

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3035(a) .....	10:21c (1st sentence).	June 28, 1950, ch. 383,
3035(b) .....	10:21c (less 1st sentence).	§ 203, 64 Stat. 266.

In subsection (a), the words “of the Army” are omitted as surplusage.

In subsection (b), the words “If the Chief of Staff is absent or disabled or if that office is vacant” are substituted for 10:21c (1st 18 words of last sentence). The words “the officer who is highest on the following list and” are inserted for clarity. The words “until his successor is appointed” are omitted as surplusage.

PRIOR PROVISIONS

A prior section 3034 was renumbered section 3033 of this title.

AMENDMENTS

1986—Pub. L. 99-433, §502(d), renumbered section 3035 of this title as this section.

Pub. L. 99-433, §502(d)(3), substituted “Vice Chief of Staff” for “Vice Chief of Staff, Deputy Chiefs of Staff, and Assistant Chiefs of Staff: succession to duties of Chief of Staff” in section catchline.

Subsecs. (a), (b). Pub. L. 99-433, §502(d)(1), amended subsecs. (a) and (b) generally. Prior to amendment, subsecs. (a) and (b) read as follows:

“(a) The Vice Chief of Staff, the Deputy Chiefs of Staff, and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

“(b) If the Chief of Staff is absent or disabled or if that office is vacant, the officer who is highest on the following list and who is not absent or disabled shall, unless otherwise directed by the President, perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases:

“(1) The Vice Chief of Staff.

“(2) The Deputy Chiefs of Staff in order of seniority.”

Subsec. (d). Pub. L. 99-433, §502(d)(2), added subsec. (d).

1958—Subsec. (c). Pub. L. 85-599 added subsec. (c).

**§ 3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff**

(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

(b) The Secretary of the Army shall prescribe the number of Deputy Chiefs of Staff and Assistant Chiefs of Staff, for a total of not more than eight positions.

(Added Pub. L. 99-433, title V, §502(e), Oct. 1, 1986, 100 Stat. 1042; Pub. L. 110-181, div. A, title IX, §902(a), Jan. 28, 2008, 122 Stat. 272.)

PRIOR PROVISIONS

A prior section 3035 was renumbered section 3034 of this title.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-181, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that—

“(1) there may not be more than five Deputy Chiefs of Staff; and

“(2) there may not be more than three Assistant Chiefs of Staff.”

**§ 3036. Chiefs of branches: appointment; duties**

(a) There are in the Army the following officers:

- (1) Chief of Engineers.
- (2) Surgeon General.
- (3) Judge Advocate General.
- (4) Chief of Chaplains.

(b) Each officer named in subsection (a), except the Judge Advocate General, shall be appointed by the President, by and with the advice and consent of the Senate, from officers above the grade of major who—

(1) have shown by extensive duty in the branch concerned, or by similar duty, that they are qualified for the appointment; and

(2) have been recommended by a board under subsection (e).

Each officer covered by the preceding sentence, except the Surgeon General, shall be appointed in the regular grade of major general. The Surgeon General may be appointed from officers in any corps of the Army Medical Department and, while so serving, has the grade of lieutenant general. The Judge Advocate General shall be appointed as prescribed in section 3037 of this title.

(c) An officer appointed under subsection (b) normally holds office for four years. However, the President may terminate or extend the appointment at any time.

(d)(1) Each officer named in subsection (a) shall perform duties prescribed by the Secretary of the Army and by law.

(2) Under the supervision of the Secretary, the Chief of Engineers may accept orders to provide services to another department, agency, or instrumentality of the United States or to a State or political subdivision of a State. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State, or to a political subdivision of a State, only if—

(A) the work to be undertaken on behalf of non-Federal interests involves Federal assistance and the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers; and

(B) the services are provided on a reimbursable basis.

(3) In this subsection, the term “State” includes the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, territories and possessions of the United States, and Indian tribes.

