section (b)(1) of such section, relating to supply chain risk.

(B) The consideration of proposals for and issuance of a task or delivery order for a covered system or a covered item of supply, as provided in section 4106(d)(3) of title 41, where the task or delivery order contract concerned includes a contract clause establishing a requirement relating to supply chain risk.

(C) Any contract action involving a contract for a covered system or a covered item of supply if the contract includes a clause establishing requirements relating to supply chain risk.

(4) Covered procurement action

The term ''covered procurement action'' means, with respect to an action that occurs in the course of conducting a covered procurement, any of the following:

(A) The exclusion of a source that fails to meet qualification requirements established pursuant to section 3311 of title 41 for the purpose of reducing supply chain risk in the acquisition of covered systems.

(B) The exclusion of a source that fails to achieve an acceptable rating with regard to an evaluation factor providing for the consideration of supply chain risk in the evaluation of proposals for the award of a contract or the issuance of a task or delivery order.

(C) The withholding of consent for a contractor to subcontract with a particular source or the direction to a contractor for a covered system to exclude a particular source from consideration for a subcontract under the contract.

(5) Covered system

The term ''covered system'' means the following:

(A) National security systems (as defined in section 3552(b) of title 44) and components of such systems.

(B) Nuclear weapons and components of nuclear weapons.

(C) Items associated with the design, development, production, and maintenance of nuclear weapons or components of nuclear weapons.

(D) Items associated with the surveillance of the nuclear weapon stockpile.

(E) Items associated with the design and development of nonproliferation and counterproliferation programs and systems.

(6) Special exclusion action

The term ''special exclusion action'' means an action to prohibit, for a period not to exceed two years, the award of any contracts or subcontracts by the Administration or any other component of the Department of Energy related to any covered system to a source the Secretary determines to represent a supply chain risk.

(7) Supply chain risk

The term ''supply chain risk'' means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system or covered item of supply so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of the system or item of supply.

(g) Termination

The authority under this section shall terminate on December 31, 2028.

(Pub. L. 107–314, div. D, title XLVIII, § 4806, as added Pub. L. 113–66, div. C, title XXXI, § 3113(a), Dec. 26, 2013, 127 Stat. 1053; amended Pub. L. 113–291, div. C, title XXXI, § 3142(s), Dec. 19, 2014, 128 Stat. 3901; Pub. L. 115–232, div. C, title XXXI, § 3117, Aug. 13, 2018, 132 Stat. 2292; Pub. L. 116–92, div. C, title XXXI, § 3133, Dec. 20, 2019, 133 Stat. 1958; Pub. L. 116–283, div. C, title XXXI, § 3161, Jan. 1, 2021, 134 Stat. 4391; Pub. L. 117–81, div. C, title XXXI, § 3119, Dec. 27, 2021, 135 Stat. 2228.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a). Pub. L. 116–283, § 3161(1), inserted ''or special exclusion action'' after ''covered procurement action'' in pars. (1) and (2).

Subsec. (c)(1). Pub. L. 116–283, § 3161(1), inserted ''or special exclusion action'' after ''covered procurement action'' in two places.

Subsecs. (e), (f). Pub. L. 116–283, § 3161(2), (3), added subsec. (e) and redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(6), (7). Pub. L. 116–283, § 3161(4), added par. (6) and redesignated former par. (6) as (7).

Subsec. (g). Pub. L. 117–81 substituted ''December 31, 2028'' for ''June 30, 2023''.

Pub. L. 116–283, § 3161(2), redesignated subsec. (f) as (g).

2019—Subsecs. (e) to (g). Pub. L. 116–92 redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which related to Comptroller General review and report to Congress.

2018—Subsec. (f)(5)(A). Pub. L. 115–232, § 3117(b), substituted ''section 3552(b) of title 44'' for ''section 3542(b) of title 44''.

Subsec. (g). Pub. L. 115–232, § 3117(a), amended subsec. (g) generally. Prior to amendment, subsec. (g) related to effective date, applicability, and termination of section.

2014—Subsec. (g)(1). Pub. L. 113–291 substituted ''June 24, 2014'' for ''the date that is 180 days after December 26, 2013''.

§ 2787. Cost-benefit analyses for competition of management and operating contracts

(a) Briefings on requests for proposals

Not later than 7 days after issuing a request for proposals for a contract to manage and operate a facility of the Administration, the Administrator shall brief the congressional defense committees on the preliminary assessment of the Administrator of the costs and benefits of the competition for the contract, including a preliminary assessment of the matters described in subsection (c) with respect to the contract.

