

“(A) the identical provisions of those public laws referred to in such paragraph shall be treated as having been enacted only once, and

“(B) in executing to the United States Code and other statutes of the United States the amendments made by such identical provisions, such amendments shall be executed so as to appear only once in the law as amended.

“(2) Paragraph (1) applies with respect to the provisions of the Defense Appropriations Act and the Defense Authorization Act (as amended by sections 3, 4, 5, and 10(a)) referred to across from each other in the following table:

“Section 101(c) of Public Law 99-500	Section 101(c) of Public Law 99-591	Division A of Public Law 99-661
“Title X	Title X	Title IX
“Sec. 9122	Sec. 9122	Sec. 522
“Sec. 9036(b)	Sec. 9036(b)	Sec. 1203
“Sec. 9115	Sec. 9115	Sec. 1311

“(b) RULE FOR DATE OF ENACTMENT.—(1) The date of the enactment of the provisions of law listed in the middle column, and in the right-hand column, of the table in subsection (a)(2) shall be deemed to be October 18, 1986 (the date of the enactment of Public Law 99-500).

“(2) Any reference in a provision of law referred to in paragraph (1) to ‘the date of the enactment of this Act’ shall be treated as a reference to October 18, 1986.”

[For classification of provisions listed in the table, see Tables.]

CONTRACT GOAL FOR MINORITIES

Pub. L. 99-661, div. A, title XII, §1207, Nov. 14, 1986, 100 Stat. 3973, as amended by Pub. L. 100-180, div. A, title VIII, §806(d), 101 Stat. 1127; Pub. L. 100-456, div. A, title VIII, §844, Sept. 29, 1988, 102 Stat. 2027; Pub. L. 101-189, div. A, title VIII, §831, Nov. 29, 1989, 103 Stat. 1507; Pub. L. 101-510, div. A, title VIII, §§811, 832, title XIII, §§1302(d), 1312(b), Nov. 5, 1990, 104 Stat. 1596, 1612, 1669, 1670; Pub. L. 102-25, title VII, §§704(a)(6), 705(e), Apr. 6, 1991, 105 Stat. 118, 120, which set contract goals for small disadvantaged businesses and certain institutions of higher education, was repealed and restated in section 2323 of this title by Pub. L. 102-484, §801(a)(1)(B), (h)(1).

MINIMUM PERCENTAGE OF COMPETITIVE PROCUREMENTS

Pub. L. 99-145, title IX, §913, Nov. 8, 1985, 99 Stat. 687, as amended by Pub. L. 101-510, div. A, title XIII, §1322(d)(1), Nov. 5, 1990, 104 Stat. 1672, provided that:

“(a) ANNUAL GOAL.—The Secretary of Defense shall establish for each fiscal year a goal for the percentage of defense procurements to be made during that year (expressed in total dollar value of contracts entered into) that are to be competitive procurements.

“(b) DEFINITION.—For the purposes of this section, the term ‘competitive procurements’ means procurements made by the Department of Defense through the use of competitive procedures, as defined in section 2304 of title 10, United States Code.”

DEFENSE PROCUREMENT REFORM: CONGRESSIONAL FINDINGS AND POLICY

Pub. L. 98-525, title XII, §1202, Oct. 19, 1984, 98 Stat. 2588, as amended by Pub. L. 99-500, §101(c) [title X, §953(c)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-172, and Pub. L. 99-591, §101(c) [title X, §953(c)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-172; Pub. L. 99-661, div. A, title IX, formerly title IV, §953(c), Nov. 14, 1986, 100 Stat. 3952, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: “The Congress finds that recent disclosures of excessive payments by the Department of Defense for replenishment parts have undermined confidence by the public and Congress in the defense procurement system. The Secretary of Defense should make every effort to reform procurement practices relating to replenishment parts. Such efforts

should, among other matters, be directed to the elimination of excessive pricing of replenishment spare parts and the recovery of unjustified payments. Specifically, the Secretary should—

“(1) direct that officials in the Department of Defense refuse to enter into contracts unless the proposed prices are fair and reasonable;

“(2) continue and accelerate ongoing efforts to improve defense contracting procedures in order to encourage effective competition and assure fair and reasonable prices;

“(3) direct that replenishment parts be acquired in economic order quantities and on a multiyear basis whenever feasible, practicable, and cost effective;

“(4) direct that standard or commercial parts be used whenever such use is technically acceptable and cost effective; and

“(5) vigorously continue reexamination of policies relating to acquisition, pricing, and management of replenishment parts and of technical data related to such parts.”