(e) For each office to be filled under subsection (b), the Secretary shall select a board of five general officers, including the incumbent, if any, of the office, and at least two officers, if available, in a grade above major general who have had extensive service in the branch concerned. The Secretary shall give the board a list of the officers to be considered and shall specify the number of officers, not less than three, to be recommended. The list shall include—

(1) the name of each officer of the Regular Army who is appointed in, or assigned to, that branch, and whose regular grade is colonel;

(2) the name of each officer whose regular grade is above colonel, who has shown by extensive duty in that branch, or by similar duty, that he is qualified for the appointment;

(3) to the extent that the Secretary determines advisable, the name of each officer of

the Regular Army who is appointed in, or assigned to, that branch, and whose regular grade is lieutenant colonel, in the order in which their names appear on the applicable promotion lists; and

(4) to the extent that the Secretary considers advisable, the name of each regular or reserve officer on active duty in a grade above lieutenant colonel who has shown by extensive duty in that branch, or by similar duty, that he is qualified for the appointment.

From these officers, the board shall recommend by name the number prescribed by the Secretary, and the President may appoint any officer so recommended. If the President declines to appoint any of the recommended officers, or if the officer nominated cannot be appointed because of advice by the Senate, the Secretary shall convene a board to recommend additional officers. An officer who is recommended but not appointed shall be considered not to have been recommended. This does not affect his eligibility for selection and recommendation for the grade of brigadier general or major general under section 3306 or 3307 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 163; Pub. L. 89-288, § 1, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 89-718, § 24, Nov. 2, 1966, 80 Stat. 1119; Pub. L. 97-295, § 1(38), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 99-662, title IX, § 922, Nov. 17, 1986, 100 Stat. 4194; Pub. L. 100-26, § 7(a)(10), Apr. 21, 1987, 101 Stat. 278; Pub. L. 102-580, title II, § 211, Oct. 31, 1992, 106 Stat. 4831; Pub. L. 104-106, div. A, title V, § 506(a), Feb. 10, 1996, 110 Stat. 296; Pub. L. 104-201, div. A, title X, § 1074(a)(18), Sept. 23, 1996, 110 Stat. 2660.)

HISTORICAL AND REVISION NOTES  
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3036(a) .....	10:21f(a).	June 28, 1950, ch. 383, § 206, 64 Stat. 267.
3036(b) .....	10:21f(b).	June 3, 1916, ch. 134, § 11 (1st 17 words); restated June 4, 1920, ch. 227, subch. I, § 11 (1st 17 words), 41 Stat. 768.
3036(c) .....	10:559g(a) (3d sentence).	Aug. 7, 1947, ch. 512, § 513(a) (less 5th sentence), (b), 61 Stat. 901.
3036(d) .....	10:21f(c).	
3036(e) .....	10:559g(b).	

In subsection (b), all references to the appointment of assistant chiefs are omitted as covered by sections 3037 and 3040 of this title. All references to the grade of brigadier general are omitted, since 10:21f(b) specifies the grade of major general for the offices. 10:559g(a) (4th sentence) is omitted as surplusage, since the appointment is to a permanent grade. 10:559g(a) (6th and 7th sentences) is omitted as executed. 10:559g(a) (last sentence) is omitted, since the revised section applies only to the officers named in subsection (a). The words "except the Judge Advocate General" are inserted for clarity. The eight words before clause (1), and clauses (1) and (2), are substituted for the words "as prescribed in section 559g of this title", in 10:21f(b), and 10:559g(a) (1st sentence). The second sentence is substituted for 10:559g(a) (2d sentence) and 10:21f(b) (1st 15 words). The words "selected and", in 10:21f(b), are omitted as surplusage. The words "arms, or services", in 10:559g(a) are omitted as obsolete, since sections 3063 and 3064 of this title designate the former arms and services as "branches".

In subsection (c), the words "normally holds office" are substituted for the words "shall normally continue in that assignment for a tour of duty". The words "appointment" and "office" are substituted for the words

"assignment" and "tour of duty" whenever they are used in that sense.

In subsection (e), the introductory clause is substituted for 10:559g(b) (words before colon of 1st sentence). The words "in a grade above major general" are substituted for the words "of a rank above that of the position for which selections are to be made", since all the positions are in the grade of major general. The word "select" is substituted for the word "appoint", since the filling of the offices is not appointment to an office in the constitutional sense. The word "extensive" is substituted for the word "extended", except where it refers to "extended" active duty, in which case the word "extended" is omitted as surplusage. The words "the name of" are inserted for clarity. The words "appointed in, or assigned to" are substituted for the words "of the", and "in the", before the words "that branch", to conform to sections 3063 and 3064 of this title. The word "regular" is substituted for the word "permanent". The words "each regular or reserve officer" are substituted for the words "of officers of any component of the Army of the United States". The words "these officers" are substituted for the words "among those recommended by such board". The words "This does not affect" are substituted for the words "but this shall in no way prejudice". The words "to be filled", "by it", "other", "which number shall", "to be considered", "and may in addition thereto and", and "in the position concerned" are omitted as surplusage.

