

10 USC 2383: Contractor performance of acquisition functions closely associated with inherently governmental functions

Text contains those laws in effect on September 5, 2017

From Title 10-ARMED FORCES

Subtitle A-General Military Law

PART IV-SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 141-MISCELLANEOUS PROCUREMENT PROVISIONS

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§2383. Contractor performance of acquisition functions closely associated with inherently governmental functions

(a) Limitation.-The head of an agency may enter into a contract for the performance of acquisition functions closely associated with inherently governmental functions only if the contracting officer for the contract ensures that-

- (1) appropriate military or civilian personnel of the Department of Defense cannot reasonably be made available to perform the functions;
- (2) appropriate military or civilian personnel of the Department of Defense are-
 - (A) to supervise contractor performance of the contract; and
 - (B) to perform all inherently governmental functions associated with the functions to be performed under the contract; and
- (3) the agency addresses any potential organizational conflict of interest of the contractor in the performance of the functions under the contract, consistent with subpart 9.5 of part 9 of the Federal Acquisition Regulation and the best interests of the Department of Defense.

(b) Definitions.-In this section:

- (1) The term "head of an agency" has the meaning given such term in section 2302(1) of this title, except that such term does not include the Secretary of Homeland Security or the Administrator of the National Oceanic and Atmospheric Administration.
- (2) The term "inherently governmental functions" has the meaning given such term in subpart 7.5 of part 7 of the Federal Acquisition Regulation.
- (3) The term "functions closely associated with inherently governmental functions" means the functions described in section 7.503(d) of the Federal Acquisition Regulation.
- (4) The term "organizational conflict of interest" has the meaning given such term in subpart 9.5 of part 9 of the Federal Acquisition Regulation.

(Added Pub. L. 108-375, div. A, title VIII, §804(a)(1), Oct. 28, 2004, 118 Stat. 2007 .)

PRIOR PROVISIONS

A prior section 2383, added Pub. L. 100-456, div. A, title VIII, §805(a)(1), Sept. 29, 1988, 102 Stat. 2010 ; amended Pub. L. 102-190, div. A, title X, §1061(a)(13), Dec. 5, 1991, 105 Stat. 1473 ; Pub. L. 103-355, title II, §2401, Oct. 13, 1994, 108 Stat. 3324 , related to quality control in procurement of critical aircraft and ship spare or repair parts, prior to repeal by Pub. L. 104-106, div. A, title VIII, §803(a), Feb. 10, 1996, 110 Stat. 390 .

Another prior section 2383, act Aug. 10, 1956, ch. 1041, 70A Stat. 137 , permitted Secretary of a military department to make emergency purchases of war material abroad, and provided that such material may be admitted free of duty, prior to repeal by Pub. L. 87-456, title III, §303(c), May 24, 1962, 76 Stat. 78 .

EFFECTIVE DATE

Pub. L. 108-375, div. A, title VIII, §804(b), Oct. 28, 2004, 118 Stat. 2008 , provided that: "Section 2383 of title 10, United States Code (as added by subsection (a)), shall apply to contracts entered into on or after the date of the enactment of this Act [Oct. 28, 2004]."