MODIFICATION OF REGULATIONS AND DIRECTIVES TO ACCOMMODATE A POLICY OF MULTIYEAR PROCUREMENT

Pub. L. 97-86, title IX, §909(d), Dec. 1, 1981, 95 Stat. 1120, directed Secretary of Defense, not later than the end of the 90-day period beginning Dec. 1, 1981, to issue such modifications to existing regulations governing defense acquisitions as might be necessary to implement the amendments made by subsections (a), (b), and (c) [amending sections 139, 2301, and 2306 of this title] and directed Director of the Office of Management and Budget to issue such modifications to existing Office of Management and Budget directives as might be necessary to take into account the amendments made by subsections (a) and (b) [amending sections 2301 and 2306 of this title].

PROCUREMENT REQUIREMENTS FOR GOODS WHICH ARE NOT AMERICAN GOODS

Pub. L. 93-365, title VII, §707, Aug. 5, 1974, 88 Stat. 406, which prohibited contracts by the Department of Defense for other than American goods after Aug. 5, 1974, unless adequate consideration was first given to bids of firms in labor surplus areas of the United States, of small business firms, and of all other United States firms which had offered to furnish American goods, balance of payments, cost of shipping other than American goods, and any duty, tariff, or surcharge on such goods, was repealed and restated in section 2501 of this title by Pub. L. 100-370, §3(a), (c). Section 2501 of this title was renumbered section 2506 by Pub. L. 100-456, §821(b)(1)(A). Section 2506 of this title was renumbered section 2533 by Pub. L. 102-484, §4202(a).

§ 2302a. Simplified acquisition threshold

(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by agencies named in section 2303 of this title, the simplified acquisition threshold is as specified in section 134 of title 41.

(b) INAPPLICABLE LAWS.—No law properly listed in the Federal Acquisition Regulation pursuant to section 1905 of title 41 shall apply to or with respect to a contract or subcontract that is not greater than the simplified acquisition threshold.

(Added and amended Pub. L. 103-355, title IV, §§4002(a), 4102(a), Oct. 13, 1994, 108 Stat. 3338, 3340; Pub. L. 111-350, §5(b)(9), Jan. 4, 2011, 124 Stat. 3843.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 111-350, §5(b)(9)(A), substituted “section 134 of title 41” for “section 4(11) of the Office of Federal Procurement Policy Act”.

Subsec. (b). Pub. L. 111-350, §5(b)(9)(B), substituted “section 1905 of title 41” for “section 33 of the Office of Federal Procurement Policy Act”.

1994—Subsec. (b). Pub. L. 103-355, §4102(a), added subsec. (b).

EFFECTIVE DATE

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

§ 2302b. Implementation of simplified acquisition procedures

The simplified acquisition procedures contained in the Federal Acquisition Regulation pursuant to section 1901 of title 41 shall apply as provided in such section to the agencies named in section 2303(a) of this title.

(Added Pub. L. 103-355, title IV, §4203(a)(1), Oct. 13, 1994, 108 Stat. 3345; amended Pub. L. 111-350, §5(b)(10), Jan. 4, 2011, 124 Stat. 3843.)

AMENDMENTS

2011—Pub. L. 111-350 substituted “section 1901 of title 41” for “section 31 of the Office of Federal Procurement Policy Act”.

