

manner and with respect to the supplies prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 137; Pub. L. 98-525, title XII, §1231(a), Oct. 19, 1984, 98 Stat. 2599; Pub. L. 99-500, §101(c) [title X, §928(a)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-156, and Pub. L. 99-591, §101(c) [title X, §928(a)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-156; Pub. L. 99-661, div. A, title IX, formerly title IV, §928(a), Nov. 14, 1986, 100 Stat. 3936, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103-355, title IV, §4102(d), title VIII, §8105(b), Oct. 13, 1994, 108 Stat. 3340, 3392; Pub. L. 104-106, div. D, title XLIII, §4321(b)(12), Feb. 10, 1996, 110 Stat. 672; Pub. L. 111-350, §5(b)(23), Jan. 4, 2011, 124 Stat. 3844.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2384	10:1207. 34:583.	R.S. 3731.

The words “Each contractor” are substituted for the words “Every person”. The word “his” is substituted for the words “the name of the contractor furnishing such supplies”. The words “of any kind” and “and distinguish [distinguished]” are omitted as surplusage. The word “may” is substituted for the word “shall”.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

AMENDMENTS

2011—Subsec. (b)(2). Pub. L. 111-350, §5(b)(23)(A), substituted “section 103 of title 41” for “section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))”.

Subsec. (b)(3). Pub. L. 111-350, §5(b)(23)(B), substituted “section 134 of title 41” for “section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))”.

1996—Subsec. (b)(2). Pub. L. 104-106, §4321(b)(12)(A), substituted “items (as)” for “items, as” and inserted a closing parenthesis after “403(12)”.

Subsec. (b)(3). Pub. L. 104-106, §4321(b)(12)(B), inserted a closing parenthesis after “403(11)”.

1994—Subsec. (b)(2). Pub. L. 103-355, §8105(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Paragraph (1) does not apply to a contract that requires the delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract—

“(A) provides for the acquisition of such supplies by the Department of Defense at established catalog or market prices; or

“(B) is awarded through the use of competitive procedures.”

Subsec. (b)(3). Pub. L. 103-355, §4102(d), added par. (3).

1986—Subsec. (b). Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661, amended subsec. (b) identically, designating existing provision as par. (1), redesignating former pars. (1) to (3) as subpars. (A) to (C), respectively, and inserting in provision preceding subpar. (A) “(other than a contract described in paragraph (2))”, and adding par. (2).

1984—Pub. L. 98-525 amended section generally, substituting “identification of supplier and sources” for “marking with name of contractor” in section catchline, and, in text, substituting provisions designated subsec. (a) and relating to the marking of supplies, providing the national stock number for the supplies furnished, and the contractor’s identification number for requirement that each contractor furnishing supplies to a military department mark the supplies with his name in the manner directed by the Secretary of the Department and prohibition of receipt of supplies unless so marked and adding subsecs. (b) and (c).

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 2302 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 2302 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 101(c) [title X, §928(b)] of Pub. L. 99-500 and Pub. L. 99-591, and section 928(b) of title IX, formerly title IV, of Pub. L. 99-661, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act [Oct. 18, 1986].”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 1231(b) of Pub. L. 98-525 provided that: “The amendment made by subsection (a) [amending this section] shall take effect at the end of the one-year period beginning on the date of the enactment of this Act [Oct. 19, 1984].”

§ 2384a. Supplies: economic order quantities

(a)(1) An agency referred to in section 2303(a) of this title shall procure supplies in such quantity as (A) will result in the total cost and unit cost most advantageous to the United States, where practicable, and (B) does not exceed the quantity reasonably expected to be required by the agency.

(2) The Secretary of Defense shall take paragraph (1) into account in approving rates of obligation of appropriations under section 2204 of this title.

(b) Each solicitation for a contract for supplies shall, if practicable, include a provision inviting each offeror responding to the solicitation to state an opinion on whether the quantity of the supplies proposed to be procured is economically advantageous to the United States and, if applicable, to recommend a quantity or quantities which would be more economically advantageous to the United States. Each such recommendation shall include a quotation of the total price and the unit price for supplies procured in each recommended quantity.

(Added Pub. L. 98-525, title XII, §1233(a), Oct. 19, 1984, 98 Stat. 2600.)

EFFECTIVE DATE

Section 1233(b) of Pub. L. 98-525 provided that: “The amendment made by subsection (a) [enacting this section] shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act [Oct. 19, 1984].”

§ 2385. Arms and ammunition: immunity from taxation

No tax on the sale or transfer of firearms, pistols, revolvers, shells, or cartridges may be imposed on such articles when bought with funds appropriated for a military department.

