

§§ 361(b), 363(a), Oct. 17, 1998, 112 Stat. 1984, 1985; Pub. L. 108-136, div. A, title VI, § 653, Nov. 24, 2003, 117 Stat. 1522; renumbered § 2485 and amended Pub. L. 108-375, div. A, title VI, § 651(a)(2), (6), (7), Oct. 28, 2004, 118 Stat. 1964, 1968; Pub. L. 109-163, div. A, title VI, § 672, Jan. 6, 2006, 119 Stat. 3319; Pub. L. 111-350, § 5(b)(35), Jan. 4, 2011, 124 Stat. 3845; Pub. L. 112-81, div. A, title X, § 1061(16), Dec. 31, 2011, 125 Stat. 1583.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2482	[Uncodified].	Aug. 1, 1953, ch. 305, § 624 (last proviso), 67 Stat. 353.

This section is codified as permanent law on the basis of an opinion of the Assistant General Counsel (Fiscal Matters), Department of Defense, dated September 28, 1954. The words “and privately owned organizations” are omitted as surplusage since under 1 U.S.C. 1 “person” includes such an organization.

PRIOR PROVISIONS

A prior section 2485, added Pub. L. 99-145, title XIV, § 1460(a), Nov. 8, 1985, 99 Stat. 764; amended Pub. L. 101-510, div. A, title III, § 324(a), (b)(1), Nov. 5, 1990, 104 Stat. 1530; Pub. L. 104-201, div. A, title III, § 365, Sept. 23, 1996, 110 Stat. 2494, related to donation of unusable food from commissary stores and other activities, prior to repeal by Pub. L. 108-375, div. A, title VI, § 651(a)(1), Oct. 28, 2004, 118 Stat. 1964.

A prior section 2486 was renumbered section 2484 of this title.

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-81 struck out par. (1) designation before “Under such regulations” and struck out par. (2) which read as follows: “Any change to private operation of a commissary store function that is being performed by more than 10 Department of Defense civilian employees shall not take effect until the end of the 75-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the change. Until December 31, 2008, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A-76 relating to the possible contracting out of commissary store functions.”

Subsec. (b)(1). Pub. L. 111-350 substituted “section 107 of title 41” for “section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6))”.

2006—Subsec. (a)(2). Pub. L. 109-163 inserted at end “Until December 31, 2008, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A-76 relating to the possible contracting out of commissary store functions.”

2004—Pub. L. 108-375, § 651(a)(2), (6), renumbered section 2482 of this title as this section.

Subsec. (b)(2). Pub. L. 108-375, § 651(a)(7)(A), substituted “section 2483” for “section 2484”.

Subsec. (c)(2). Pub. L. 108-375, § 651(a)(7)(B), inserted at end “The chairman of the governing board shall be a commissioned officer or member of the senior executive service who has demonstrated experience or knowledge relevant to the management of the defense commissary system. In selecting other members of the governing board, the Secretary shall give priority to persons with experience related to logistics, military personnel, military entitlements or other experiences of value of management of commissaries.”

Subsecs. (d) to (h). Pub. L. 108-375, § 651(a)(7)(C), added subsecs. (d) to (h).

2003—Subsec. (a). Pub. L. 108-136 designated existing provisions as par. (1), inserted first sentence, added par.

(2), and struck out former first and second sentences which read as follows: “Private persons may operate commissary stores under such regulations as the Secretary of Defense may approve. A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store.”

1998—Subsec. (b)(1). Pub. L. 105-261, § 363(a), inserted at end “However, the Defense Commissary Agency may not pay for any such service provided by the United States Transportation Command any amount that exceeds the price at which the service could be procured through full and open competition, as such term is defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).”

Subsec. (c). Pub. L. 105-261, § 361(b), added subsec. (c). 1996—Pub. L. 104-106 struck out “private” after “stores:” in section catchline, designated existing text as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (b)(1). Pub. L. 104-201 substituted “another element of the Department of Defense or with another Federal department, agency, or instrumentality to provide or obtain services” for “another department, agency, or instrumentality of the Department of Defense or another Federal agency to provide services”.

1988—Pub. L. 100-456 inserted at end “A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title III, § 363(b), Oct. 17, 1998, 112 Stat. 1986, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to services provided or obtained on or after the date of the enactment of this Act [Oct. 17, 1998].”

DEMONSTRATION PROGRAM FOR OPERATION OF CERTAIN COMMISSARY STORES BY NONAPPROPRIATED FUND INSTRUMENTALITIES

Pub. L. 102-484, div. A, title III, § 363, Oct. 23, 1992, 106 Stat. 2380, required the Secretary of Defense to establish a demonstration program to determine the feasibility of having nonappropriated fund instrumentalities operate commissary stores at military installations and provided for termination of the program and submission of a report on its implementation, not later than the expiration of the one-year period beginning on Oct. 23, 1992.

SUBCHAPTER II—RELATIONSHIP, CONTINUATION, AND COMMON POLICIES OF DEFENSE COMMISSARY AND EXCHANGE SYSTEMS

Sec. 2487.	Relationship between defense commissary system and exchange stores system.
2488.	Combined exchange and commissary stores.
2489.	Overseas commissary and exchange stores: access and purchase restrictions.

AMENDMENTS

2004—Pub. L. 108-375, div. A, title VI, § 651(b)(1), Oct. 28, 2004, 118 Stat. 1971, added subchapter heading and items 2487 to 2489.

§ 2487. Relationship between defense commissary system and exchange stores system

(a) SEPARATE OPERATION OF SYSTEMS.—(1) Except as provided in paragraph (2), the defense