

1994—Pub. L. 103-337, §1317(c)(2)(A), substituted “Waiver of applicability of certain laws” for “Law applicable to acquisition and cross-servicing agreements” as section catchline.

Pub. L. 103-337, §1317(c)(1), designated subsec. (b) as entire section and struck out former subsec. (a) which read as follows: “Except as provided in subsection (b), acquisition of logistic support, supplies, and services under section 2341 of this title and agreements entered into under section 2342 of this title shall be made in accordance with chapter 137 of this title and the provisions of this subchapter.”

1991—Subsec. (b). Pub. L. 102-190 substituted “this title and” for “this title,” and struck out “, and section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168)” before “shall not apply”.

1989—Subsec. (a). Pub. L. 101-189 substituted “this subchapter” for “this chapter”.

1988—Subsec. (b). Pub. L. 100-456 struck out “section” before “2306a”.

1987—Subsec. (b). Pub. L. 100-26 substituted “section 2306a,” for “2306(f).”

1985—Pub. L. 99-145, §1304(a)(1), renumbered section 2323 of this title as this section.

Subsec. (a). Pub. L. 99-145, §1304(a)(5), substituted “section 2341” for “section 2321” and “section 2342” for “section 2322”.

Subsec. (b). Pub. L. 99-145, §1304(a)(5), substituted “section 2341” for “section 2321” and “section 2342” for “section 2322”.

Pub. L. 99-145, §961(b), substituted “section 2304(a)” for “section 2304(g)”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by section 961(b) of Pub. L. 99-145 effective as if included in enactment of Competition in Contracting Act of 1984, Pub. L. 98-369, div. B, title VII, making amendment applicable with respect to any solicitation for bids or proposals issued after Mar. 31, 1985, see section 961(e) of Pub. L. 99-145, set out as a note under section 2304 of this title.

§ 2344. Methods of payment for acquisitions and transfers by the United States

(a) Logistics support, supplies, and services may be acquired or transferred by the United States under the authority of this subchapter on a reimbursement basis or by replacement-in-kind or exchange of supplies or services of an equal value.

(b)(1) In entering into agreements with the Government of another North Atlantic Treaty Organization country or other foreign country for the acquisition or transfer of logistic support, supplies, and services on a reimbursement basis, the Secretary of Defense shall negotiate for adoption of the following pricing principles for reciprocal application:

(A) The price charged by a supplying country for logistics support, supplies, and services specifically procured by the supplying country from its contractors for a recipient country shall be no less favorable than the price for identical items or services charged by such contractors to the armed forces of the supplying country, taking into account price differentials due to delivery schedules, points of delivery, and other similar considerations.

(B) The price charged a recipient country for supplies furnished by a supplying country from its inventory, and the price charged a recipient country for logistics support and services furnished by the officers, employees, or governmental agencies of a supplying country, shall be the same as the price charged for identical supplies, support, or services acquired by an armed force of the supplying country from such governmental sources.

(2) To the extent that the Secretary of Defense is unable to obtain mutual acceptance by the other country involved of the reciprocal pricing principles for reimbursable transactions set forth in paragraph (1)—

(A) the United States may not acquire from such country any logistic support, supply, or service not governed by such reciprocal pricing principles unless the United States forces commander acquiring such support, supply, or service determines (after price analysis) that the price thereof is fair and reasonable; and

(B) transfers by the United States to such country under this subchapter of any logistic support, supply, or service that is not governed by such reciprocal pricing principles shall be subject to the pricing provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(3) To the extent that indirect costs (including charges for plant and production equipment), administrative surcharges, and contract administration costs with respect to any North Atlantic Treaty Organization country or other foreign country are not waived by operation of the reciprocal pricing principles of paragraph (1), the Secretary of Defense may, on a reciprocal basis, agree to waive such costs.

(4) The pricing principles set forth in paragraph (2) and the waiver authority provided in paragraph (3) shall also apply to agreements with North Atlantic Treaty Organization subsidiary bodies and the United Nations Organization or any regional international organization under this subchapter.

(c) In acquiring or transferring logistics support, supplies, or services under the authority of this subchapter by exchange of supplies or services, the Secretary of Defense may not agree to or carry out the following:

(1) Transfers in exchange for property the acquisition of which by the Department of Defense is prohibited by law.