(Aug. 10, 1956, ch. 1041, 70A Stat. 137.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2385	5:171w.	Jan. 6, 1951, ch. 1213, subch. VII, §706, 64 Stat. 1236.

The words “No * * * may be” are substituted for the words “None * * * shall be subject to any”. The words “by any Act” are omitted as surplusage.

§ 2386. Copyrights, patents, designs, etc.; acquisition

Funds appropriated for a military department available for making or procuring supplies may be used to acquire any of the following if the acquisition relates to supplies or processes produced or used by or for, or useful to, that department:

- (1) Copyrights, patents, and applications for patents.
- (2) Licenses under copyrights, patents, and applications for patents.
- (3) Design and process data, technical data, and computer software.
- (4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.

(Aug. 10, 1956, ch. 1041, 70A Stat. 137; Pub. L. 86-726, §3, Sept. 8, 1960, 74 Stat. 855; Pub. L. 103-355, title III, §3063, Oct. 13, 1994, 108 Stat. 3337; Pub. L. 104-106, div. A, title VIII, §813, Feb. 10, 1996, 110 Stat. 395.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2386	31:649b.	Aug. 1, 1953, ch. 305, §609, 67 Stat. 350.

The words “equipment, and materials” are omitted as covered by the word “supplies”. The word “hereafter” is omitted as executed. The words “may be used” are substituted for the words “shall * * * be available”. The words “if the acquisition relates to” are substituted for 31:649b (1st 8 words of last sentence). In clauses (1), (2), and (4), the word “patents” is substituted for the words “letters patent”.

AMENDMENTS

1996—Par. (3). Pub. L. 104-106 amended par. (3) generally, substituting “Design and process data, technical data, and computer software” for “Technical data and computer software”.

1994—Pars. (3), (4). Pub. L. 103-355 added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

- “(3) Designs, processes, and manufacturing data.
- “(4) Releases, before suit is brought, for past infringement of patents or copyrights.”

1960—Pub. L. 86-726 inserted “or copyrights” after “patents” in cl. (4).

§ 2387. Procurement of table and kitchen equipment for officers’ quarters: limitation on

(a) Except under regulations approved by the Secretary of Defense and providing for uniform practices among the armed forces under his jurisdiction, no part of any appropriation of the Department of Defense may be used to supply or replace table linen, dishes, glassware, silver, and kitchen utensils for use in the residences on shore, or quarters on shore, of officers of those armed forces.

(b) This section does not apply to—

- (1) field messes;
- (2) messes temporarily set up on shore for bachelor officers and officers attached to seagoing or district defense vessels;
- (3) aviation units based on seagoing vessels;
- (4) fleet air bases;
- (5) submarine bases; and
- (6) landing forces and expeditions.

(Added Pub. L. 85-861, §1(45), Sept. 2, 1958, 72 Stat. 1458.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2387(a)	5:174e (less words within parentheses).	July 13, 1955, ch. 358, §614, 69 Stat. 317.
2387(b)	5:174e (words within parentheses).	

In subsection (a), the words “may be used” are substituted for the words “shall be available”. The words “on account of” are omitted as surplusage. The words “under his jurisdiction” are inserted for clarity, since the Secretary of Defense has no jurisdiction over the Coast Guard when it is not operating as a service in the Navy.

[§ 2388. Renumbered § 2922]

§ 2389. Ensuring safety regarding insensitive munitions

The Secretary of Defense shall ensure, to the extent practicable, that insensitive munitions under development or procurement are safe throughout development and fielding when subject to unplanned stimuli.

(Added Pub. L. 107-107, div. A, title VIII, §834(a)(1), Dec. 28, 2001, 115 Stat. 1191.)

PRIOR PROVISIONS

A prior section 2389, added Pub. L. 89-696, §1(1), Oct. 19, 1966, 80 Stat. 1056; amended Pub. L. 100-370, §1(h)(1), July 19, 1988, 102 Stat. 847, related to purchases from Commodity Credit Corporation and price adjustments for contracts for procurement of milk, prior to repeal by Pub. L. 103-160, div. A, title VIII, §821(a)(4), Nov. 30, 1993, 107 Stat. 1704.

REPORT REQUIREMENT

Pub. L. 107-107, div. A, title VIII, §834(b), Dec. 28, 2001, 115 Stat. 1191, directed the Secretary of Defense to submit to committees of Congress a report on insensitive munitions at the same time that the budgets for fiscal years 2003 through 2005 were submitted.

§ 2390. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

(2) In this section, the term “decrement stock” means such stock as is needed to bring the armed forces from a peacetime level of readiness to a combat level of readiness.

(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—