

(2) No prize competition may result in the award of more than \$1,000,000 in cash prizes without the approval of the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(d) RELATIONSHIP TO OTHER AUTHORITY.—A program under subsection (a) may be carried out in conjunction with or in addition to the exercise of any other authority of an official referred to in that subsection to acquire, support, or stimulate basic, advanced and applied research, technology development, or prototype projects.

(e) ACCEPTANCE OF FUNDS.—In addition to such sums as may be appropriated or otherwise made available to the Secretary to award prizes under this section, the Secretary may accept funds from other departments and agencies of the Federal Government, and from State and local governments, to award prizes under this section.

(f) PERIOD OF AUTHORITY.—The authority to award prizes under subsection (a) shall terminate at the end of September 30, 2018.

(Added Pub. L. 106-65, div. A, title II, §244(a), Oct. 5, 1999, 113 Stat. 552; amended Pub. L. 107-314, div. A, title II, §248(a), Dec. 2, 2002, 116 Stat. 2502; Pub. L. 108-136, div. A, title X, §1031(a)(20), Nov. 24, 2003, 117 Stat. 1598; Pub. L. 109-163, div. A, title II, §257, Jan. 6, 2006, 119 Stat. 3184; Pub. L. 109-364, div. A, title II, §212, Oct. 17, 2006, 120 Stat. 2119; Pub. L. 111-84, div. A, title II, §253, Oct. 28, 2009, 123 Stat. 2243; Pub. L. 111-383, div. A, title IX, §901(j)(4), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 113-66, div. A, title II, §263, Dec. 26, 2013, 127 Stat. 726; Pub. L. 113-291, div. A, title II, §211, Dec. 19, 2014, 128 Stat. 3324; Pub. L. 114-92, div. A, title X, §1079(a), Nov. 25, 2015, 129 Stat. 999.)

AMENDMENTS

2015—Subsecs. (f), (g). Pub. L. 114-92, §1079(a), which purported to repeal the annual reporting requirement on prizes for advanced technology achievements by directing the striking of subsec. (e) and redesignation of subsec. (f) as (e), was executed by striking subsec. (f), relating to biennial reports, and redesignating subsec. (g) as (f) to reflect the probable intent of Congress and the intervening amendments made by Pub. L. 113-291, §211(b)(1), (c), which had redesignated subsec. (e) as (f) and changed the reporting requirement from annual to biennial. See 2014 Amendment notes below.

2014—Subsec. (c)(1). Pub. L. 113-291, §211(a), substituted “No prize competition may result in the award of a cash prize of more than \$10,000,000.” for “The total amount made available for award of cash prizes in a fiscal year may not exceed \$10,000,000.”

Subsec. (e). Pub. L. 113-291, §211(b)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 113-291, §211(c)(3), substituted “BIENNIAL” for “ANNUAL” in heading.

Pub. L. 113-291, §211(b)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1). Pub. L. 113-291, §211(c)(1), substituted “every other year” for “each year” and “two fiscal years” for “fiscal year”.

Subsec. (f)(2). Pub. L. 113-291, §211(c)(2), substituted “a period of two fiscal years” for “a fiscal year” in introductory provisions.

Subsec. (g). Pub. L. 113-291, §211(b)(1), redesignated subsec. (f) as (g).

2013—Subsec. (f). Pub. L. 113-66 substituted “September 30, 2018” for “September 30, 2013”.

2011—Subsec. (a). Pub. L. 111-383 substituted “Assistant Secretary of Defense for Research and Engineering” for “Director of Defense Research and Engineering”.

2009—Subsec. (f). Pub. L. 111-84 substituted “2013” for “2010”.

2006—Subsec. (a). Pub. L. 109-364, §212(a)(1), substituted “Director of Defense Research and Engineering and the service acquisition executive for each military department” for “Director of the Defense Advanced Research Projects Agency” and “programs” for “a program”.

Subsec. (b). Pub. L. 109-364, §212(a)(2)(A), substituted “Each program” for “The program”.

Subsec. (d). Pub. L. 109-364, §212(a)(2)(B), substituted “A program” for “The program” and “an official referred to in that subsection” for “the Director”.

Subsec. (e). Pub. L. 109-364, §212(c), reenacted heading without change and amended text generally. Prior to amendment, subsec. (e) required an annual report, which included the results of consultations between the Director and officials of the military departments, a description of goals, cash prizes, methods used for submissions, a description of resources, and a description of transition plans.

Pub. L. 109-163 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Promptly after the end of each fiscal year during which one or more prizes are awarded under the program under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the program for that fiscal year. The report shall include the following:

“(1) The military applications of the research, technology, or prototypes for which prizes were awarded.

“(2) The total amount of the prizes awarded.

“(3) The methods used for solicitation and evaluation of submissions, together with an assessment of the effectiveness of those methods.”

Subsec. (f). Pub. L. 109-364, §212(b), substituted “2010” for “2007”.

2003—Subsec. (e). Pub. L. 108-136 inserted “during which one or more prizes are awarded under the program under subsection (a)” after “each fiscal year” in introductory provisions.

2002—Subsec. (f). Pub. L. 107-314 substituted “September 30, 2007” for “September 30, 2003”.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

[§ 2374b. Repealed. Pub. L. 112-239, div. A, title X, § 1076(g)(4), Jan. 2, 2013, 126 Stat. 1955]

Section, added Pub. L. 107-314, div. A, title II, §248(c)(1), Dec. 2, 2002, 116 Stat. 2502, related to prizes for achievements in promoting science, mathematics, engineering, or technology education.

