

[§ 2394a. Renumbered § 2922b]

§ 2395. Availability of appropriations for procurement of technical military equipment and supplies

Funds appropriated to the Department of Defense for the procurement of technical military equipment and supplies remain available until spent.

(Added Pub. L. 97-258, §2(b)(4)(B), Sept. 13, 1982, 96 Stat. 1052, §2394; renumbered §2395 and amended Pub. L. 97-295, §1(28)(A), Oct. 12, 1982, 96 Stat. 1291.)

HISTORICAL AND REVISION NOTES
1982 ACT (PUB. L. 97-258)

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2394	31:649c(1).	Aug. 10, 1956, ch. 1041, §40(1), 70A Stat. 636; Nov. 17, 1971, Pub. L. 92-156, §201(b), 85 Stat. 424.

The words “Unless otherwise provided in the appropriation Act concerned” are omitted as unnecessary and for consistency. The word “Funds” is substituted for “moneys” for consistency in title 10. The word “military” is added before “public” for clarity. The words “including moneys appropriated to the Department of the Navy for the procurement and construction of guided missiles” are omitted as included in “technical military equipment”.

1982 ACT (PUB. L. 97-295)

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2395	10:2394.	Sept. 13, 1982, Pub. L. 97-258, §2(b)(4)(B), 96 Stat. 1053.

This redesignates 10:2394 (enacted by Pub. L. 97-258) as 10:2395 because of the enactment of another 10:2394 by Pub. L. 97-214, §6(a)(1), July 12, 1982, 96 Stat. 171, and amends the section generally to eliminate the words “and the construction of military public works” because of section 10(b)(5) of the Military Construction Codification Act (Pub. L. 97-214, July 12, 1982, 96 Stat. 176) which struck corresponding words from the source statute for 10:2394 subsequent to Apr. 15, 1982, the cut-off date prescribed by section 4(a) of Pub. L. 97-258, section 2(b)(4)(B) of which enacted 10:2394.

CODIFICATION

Another section 2395 was renumbered section 2396 of this title.

AMENDMENTS

1982—Pub. L. 97-295 struck out “and the construction of military public works” after “supplies”.

§ 2396. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, public utility services, and pay and supplies of armed forces of friendly foreign countries

(a) An advance under an appropriation to the Department of Defense may be made to pay for—

- (1) compliance with laws and ministerial regulations of a foreign country;
- (2) rent in a foreign country for periods of time determined by local custom;
- (3) tuition; and

(4) public service utilities.

(b)(1) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service of the Navy, an officer of an armed force of the United States accountable for public money may advance amounts to a disbursing official of a friendly foreign country or members of an armed force of a friendly foreign country for—

- (A) pay and allowances to members of the armed force of that country; and
- (B) necessary supplies and services.

(2) An advance may be made under this subsection only if the President has made an agreement with the foreign country—

- (A) requiring reimbursement to the United States for amounts advanced;
- (B) requiring the appropriate authority of the country to advance amounts reciprocally to members of the armed forces of the United States; and
- (C) containing any other provision the President considers necessary to carry out this subsection and to safeguard the interests of the United States.

(Added Pub. L. 97-258, §2(b)(4)(B), Sept. 13, 1982, 96 Stat. 1053, §2395; renumbered §2396 and amended Pub. L. 97-295, §1(28)(B), Oct. 12, 1982, 96 Stat. 1291; Pub. L. 105-85, div. A, title X, §1014(a), (b)(1), Nov. 18, 1997, 111 Stat. 1875; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES
1982 ACT (PUB. L. 97-258)

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2395(a)	31:529i.	July 13, 1955, ch. 358, §602, 69 Stat. 314.
2395(b)	31:529j.	Oct. 19, 1965, Pub. L. 89-265, 79 Stat. 989.

In subsection (a), the words “On and after July 13, 1955” are omitted as executed. The words “An advance” are substituted for “section 529 of this title shall not apply in the case of payments” because of the restatement.

In subsection (b), the words “armed force of the United States” are substituted for “Army, Navy, Air Force, Marine Corps, or Coast Guard” because of 10:101(4) and to avoid confusion with the phrase “armed force of a friendly foreign country”.

In subsection (b)(1), before clause (A), the words “the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy” are substituted for “the Secretary of the Treasury in their respective areas of responsibility” because of 14:3 and 49:1655(b)(1) and (2). The words “disbursing official” are substituted for “cashiers, disbursing officers” for consistency with other titles of the United States Code and to eliminate unnecessary words.

1982 ACT (PUB. L. 97-295)

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2396	10:2395.	Sept. 13, 1982, Pub. L. 97-258, §2(b)(4)(B), 96 Stat. 1053.

This redesignates 10:2395 as 10:2396 because of the redesignation of 10:2394 (enacted by Pub. L. 97-258) as 10:2395, and substitutes “any other” for “another” in subsec. (b)(2)(C).

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” in introductory provisions.

1997—Pub. L. 105-85, § 1014(b)(1), inserted “public utility services,” after “tuition,” in section catchline.

Subsec. (a)(4). Pub. L. 105-85, § 1014(a), added par. (4).