(b) Reports after transition to new contracts

If the Administrator awards a new contract to manage and operate a facility of the Administration, the Administrator shall submit to the congressional defense committees a report that includes the matters described in subsection (c) with respect to the contract by not later than 30

days after the completion of the period required to transition to the contract.

(c) Matters described

The matters described in this subsection, with respect to a contract, are the following:

(1) A clear and complete description of the cost savings the Administrator expects to result from the competition for the contract over the life of the contract, including associated analyses, assumptions, and information sources used to determine such expected cost savings.

(2) A description of any key limitations or uncertainties that could affect such costs savings, including costs savings that are anticipated but not fully known.

(3) The costs of the competition for the contract, including the immediate costs of conducting the competition, the costs of the transition to the contract from the previous contract, and any increased costs over the life of the contract.

(4) A description of any disruptions or delays in mission activities or deliverables resulting from the competition for the contract.

(5) A clear and complete description of the benefits expected by the Administrator with respect to mission performance or operations resulting from the competition.

(6) How the competition for the contract complied with the Federal Acquisition Regulation regarding federally funded research and development centers, if applicable.

(7) The factors considered and processes used by the Administrator to determine—

(A) whether to compete or extend the previous contract; and

(B) which activities at the facility should be covered under the contract rather than under a different contract.

(8) With respect to the matters included under paragraphs (1) through (7), a detailed description of the analyses conducted by the Administrator to reach the conclusions presented in the report, including any assumptions, limitations, and uncertainties relating to such conclusions.

(9) Any other matters the Administrator considers appropriate.

(d) Information quality

Each briefing required by subsection (a) and report required by subsection (b) shall be prepared in accordance with—

(1) the information quality guidelines of the Department of Energy that are relevant to the clear and complete presentation of the matters described in subsection (c); and

(2) best practices of the Government Accountability Office and relevant industries for cost estimating, if appropriate.

(e) Review of reports by Comptroller General of the United States

(1) Determination

The Comptroller General of the United States shall determine, in consultation with the congressional defense committees, whether to conduct an initial review, a comprehensive review, or both, of a report required by subsection (b).

(2) Initial review

The Comptroller General shall provide any initial review of a report required by subsection (b) as a briefing to the congressional defense committees not later than 180 days after that report is submitted to the congressional defense committees.

(3) Comprehensive review

(A) Submission

The Comptroller General shall submit any comprehensive review of a report required by subsection (b) to the congressional defense committees not later than 3 years after that report is submitted to the congressional defense committees.

(B) Elements

A comprehensive review of a report required by subsection (b) shall include an assessment, based on the most current information available, of the following:

(i) The actual cost savings achieved compared to cost savings estimated under subsection (c)(1), and any increased costs incurred under the contract that were unexpected or uncertain at the time the contract was awarded.

(ii) Any disruptions or delays in mission activities or deliverables resulting from the competition for the contract compared to the disruptions and delays estimated under subsection (c)(4).

(iii) Whether expected benefits of the competition with respect to mission performance or operations have been achieved.

(iv) Such other matters as the Comptroller General considers appropriate.

(f) Applicability

(1) In general

The requirements for briefings under subsection (a) and reports under subsection (b) shall apply with respect to requests for proposals issued or contracts awarded, as applicable, by the Administrator during fiscal years 2019 through 2032.

(2) Naval reactors

The requirements for briefings under subsection (a) and reports under subsection (b) shall not apply with respect to a management and operations contract for a Naval Reactor facility.

(Pub. L. 107–314, div. D, title XLVIII, § 4807, as added Pub. L. 115–232, div. C, title XXXI, § 3131(a), Aug. 13, 2018, 132 Stat. 2298; amended Pub. L. 118–31, div. C, title XXXI, § 3119, Dec. 22, 2023, 137 Stat. 791; Pub. L. 118–159, div. C, title XXXI, § 3122, Dec. 23, 2024, 138 Stat. 2300.)

Editorial Notes

AMENDMENTS

2024—Subsec. (e). Pub. L. 118–159 amended subsec. (e) generally. Prior to amendment, subsec. (e) related to review of reports by Comptroller General of the United States.

2023—Subsec. (f)(1). Pub. L. 118–31 substituted ''2032'' for ''2022''.

PART B—RESEARCH AND DEVELOPMENT

§ 2791. Laboratory-directed research and development programs

(a) Authority

Government-owned, contractor-operated laboratories that are funded out of funds available to the Department of Energy for national security programs are authorized to carry out laboratory-directed research and development.