CHAPTER 140—PROCUREMENT OF COMMERCIAL ITEMS

Sec.	
2375.	Relationship of commercial item provisions to other provisions of law.
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AMENDMENTS

2015—Pub. L. 114-92, div. A, title VIII, §§ 851(a)(2), 857(b), Nov. 25, 2015, 129 Stat. 916, 921, added items 2380 and 2380A.

2006—Pub. L. 109-163, div. A, title VIII, § 803(a)(2), Jan. 6, 2006, 119 Stat. 3371, added item 2379.

1997—Pub. L. 105-85, div. A, title III, § 350(b), Nov. 18, 1997, 111 Stat. 1692, added item 2378.

§ 2375. Relationship of commercial item provisions to other provisions of law

(a) **APPLICABILITY OF TITLE.**—Unless otherwise specifically provided, nothing in this chapter shall be construed as providing that any other provision of this title relating to procurement is inapplicable to the procurement of commercial items.

(b) **LIST OF LAWS INAPPLICABLE TO CONTRACTS FOR THE ACQUISITION OF COMMERCIAL ITEMS.**—No contract for the procurement of a commercial item entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation (pursuant to section 1906 of title 41).

(c) **CROSS REFERENCE TO EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.**—For a provision relating to an exception for requirements for cost or pricing data for contracts for the procurement of commercial items, see section 2306a(b) of this title.

(Added Pub. L. 103-355, title VIII, § 8102, Oct. 13, 1994, 108 Stat. 3390; amended Pub. L. 105-85, div. A, title X, § 1073(a)(51), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 107-107, div. A, title X, § 1048(a)(18), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 111-350, § 5(b)(21), Jan. 4, 2011, 124 Stat. 3844.)

AMENDMENTS

2011—Subsec. (b). Pub. L. 111-350 substituted “section 1906 of title 41” for “section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430)”.

2001—Subsec. (b). Pub. L. 107-107 inserted “(41 U.S.C. 430)” after “section 34 of the Office of Federal Procurement Policy Act”.

1997—Subsec. (c). Pub. L. 105-85 substituted “a provision relating to an exception” for “provisions relating to exceptions” and “section 2306a(b)” for “section 2306a(d)”.

EFFECTIVE DATE

For effective date and applicability of chapter, see section 10001 of Pub. L. 103-355 set out as an Effective Date of 1994 Amendment note under section 2302 of this title.

PROVISIONS NOT AFFECTED BY TITLE VIII OF
PUB. L. 103-355

Pub. L. 103-355, title VIII, § 8304, Oct. 13, 1994, 108 Stat. 3398, provided that: “Nothing in this title [see Tables for classification] shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

“(1) section 2323 of title 10, United States Code, or section 7102 of the Federal Acquisition Streamlining Act of 1994 [Pub. L. 103-355, 15 U.S.C. 644 note];

“(2) the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949 ([former] 40 U.S.C. 759));

“(3) Brooks Architect-Engineers Act (title IX of the Federal Property and Administrative Services Act of 1949 ([former] 40 U.S.C. 541 et seq.) [now 40 U.S.C. 1101-1104]);

“(4) subsections (a) and (d) of section 8 of the Small Business Act (15 U.S.C. 637(a) and (d)); or

“(5) the Javits-Wagner-O’Day Act ([former] 41 U.S.C. 46-48c) [now 41 U.S.C. 8501 et seq.].”

§ 2376. Definitions

In this chapter:

(1) The terms “commercial item”, “non-developmental item”, “component”, and “commercial component” have the meanings provided in chapter 1 of title 41.

(2) The term “head of an agency” means the Secretary of Defense, the Secretary of Homeland Security, and the Administrator of the National Aeronautics and Space Administration.

(3) The term “agency” means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

(Added Pub. L. 103-355, title VIII, § 8103, Oct. 13, 1994, 108 Stat. 3390; amended Pub. L. 107-107, div. A, title X, § 1048(a)(19), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 111-350, § 5(b)(22), Jan. 4, 2011, 124 Stat. 3844.)

AMENDMENTS

2011—Par. (1). Pub. L. 111-350 substituted “chapter 1 of title 41” for “section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)”.

2002—Par. (2). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Par. (1). Pub. L. 107-107 inserted “(41 U.S.C. 403)” after “section 4 of the Office of Federal Procurement Policy Act”.

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.

§ 2377. Preference for acquisition of commercial items

(a) **PREFERENCE.**—The head of an agency shall ensure that, to the maximum extent practicable—

(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

- (A) functions to be performed;
- (B) performance required; or
- (C) essential physical characteristics;

(2) such requirements are defined so that commercial items or, to the extent that commercial items suitable to meet the agency’s needs are not available, nondevelopmental items other than commercial items, may be procured to fulfill such requirements; and

(3) offerors of commercial items and nondevelopmental items other than commercial items are provided an opportunity to compete in any procurement to fill such requirements.

(b) **IMPLEMENTATION.**—The head of an agency shall ensure that procurement officials in that agency, to the maximum extent practicable—

(1) acquire commercial items or nondevelopmental items other than commercial items to meet the needs of the agency;

(2) require prime contractors and subcontractors at all levels under the agency contracts to incorporate commercial items or nondevelopmental items other than commer-