations issued—

(1) under section 38 of the Arms Export Control Act (22 U.S.C. 2778), and on compliance with those requirements;

(2) under section 9 of the Small Business Act (15 U.S.C. 638), and on compliance with those requirements;

(3) under clause 252.204–7012 of the Defense Acquisition Regulation Supplement, or any successor regulation, and on compliance with those requirements (and any successor requirements); and

(4) under section 847 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1505), and on compliance with those requirements (and any such successor requirements).

(Added Pub. L. 102–484, div. D, title XLII, §4236(a)(1)(B), Oct. 23, 1992, 106 Stat. 2691, §2418; amended Pub. L. 113–291, div. A, title VIII, §823(b), Dec. 19, 2014, 128 Stat. 3436; Pub. L. 115–91, div. A, title XVII, §1708, Dec. 12, 2017, 131 Stat. 1809; renumbered §4958 and amended Pub. L. 116–283, div. A, title XVIII, §1872(a)(9), Jan. 1, 2021, 134 Stat. 4289; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(E), Dec. 27, 2021, 135 Stat. 2135, 2145; Pub. L. 118–31, div. A, title VIII, §853(c), Dec. 22, 2023, 137 Stat. 344.)

Editorial Notes

REFERENCES IN TEXT

The Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, referred to in subsec. (b), is div. D of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2658. For complete classification of div. D to the Code, see Short Title note set out under section 4801 of this title and Tables.

Section 847 of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsec. (c)(4), is section 847 of Pub. L. 116–92, which is set out as a note under section 4819 of this title.

AMENDMENTS

2023—Subsec. (c)(3), (4). Pub. L. 118–31 added pars. (3) and (4).

2021—Pub. L. 116–283, §1872(a)(9), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(E), renumbered section 2418 of this title as this section and inserted headings in subsecs. (a) to (c).

2017—Subsec. (c). Pub. L. 115–91 substituted “issued—” for “issued”, inserted par. (1) designation before “under” and comma before “and on compliance”, and added par. (2).

2014—Subsec. (c). Pub. L. 113–291 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 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 note below.

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.

§ 4959. Advancing small business growth

(a) CONTRACT CLAUSE REQUIRED.—(1) The Under Secretary of Defense for Acquisition and Sustainment shall require the clause described in paragraph (2) to be included in each covered contract awarded by the Department of Defense.

(2) The clause described in this paragraph is a clause that—

(A) requires the contractor to acknowledge that acceptance of the contract may cause the business to exceed the applicable small business size standards (established pursuant to section 3(a) of the Small Business Act) for the industry concerned and that the contractor may no longer qualify as a small business concern for that industry; and

(B) encourages the contractor to develop capabilities and characteristics typically desired in contractors that are competitive as an other-than-small business in that industry.

(b) AVAILABILITY OF ASSISTANCE.—Covered small businesses may be provided assistance as

part of any procurement technical assistance furnished pursuant to this chapter.

(c) DEFINITIONS.—In this section:

(1) The term “covered contract” means a contract—

(A) awarded to a qualified small business concern as defined pursuant to section 3(a) of the Small Business Act; and

(B) with an estimated annual value—

(i) that will exceed the applicable receipt-based small business size standard; or

(ii) if the contract is in an industry with an employee-based size standard, that will exceed \$70,000,000.

(2) The term “covered small business” means a qualified small business concern as defined pursuant to section 3(a) of the Small Business Act that has entered into a contract with the Department of Defense that includes a contract clause described in subsection (a)(2).

(Added Pub. L. 113–66, div. A, title XVI, §1611(a)(1)(B), Dec. 26, 2013, 127 Stat. 946, §2419; amended Pub. L. 116–92, div. A, title IX, §902(63), Dec. 20, 2019, 133 Stat. 1550; renumbered §4959, Pub. L. 116–283, div. A, title XVIII, §1872(a)(10), Jan. 1, 2021, 134 Stat. 4289; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(F), Dec. 27, 2021, 135 Stat. 2135, 2145.)

