

“(1) IN GENERAL.—In the case of equipment loaned under the authority of this section that is damaged or destroyed as a result of combat operations during coalition operations while held by forces to which loaned under this section, the Secretary of Defense may, with respect to such equipment, waive any other requirement under applicable law for—

“(A) reimbursement;

“(B) replacement-in-kind; or

“(C) exchange of supplies or services of an equal value.

“(2) BASIS FOR WAIVER.—Any waiver under this subsection may be made only if the Secretary determines that the waiver is in the national security interest of the United States.

“(3) WAIVER ON A CASE-BY-CASE BASIS.—Any waiver under this subsection may be made only on a case-by-case basis.

“(d) REPORTS TO CONGRESS.—If the authority provided under this section is exercised during a fiscal year, the Secretary of Defense shall, in coordination with the Secretary of State, submit to the appropriate committees of Congress a report on the exercise of such authority by not later than October 30 of the year in which such fiscal year ends. Each report on the exercise of such authority shall specify the recipient country of the equipment loaned, the type of equipment loaned, and the duration of the loan of such equipment.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘appropriate committees of Congress’ means—

“(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

“(B) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

“(2) The term ‘personnel protection and personnel survivability equipment’ means items enumerated in categories I, II, III, VII, X, XI, and XIII of the United States Munitions List under section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)[]) that the Secretary of Defense designates as available for loan under this section.

“(f) EXPIRATION OF AUTHORITY.—The authority in subsection (a) shall expire on September 30, 2019.”

§ 2343. Waiver of applicability of certain laws

Sections 2207, 2304(a), 2306(a), 2306(b), 2306(e), 2306a, and 2313 of this title and section 6306 of title 41 shall not apply to acquisitions made under the authority of section 2341 of this title or to agreements entered into under section 2342 of this title.

(Added Pub. L. 96–323, §2(a), Aug. 4, 1980, 94 Stat. 1017, §2323; renumbered §2343 and amended Pub. L. 99–145, title IX, §961(b), title XIII, §1304(a)(1), (5), Nov. 8, 1985, 99 Stat. 703, 741; Pub. L. 100–26, §7(g)(2), Apr. 21, 1987, 101 Stat. 282; Pub. L. 100–456, div. A, title XII, §1233(d), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 101–189, div. A, title IX, §931(e)(1), Nov. 29, 1989, 103 Stat. 1535; Pub. L. 102–190, div. A, title X, §1061(a)(12), Dec. 5, 1991, 105 Stat. 1473; Pub. L. 103–337, div. A, title XIII, §1317(c)(1), (2)(A), Oct. 5, 1994, 108 Stat. 2900; Pub. L. 111–350, §5(b)(20), Jan. 4, 2011, 124 Stat. 3844.)

AMENDMENTS

2011—Pub. L. 111–350 substituted “section 6306 of title 41” for “section 3741 of the Revised Statutes (41 U.S.C. 22)”.

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