EFFECTIVE DATE

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

[§ 2302c. Repealed. Pub. L. 114-328, div. A, title VIII, §833(b)(5)(A)(i), Dec. 23, 2016, 130 Stat. 2285]

Section, added Pub. L. 103-355, title IX, §9002(a), Oct. 13, 1994, 108 Stat. 3402; amended Pub. L. 105-85, div. A, title VIII, §850(f)(3)(A), Nov. 18, 1997, 111 Stat. 1850; Pub. L. 105-129, §1(a)(1), Dec. 1, 1997, 111 Stat. 2551; Pub. L. 106-65, div. A, title X, §1066(a)(18), Oct. 5, 1999, 113 Stat. 771; Pub. L. 107-107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 109-364, div. A, title X, §1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 111-350, §5(b)(11), Jan. 4, 2011, 124 Stat. 3843, related to implementation of electronic commerce capability.

§ 2302d. Major system: definitional threshold amounts

(a) DEPARTMENT OF DEFENSE SYSTEMS.—For purposes of section 2302(5) of this title, a system for which the Department of Defense is responsible shall be considered a major system if—

- (1) the total expenditures for research, development, test, and evaluation for the system are estimated to be more than \$115,000,000 (based on fiscal year 1990 constant dollars); or
- (2) the eventual total expenditure for procurement for the system is estimated to be more than \$540,000,000 (based on fiscal year 1990 constant dollars).

(b) CIVILIAN AGENCY SYSTEMS.—For purposes of section 2302(5) of this title, a system for which a civilian agency is responsible shall be considered a major system if total expenditures for the system are estimated to exceed the greater of—

- (1) \$750,000 (based on fiscal year 1980 constant dollars); or
- (2) the dollar threshold for a “major system” established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled “Major Systems Acquisitions”.

(c) ADJUSTMENT AUTHORITY.—(1) The Secretary of Defense may adjust the amounts and the base fiscal year provided in subsection (a) on the basis of Department of Defense escalation rates.

(2) An amount, as adjusted under paragraph (1), that is not evenly divisible by \$5,000,000 shall be rounded to the nearest multiple of \$5,000,000. In the case of an amount that is evenly divisible by \$2,500,000 but not evenly divisible by \$5,000,000, the amount shall be rounded to the next higher multiple of \$5,000,000.

(3) An adjustment under this subsection shall be effective after the Secretary transmits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of the adjustment.

(Added Pub. L. 104-201, div. A, title VIII, §805(a)(2), Sept. 23, 1996, 110 Stat. 2605; amended Pub. L. 105-85, div. A, title X, §1073(a)(41), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774.)

AMENDMENTS

1999—Subsec. (c)(3). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1997—Subsec. (a)(2). Pub. L. 105-85 substituted “procurement for the system is estimated to be” for “procurement of”.

§ 2302e. Contract authority for advanced development of initial or additional prototype units

(a) AUTHORITY.—A contract initially awarded from the competitive selection of a proposal resulting from a general solicitation referred to in section 2302(2)(B) of this title may contain a contract line item or contract option for—

(1) the provision of advanced component development, prototype, or initial production of technology developed under the contract; or

(2) the delivery of initial or additional items if the item or a prototype thereof is created as the result of work performed under the contract.

(b) LIMITATIONS.—

(1) MINIMAL AMOUNT.—A contract line item or contract option described in subsection (a)(2) shall require the delivery of the minimal amount of initial or additional items to allow for the timely competitive solicitation and award of a follow-on development or production contract for those items.

(2) TERM.—A contract line item or contract option described in subsection (a) shall be for a term of not more than 2 years.

(3) DOLLAR VALUE OF WORK.—The dollar value of the work to be performed pursuant to a contract line item or contract option described in subsection (a) may not exceed \$100,000,000, in fiscal year 2017 constant dollars.

(4) APPLICABILITY.—The authority provided in subsection (a) applies only to the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force.

(Added Pub. L. 115-91, div. A, title VIII, §861(a)(1), Dec. 12, 2017, 131 Stat. 1493.)