Editorial Notes

REFERENCES IN TEXT

Section 3(a) of the Small Business Act, referred to in subsecs. (a)(2)(A) and (c)(1)(A), (2), is classified to section 632(a) of Title 15, Commerce and Trade.

CODIFICATION

Pub. L. 117–81, div. A, title XVII, §1701(m)(2)(G), Dec. 27, 2021, 135 Stat. 2145, amended Pub. L. 116–283, §1872(a)(11), which had originally transferred section 2417 of this title to this section. After amendment by Pub. L. 117–81, section 1872(a)(11) of Pub. L. 116–283 instead transferred section 2417 to section 4961 of this title.

AMENDMENTS

2021—Pub. L. 116–283, §1872(a)(10), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(F), renumbered section 2419 of this title as this section.

2019—Subsec. (a)(1). Pub. L. 116–92 substituted “Under Secretary of Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 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 note below.

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.

§ 4961. Administrative and other costs

The Secretary may use, out of the amount appropriated for a fiscal year for operation and

maintenance for the procurement technical assistance program authorized by this chapter—

(1) an amount not exceeding four percent of such amount to defray the expenses of administering the provisions of this chapter during such fiscal year; and

(2) an amount determined appropriate by the Secretary to assist eligible entities in payment of costs of eligible entities—

(A) for meetings, including meetings of an association recognized under section 4954(f),¹ to discuss best practices for the improvement of the operations of procurement technical assistance centers; and

(B) for membership dues for any association of such centers created by eligible entities, training fees and associated travel for training to carry out the purposes of this chapter, and voluntary participation on any committees or board of such an association.

(Added Pub. L. 101–510, div. A, title VIII, §814(a)(1)(B), Nov. 5, 1990, 104 Stat. 1596, §2417; amended Pub. L. 115–232, div. A, title VIII, §859(a), Aug. 13, 2018, 132 Stat. 1892; renumbered §4961 and amended Pub. L. 116–283, div. A, title X, §1081(a)(41), title XVIII, §1872(a)(11), Jan. 1, 2021, 134 Stat. 3873, 4289; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(G), Dec. 27, 2021, 135 Stat. 2135, 2145; Pub. L. 117–263, div. A, title VIII, §854(a), Dec. 23, 2022, 136 Stat. 2722.)

Editorial Notes

REFERENCES IN TEXT

Section 4954(f), referred to in par. (2)(A), was redesignated as section 4954(e) of this title, and a new subsec. (f) of section 4954 of this title was added, by Pub. L. 118–31, div. A, title VIII, §853(b)(2), (3), Dec. 22, 2023, 137 Stat. 344.

AMENDMENTS

2022—Pub. L. 117–263, §854(a)(1), substituted “Secretary” for “Director of the Defense Logistics Agency” in introductory provisions.

Par. (1). Pub. L. 117–263, §854(a)(2), substituted “four” for “three”.

Par. (2). Pub. L. 117–263, §854(a)(3)(A), substituted “Secretary” for “Director” in introductory provisions. Par. (2)(A). Pub. L. 117–263, §854(a)(3)(B), inserted “, including meetings of an association recognized under section 4954(f),” after “meetings”.

2021—Pub. L. 116–283, §1872(a)(11), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(G), renumbered section 2417 of this title as this section.

Par. (2). Pub. L. 116–283, §1081(a)(41), which directed amendment of par. (2) by substituting “entities—” for “entities -”, was executed by making the substitution for “entities —” to reflect the probable intent of Congress.

2018—Pub. L. 115–232, §859(a)(2)–(4), substituted “chapter—” for “chapter,” inserted par. (1) designation before “an amount”, and added par. (2).

Pub. L. 115–232, §859(a)(1), inserted “and other” after “Administrative” in section catchline.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 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 note below.

¹ See References in Text note below.