1982 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3036(d) (1st sentence).	10:3036(d).	
3036(d) (last sentence).	10:3036 (note).	Oct. 27, 1965, Pub. L. 89-298, § 219, 79 Stat. 1089.

The first sentence is restated to clarify that the Secretary concerned is the Secretary of the Army. The word "services" is substituted for "work or services" because it is inclusive. The word "instrumentality" is added for clarity.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-106 inserted "may be appointed from officers in any corps of the Army Medical Department and" after "The Surgeon General" in concluding provisions.

Subsec. (d)(3). Pub. L. 104-201 substituted "In this subsection" for "For purposes of this subsection".

1992—Subsec. (d)(3). Pub. L. 102-580 added par. (3).

1987—Subsec. (d). Pub. L. 100-26 designated existing first sentence requiring each officer named in subsec. (a) to perform prescribed duties as par. (1), designated existing second sentence permitting the Chief of Engineers to accept orders to provide services to another department, agency, or governmental instrumentality as par. (2), and substituted "United States or to a State or political subdivision of a State. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State, or to a political subdivision of a State, only if—

"(A) the work to be undertaken on behalf of non-Federal interests involves Federal assistance and the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers; and

"(B) the services are provided on a reimbursable basis." for "United States and, on a reimbursable basis, to a State or political subdivision thereof. Services provided to a State or political subdivision thereof shall be undertaken only on condition that—

"(1) the work to be undertaken on behalf of non-Federal interests involves Federal assistance; and

"(2) the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers.[.]

any part of those services by contract.”

1986—Subsec. (d). Pub. L. 99-662 substituted “and, on a reimbursable basis, to a State or political subdivision thereof. Services provided to a State or political subdivision thereof shall be undertaken only on condition that—

“(1) the work to be undertaken on behalf of non-Federal interests involves Federal assistance; and  
“(2) the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers.”  
for “and may provide”, which resulted in the creation of an incomplete sentence.

1982—Subsec. (d). Pub. L. 97-295 substituted “Secretary of the Army” for “Secretary” and inserted provision that, under the supervision of the Secretary, the Chief of Engineers may accept orders to provide services to another department, agency, or instrumentality of the United States and may provide any part of those services by contract.

1966—Subsec. (a). Pub. L. 89-718 struck out cls. (2) to (8) naming the Chief Signal Officer, Adjutant General, Quartermaster General, Chief of Finance, Chief of Ordnance, Chief Chemical Officer, and Chief of Transportation respectively, and redesignated cls. (9) to (11) as (2) to (4), respectively.

1965—Subsec. (b). Pub. L. 89-288 provided Surgeon General, while so serving, with grade of lieutenant general.

#### CORPS OF ENGINEERS; ANNUAL BUDGET SUBMISSION

Pub. L. 110-161, div. C, title I, §114, Dec. 26, 2007, 121 Stat. 1944, provided that: “All budget documents and justification materials for the Corps of Engineers annual budget submission to Congress shall be assembled and presented based on the most recent annual appropriations Act: *Provided*, That new budget proposals for fiscal year 2008 and thereafter, shall not be integrated into the budget justifications submitted to Congress but shall be submitted separately from the budget justifications documents.”

#### CHIEF OF ENGINEERS; FISCAL TRANSPARENCY REPORT

Pub. L. 110-114, title II, §2027, Nov. 8, 2007, 121 Stat. 1079, provided that:

“(a) IN GENERAL.—On the third Tuesday of January of each year beginning January 2008, the Chief of Engineers shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on—

“(1) the expenditures by the Corps for the preceding fiscal year and estimated expenditures by the Corps for the current fiscal year; and

“(2) for projects and activities that are not scheduled for completion in the current fiscal year, the estimated expenditures by the Corps necessary in the following fiscal year for each project or activity to maintain the same level of effort being achieved in the current fiscal year.