(2) Transfers of source, byproduct, or special nuclear materials or any other material, article, data, or thing of value the transfer of which is subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(3) Transfers of chemical munitions.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1017, §2324; amended Pub. L. 97-22, §11(a)(8), July 10, 1981, 95 Stat. 138; renumbered §2344, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99-661, div. A, title XI, §1104(b), Nov. 14, 1986, 100 Stat. 3964; Pub. L. 101-189, div. A, title IX, §§931(e)(1), 938(a), (b), Nov. 29, 1989, 103 Stat. 1535, 1539; Pub. L. 102-25, title VII, §701(f)(2), Apr. 6, 1991, 105 Stat. 115; Pub. L. 103-337, div. A, title XIII, §1317(d), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 109-163, div. A, title XII, §1204, Jan. 6, 2006, 119 Stat. 3456.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (b)(2)(B), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Inter-course. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (c)(2), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 921, and amended, which is classified generally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

AMENDMENTS

2006—Subsec. (b)(4). Pub. L. 109-163 struck out “of which the United States is a member” before “under this subchapter”.

1994—Subsec. (b)(4). Pub. L. 103-337 inserted “and the United Nations Organization or any regional international organization of which the United States is a member” after “subsidiary bodies”.

1991—Subsec. (c). Pub. L. 102-25 substituted “subchapter” for “chapter” in introductory provisions.

1989—Subsec. (a). Pub. L. 101-189, §§931(e)(1), 938(a), substituted “equal value” for “identical or substantially identical nature” and “this subchapter” for “this chapter”.

Subsec. (b)(2)(B), (4). Pub. L. 101-189, §931(e)(1), substituted “this subchapter” for “this chapter”.

Subsec. (c). Pub. L. 101-189, §938(b), added subsec. (c). 1986—Subsec. (b)(1), (3). Pub. L. 99-661 inserted “or other foreign country” after “country”.

1985—Pub. L. 99-145 renumbered section 2324 of this title as this section.

1981—Subsec. (b)(2)(B). Pub. L. 97-22 substituted “this chapter” for “this Act”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

§ 2345. Liquidation of accrued credits and liabilities

(a) Credits and liabilities of the United States accrued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of this subchapter shall be liquidated not less often than once every 12 months by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

(b) Payment-in-kind or exchange entitlements accrued as a result of acquisitions and transfers of logistic support, supplies, and services under authority of this subchapter shall be satisfied within 12 months after the date of the delivery of the logistic support, supplies, or services.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2325; renumbered §2345, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 99-661, div. A, title XI, §1104(c), Nov. 14, 1986, 100 Stat. 3965; Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 103-337, div. A, title XIII, §1317(e), Oct. 5, 1994, 108 Stat. 2900.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-337 substituted “12 months” for “three months”.

1989—Subsecs. (a), (b). Pub. L. 101-189 substituted “this subchapter” for “this chapter”.

1986—Pub. L. 99-661 designated existing provisions as subsec. (a) and added subsec. (b).

1985—Pub. L. 99-145 renumbered section 2325 of this title as this section.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

§ 2346. Crediting of receipts

Any receipt of the United States as a result of an agreement entered into under this subchapter shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

(Added Pub. L. 96-323, §2(a), Aug. 4, 1980, 94 Stat. 1018, §2326; renumbered §2346, Pub. L. 99-145, title XIII, §1304(a)(1), Nov. 8, 1985, 99 Stat. 741; amended Pub. L. 101-189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 103-337, div. A, title XIII, §1317(f), Oct. 5, 1994, 108 Stat. 2900.)

AMENDMENTS

1994—Pub. L. 103-337 substituted “shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made” for “shall be credited to applicable appropriations, accounts, and funds of the Department of Defense”.

1989—Pub. L. 101-189 substituted “this subchapter” for “this chapter”.

1985—Pub. L. 99-145 renumbered section 2326 of this title as this section.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable with regard to any acquisition or transfer of logistic support, supplies, and services under authority of this subchapter that is initiated after Oct. 5, 1994, see section 1317(j) of Pub. L. 103-337, set out as a note under section 2341 of this title.

§ 2347. Limitation on amounts that may be obligated or accrued by the United States

(a)(1) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization, or from the United Nations Organization or any regional international organization of which the United States is a member may not exceed \$200,000,000 in any fiscal year, and of such amount not more than \$50,000,000 in liabilities may be accrued for the acquisition of supplies.

(2) Except during a period of active hostilities involving the armed forces, the total amount of reimbursable liabilities that the United States