(b) Regulations

The Secretary of Energy shall prescribe regulations for the conduct of laboratory-directed research and development at such laboratories.

(c) Funding

Of the funds provided by the Department of Energy to a national security laboratory for national security activities, the Secretary shall provide a specific amount, of not less than 5 percent and not more than 7 percent of such funds, to be used by the laboratory for laboratory-directed research and development.

(d) "Laboratory-directed research and development" defined

For purposes of this section, the term ''laboratory-directed research and development'' means research and development work of a creative and innovative nature which, under the regulations prescribed pursuant to subsection (b), is selected by the director of a laboratory for the purpose of maintaining the vitality of the laboratory in defense-related scientific disciplines.

(Pub. L. 107–314, div. D, title XLVIII, § 4811, formerly Pub. L. 101–510, div. C, title XXXI, § 3132, Nov. 5, 1990, 104 Stat. 1832; renumbered Pub. L. 107–314, div. D, title XLVIII, § 4811, and amended Pub. L. 108–136, div. C, title XXXI, § 3141(k)(6), Nov. 24, 2003, 117 Stat. 1784; Pub. L. 114–92, div. C, title XXXI, § 3115(a), Nov. 25, 2015, 129 Stat. 1193.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 7257a of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108–136.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114–92 substituted ''to a national security laboratory'' for ''to such laboratories'', ''of not less than 5 percent and not more than 7 percent'' for ''not to exceed 6 percent'', and ''by the laboratory'' for ''by such laboratories''.

2003—Pub. L. 108–136, § 3141(k)(6)(D), made technical amendment to section catchline.

Statutory Notes and Related Subsidiaries

PILOT PROGRAM ON UNAVAILABILITY FOR OVERHEAD COSTS OF AMOUNTS SPECIFIED FOR LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT

Pub. L. 114–328, div. C, title XXXI, § 3119, Dec. 23, 2016, 130 Stat. 2763, as amended by Pub. L. 116–92, div. C, title XXXI, § 3118, Dec. 20, 2019, 133 Stat. 1952; Pub. L. 116–283, div. C, title XXXI, § 3162, Jan. 1, 2021, 134 Stat. 4391, which established a pilot program under which each national security laboratory was prohibited from using certain funds to cover costs of general and administrative overhead for the laboratory, was repealed by Pub. L. 117–263, div. C, title XXXI, § 3116(b), Dec. 23, 2022, 136 Stat. 3054. See section 2792(c) of this title.

§ 2791a. Laboratory-directed research and development

Of the funds made available by the Department of Energy for activities at government-owned, contractor-operated laboratories funded in this Act or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed 8 percent of such funds, to be used by such laboratories for laboratory directed research and development: *Provided*, That the Secretary may also authorize a specific amount not to exceed 4 percent of such funds, to be used by the plant manager of a covered nuclear weapons production plant or the manager of the Nevada Site Office for plant or site directed research and development: *Provided further*, That notwithstanding Department of Energy order 413.2A, dated January 8, 2001, beginning in fiscal year 2006 and thereafter, all DOE laboratories may be eligible for laboratory directed research and development funding.

(Pub. L. 111–8, div. C, title III, § 308, Mar. 11, 2009, 123 Stat. 626.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is div. C of Pub. L. 111–8, Mar. 11, 2009, 123 Stat. 601, known as the Energy and Water Development and Related Agencies Appropriations Act, 2009. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the Atomic Energy Defense Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Pub. L. 111–85, title III, § 307, Oct. 28, 2009, 123 Stat. 2872.

Pub. L. 110–161, div. C, title III, § 309, Dec. 26, 2007, 121 Stat. 1968.

Pub. L. 109–103, title III, § 311, Nov. 19, 2005, 119 Stat. 2280.

FUNDING FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT

Pub. L. 113–76, div. D, title III, § 309, Jan. 17, 2014, 128 Stat. 175, provided that: ''Notwithstanding section 307 of Public Law 111–85 [listed in a table above], of the funds made available by the Department of Energy for activities at Government-owned, contractor-operated laboratories funded in this [Act] [div. D of Pub. L. 113–76, see Tables for classification] or any subsequent Energy and Water Development Appropriations Act for any fiscal year, the Secretary may authorize a specific amount, not to exceed 6 percent of such funds, to be used by such laboratories for laboratory directed research and development.''

§ 2791b. Charges to individual program, project, or activity

Of the funds authorized by the Secretary of Energy for laboratory directed research and development, no individual program, project, or activity funded by this or any subsequent Act