“(b) CONTENTS.—In addition to the information described in subsection (a), the report shall contain a detailed accounting of the following information:

“(1) With respect to activities carried out with funding provided under the Construction appropriations account for the Secretary [of the Army], information on—

“(A) projects currently under construction, including—

“(i) allocations to date;

“(ii) the number of years remaining to complete construction;

“(iii) the estimated annual Federal cost to maintain that construction schedule; and

“(iv) a list of projects the Corps of Engineers expects to complete during the current fiscal year; and

“(B) projects for which there is a signed partnership agreement and completed planning, engineering, and design, including—

“(i) the number of years the project is expected to require for completion; and

“(ii) estimated annual Federal cost to maintain that construction schedule.

“(2) With respect to operation and maintenance of the inland and intracoastal waterways identified by section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804)—

“(A) the estimated annual cost to maintain each waterway for the authorized reach and at the authorized depth;

“(B) the estimated annual cost of operation and maintenance of locks and dams to ensure navigation without interruption; and

“(C) the actual expenditures to maintain each waterway.

“(3) With respect to activities carried out with funding provided under the Investigations appropriations account for the Secretary—

“(A) the number of active studies;

“(B) the number of completed studies not yet authorized for construction;

“(C) the number of initiated studies; and

“(D) the number of studies expected to be completed during the fiscal year.

“(4) Funding received and estimates of funds to be received for interagency and international support activities under section 234 of the Water Resources Development Act of 1996 (33 U.S.C. 2323a).

“(5) Recreation fees and lease payments.

“(6) Hydropower and water storage receipts.

“(7) Deposits into the Inland Waterways Trust Fund and the Harbor Maintenance Trust Fund.

“(8) Other revenues and fees collected by the Corps of Engineers.

“(9) With respect to permit applications and notifications, a list of individual permit applications and nationwide permit notifications, including—

“(A) the date on which each permit application is filed;

“(B) the date on which each permit application is determined to be complete;

“(C) the date on which any permit application is withdrawn; and

“(D) the date on which the Corps of Engineers grants or denies each permit.

“(10) With respect to projects that are authorized but for which construction is not complete, a list of such projects for which no funds have been allocated for the 5 preceding fiscal years, including, for each project—

“(A) the authorization date;

“(B) the last allocation date;

“(C) the percentage of construction completed;

“(D) the estimated cost remaining until completion of the project; and

“(E) a brief explanation of the reasons for the delay.”

[Reference to “partnership agreement” deemed to be reference to “cooperation agreement”, see section 2003(f)(3) of Pub. L. 110-114, set out as a note under section 1962d-5b of Title 42, The Public Health and Welfare.]

#### CHIEF OF ENGINEERS; WORK OR SERVICES FOR OTHER FEDERAL DEPARTMENTS AND AGENCIES

Pub. L. 89-298, title II, §219, Oct. 27, 1965, 79 Stat. 1089, which provided that the Chief of Engineers, under the supervision of the Secretary of the Army, was authorized to accept orders from other Federal departments and agencies for work or services and to perform all or any part of such work or services by contract, was repealed and restated in subsec. (d) of this section by Pub. L. 97-295, §§1(38), 6(b), Oct. 12, 1982, 96 Stat. 1296, 1314.

#### DEPARTMENT OF DEFENSE REORGANIZATION ORDER January 10, 1962

#### REORGANIZATION OF THE DEPARTMENT OF THE ARMY

By virtue of the authority vested in me by section 202(c) of the National Security Act of 1947, as amended

(72 Stat. 514; 5 U.S.C. 171a(c)), and as Secretary of Defense, it is hereby ordered as follows:

SECTION 1. *Abolition of officers and transfer of functions.* The following officers named in section 3036, Title 10, United States Code, are hereby abolished and their functions transferred to the Secretary of the Army:

- (a) Chief Signal Officer;
- (b) Adjutant General;
- (c) Quartermaster General;
- (d) Chief of Finance;
- (e) Chief of Ordnance;
- (f) Chief Chemical Officer, and
- (g) Chief of Transportation.

SEC. 2. *Transfer of functions from Chief of Engineers.* The functions vested in the Chief of Engineers by sections 3038 and 3533, Title 10, United States Code, are hereby transferred to the Secretary of the Army.

SEC. 3. *Performance of transferred functions.* The Secretary of the Army may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any office, agency, or employee of the Department of the Army of any function transferred to the Secretary by the provisions of this order.