1982—Subsec. (b)(2)(C). Pub. L. 97-295 substituted “any other” for “another”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

[§§ 2397 to 2397c. Repealed. Pub. L. 104-106, div. D, title XLIII, § 4304(b)(1), Feb. 10, 1996, 110 Stat. 664]

Section 2397, added Pub. L. 97-295, § 1(29)(A), Oct. 12, 1982, 96 Stat. 1291; amended Pub. L. 99-145, title IX, § 922, Nov. 8, 1985, 99 Stat. 693; Pub. L. 100-26, § 7(j)(5), (k)(2), Apr. 21, 1987, 101 Stat. 283, 284; Pub. L. 102-25, title VII, § 701(d)(6), Apr. 6, 1991, 105 Stat. 114; Pub. L. 102-484, div. A, title X, § 1052(29), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103-355, title IV, § 4401(d), title VIII, § 8105(d), Oct. 13, 1994, 108 Stat. 3348, 3392, related to filing of certain reports by employees or former employees of defense contractors.

Section 2397a, added Pub. L. 99-145, title IX, § 923(a)(1), Nov. 8, 1985, 99 Stat. 695; amended Pub. L. 100-26, § 7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101-280, § 10(b), May 4, 1990, 104 Stat. 162, related to requirements relating to private employment contacts between certain Department of Defense procurement officials and defense contractors.

Section 2397b, added Pub. L. 99-500, § 101(c) [title X, § 931(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-156, and Pub. L. 99-591, § 101(c) [title X, § 931(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-156; Pub. L. 99-661, div. A, title IX, formerly title IV, § 931(a)(1), Nov. 14, 1986, 100 Stat. 3936, renumbered title IX, Pub. L. 100-26, § 3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100-180, div. A, title VIII, § 821, Dec. 4, 1987, 101 Stat. 1132; Pub. L. 103-355, title VIII, § 8105(e), Oct. 13, 1994, 108 Stat. 3392, related to limitations on employment by contractors of certain former Department of Defense procurement officials.

Section 2397c, added Pub. L. 99-500, § 101(c) [title X, § 931(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-159, and Pub. L. 99-591, § 101(c) [title X, § 931(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-159; Pub. L. 99-661, div. A, title IX, formerly title IV, § 931(a)(1), Nov. 14, 1986, 100 Stat. 3938, renumbered title IX, Pub. L. 100-26, § 3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 103-355, title VIII, § 8105(f), Oct. 13, 1994, 108 Stat. 3392, related to requirements for defense contractors concerning former Department of Defense officials.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 4401 of Pub. L. 104-106, set out as an Effective Date of 1996 Amendment note under section 2302 of this title.

[§ 2398. Renumbered § 2922c]

[§ 2398a. Renumbered § 2922d]

§ 2399. Operational test and evaluation of defense acquisition programs

(a) **CONDITION FOR PROCEEDING BEYOND LOW-RATE INITIAL PRODUCTION.**—(1) The Secretary of Defense shall provide that a covered major defense acquisition program or a covered designated major subprogram may not proceed beyond low-rate initial production until initial operational test and evaluation of the program or subprogram is completed.

(2) In this subsection:

(A) The term “covered major defense acquisition program” means a major defense acquisition program that involves the acquisition of a weapon system that is a major system within the meaning of that term in section 2302(5) of this title.

(B) The term “covered designated major subprogram” means a major subprogram designated under section 2430a(a)(1) of this title that is a major subprogram of a covered major defense acquisition program.

(b) **OPERATIONAL TEST AND EVALUATION.**—(1) Operational testing of a major defense acquisition program may not be conducted until the Director of Operational Test and Evaluation of the Department of Defense approves (in writing) the adequacy of the plans (including the projected level of funding) for operational test and evaluation to be conducted in connection with that program.

(2) The Director shall analyze the results of the operational test and evaluation conducted for each major defense acquisition program. At the conclusion of such testing, the Director shall prepare a report stating—

(A) the opinion of the Director as to—

(i) whether the test and evaluation performed were adequate; and

(ii) whether the results of such test and evaluation confirm that the items or components actually tested are effective and suitable for combat; and

(B) additional information on the operational capabilities of the items or components that the Director considers appropriate based on the testing conducted.

(3) The Director shall submit each report under paragraph (2) to the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the congressional defense committees. Each such report shall be submitted to those committees in precisely the same form and with precisely the same content as the report originally was submitted to the Secretary and Under Secretary and shall be accompanied by such comments as the Secretary may wish to make on the report.

(4) A final decision within the Department of Defense to proceed with a major defense acquisition program beyond low-rate initial production may not be made until the Director has submitted to the Secretary of Defense the report with respect to that program under paragraph (2) and the congressional defense committees have received that report.

(5) If, before a final decision described in paragraph (4) is made for a major defense acquisition program, a decision is made within the Department of Defense to proceed to operational use of that program or to make procurement funds available for that program, the Director shall submit to the Secretary of Defense and the congressional defense committees the report with respect to that program under paragraph (2) as soon as practicable after the decision described in this paragraph is made.

(6) In this subsection, the term “major defense acquisition program” has the meaning given that term in section 139(a)(2)(B) of this title.