SEC. 4. *Transitional provisions.* In order to assist in the orderly transfer of functions and to promote continuity of operation, the Secretary of the Army may, if he considers it necessary, delay beyond the effective date of this order the abolition of any office or transfer of any function.

SEC. 5. *Effective date.* The provisions of this order shall take effect on the date determined under section 202(c) of the National Security Act of 1947, as amended (72 Stat. 514; 5 U.S.C. 171a(c)), or the 16th day of February 1962, whichever is later.

J. C. LAMBERT,  
Major General, U.S. Army,  
THE ADJUTANT GENERAL.

**§ 3037. Judge Advocate General, Deputy Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties**

(a) The President, by and with the advice and consent of the Senate, shall appoint the Judge Advocate General, the Deputy Judge Advocate General, and general officers of the Judge Advocate General's Corps, from officers of the Judge Advocate General's Corps, who are recommended by the Secretary of the Army. The term of office of the Judge Advocate General and the Deputy Judge Advocate General is four years. The Judge Advocate General, while so serving, has the grade of lieutenant general. An officer appointed as Deputy Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.

(b) The Judge Advocate General shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State, and who have had at least eight years of experience in legal duties as commissioned officers.

(c) The Judge Advocate General, in addition to other duties prescribed by law—

- (1) is the legal adviser of the Secretary of the Army and of all officers and agencies of the Department of the Army;
- (2) shall direct the members of the Judge Advocate General's Corps in the performance of their duties; and
- (3) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions.

(d) Under regulations prescribed by the Secretary of Defense, the Secretary of the Army, in

selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(e) No officer or employee of the Department of Defense may interfere with—

- (1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Army or the Chief of Staff of the Army; or
- (2) the ability of judge advocates of the Army assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.

(Aug. 10, 1956, ch. 1041, 70A Stat. 164; Pub. L. 85-861, §33(a)(18), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 103-337, div. A, title V, §504(a), Oct. 5, 1994, 108 Stat. 2750; Pub. L. 108-375, div. A, title V, §574(a), Oct. 28, 2004, 118 Stat. 1921; Pub. L. 109-163, div. A, title V, §508(a), title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3229, 3440; Pub. L. 110-181, div. A, title V, §543(a)(1)-(3)(A), Jan. 28, 2008, 122 Stat. 114.)

HISTORICAL AND REVISION NOTES  
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3037(a) .....	10:21h(c). 10:61a.	June 28, 1950, ch. 383, §208(c), 64 Stat. 267.
3037(b) .....	50:741.	June 24, 1948, ch. 625, §§248, 249, 62 Stat. 643.
3037(c) .....	10:62. 10:62a. 10:63.	May 5, 1950, ch. 169, §13, 64 Stat. 147. R.S. 1199. June 23, 1874, ch. 458, §2, 18 Stat. 244. R.S. 1201.

In subsection (a), the words "Notwithstanding any other provision of law" and "for such positions" are omitted as surplusage. The last sentence is substituted for 10:61a (last sentence). 10:21h(c) is omitted as covered by 10:61a.

In subsection (b), the words "Hereafter" and "exclusive of the present incumbents" are omitted as surplusage.

In subsection (c), the words "In addition to duties elsewhere prescribed for him by law", in 10:62, are omitted as surplusage. The words "and perform such other duties as may be prescribed by the Secretary of the Army", in 10:62, are omitted as superseded by sections 3012(e) and 3036(d) of this title. Clause (2) is substituted for 10:62a (words after semicolon) and 63. The Act of June 23, 1874, ch. 458, §2 (words before semicolon of 1st sentence, and last sentence), 18 Stat. 244, are not contained in 10:62. They are also omitted from the revised section as superseded by sections 3037(a) and 3211 of this title.

1958 ACT

The change corrects an inadvertence. The source statute for section 3036(c) of title 10 (the third sentence of sec. 513(a) of the Officer Personnel Act of 1947, 61 Stat. 901), providing for a 4-year term of office, applied also to the Judge Advocate General and the Assistant Judge Advocate General. As restated in section 3036(c), it now applies only to the officers named in section 3036(b), which excludes the two officers named. For this reason, the effect of the source statute with respect to those officers is added to section 3037(a), relating to their appointment.