

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 Repealed.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.)

§ 2303. Applicability of chapter

(a) This chapter applies to the procurement by any of the following agencies, for its use or otherwise, of all property (other than land) and all services for which payment is to be made from appropriated funds:

- (1) The Department of Defense.
- (2) The Department of the Army.
- (3) The Department of the Navy.
- (4) The Department of the Air Force.
- (5) The Coast Guard.
- (6) The National Aeronautics and Space Administration.

(b) The provisions of this chapter that apply to the procurement of property apply also to contracts for its installation or alteration.

(Aug. 10, 1956, ch. 1041, 70A Stat. 128; Pub. L. 85-568, title III, § 301(b), July 29, 1958, 72 Stat. 432; Pub. L. 98-369, div. B, title VII, § 2722(b), July 18, 1984, 98 Stat. 1187.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2303(a)	41:151(a).	Feb. 19, 1948, ch. 65,
2303(b)	41:158 (clause (b), less last 5 words).	§§ 2(a), 9 (clause (b)), 62 Stat. 21, 24.
2303(c)	41:158 (last 5 words of clause (b)).	

In subsection (a), the words “all property named in subsection (b), and all services” are substituted for the words “for supplies or services”. The words “(each being hereinafter called the agency)”, are omitted, since the revised sections of this chapter make specific reference to the agencies named in this revised section. The words “United States” before the words “Coast Guard” are omitted, since they are not a part of the official name of the Coast Guard under section 1 of title 14.

In subsection (b), the introductory clause is substituted for the word “supplies”. Throughout the revised chapter reference is made to “property or services covered by this chapter”, instead of “supplies”, since the word “supplies” is defined in section 101(26) of this title in its usual and narrower sense, rather than the sense of the source statute for this revised chapter. It is desirable to avoid a usage which conflicts with the definition in section 101(26) of this title. The word “ships” and the words “of every character, type, and description”, after the word “vessels”, are omitted as covered by the definition of “vessel” in section 1 of title 1.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-369, § 2722(b)(1)(A), (B), substituted in provisions preceding cl. (1) “procurement” for “purchase, and contract to purchase,” and “(other than land) and all services” for “named in subsection (b), and all services.”

Subsec. (a)(1) to (6). Pub. L. 98-369, § 2722(b)(1)(C), (D), added cl. (1) and redesignated existing cls. (1) to (5) as (2) to (6), respectively.

Subsecs. (b), (c). Pub. L. 98-369, § 2722(b)(2), (3), redesignated subsec. (c) as (b). Former subsec. (b), which had provided that this chapter did not cover land but did cover public works, buildings, facilities, vessels, floating equipment, aircraft, parts, accessories, equipment, and machine tools, was struck out.

1958—Subsec. (a)(5). Pub. L. 85-568 substituted “The National Aeronautics and Space Administration” for “The National Advisory Committee for Aeronautics”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable with respect to any solicitation for bids or proposals issued after

Mar. 31, 1985, see section 2751 of Pub. L. 98-369, set out as a note under section 2302 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-568 effective 90 days after July 29, 1958, or on any earlier date on which the Administrator of the National Aeronautics and Space Administration determines, and announces by proclamation, that the Administration has been organized and is prepared to discharge the duties and exercise the powers conferred upon it, see note set out under section 2302 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ACQUISITION, LEASE, OR RENTAL FOR USE BY THE ARMED FORCES OF MOTOR BUSES MANUFACTURED OUTSIDE THE UNITED STATES

Pub. L. 90-500, title IV, § 404, Sept. 20, 1968, 82 Stat. 851, which provided that no funds for the armed forces were to be used to buy or lease buses other than those manufactured in the United States, except as regulation from the Secretary of Defense might authorize solely to avoid uneconomical procurement or one contrary to the national interest, was repealed and restated as section 2400 of this title by Pub. L. 97-295, §§ 1(29)(A), 6(b), Oct. 12, 1982, 96 Stat. 1294, 1314.

§ 2303a. Repealed. Pub. L. 98-577, title III, § 302(c)(1), Oct. 30, 1984, 98 Stat. 3077]

Section, Pub. L. 98-525, title XII, § 1212(a), Oct. 19, 1984, 98 Stat. 2590, related to publication of proposed regulations.

Section, pursuant to section 1212(b) of Pub. L. 98-525, was to have taken effect with respect to procurement policies, regulations, procedures, or forms first proposed to be issued by an agency on or after the date which was 30 days after the date of enactment of Pub. L. 98-525. Pub. L. 98-525 was approved Oct. 19, 1984. However, before that effective date, the section was repealed by Pub. L. 98-577.

§ 2304. Contracts: competition requirements

(a)(1) Except as provided in subsections (b), (c), and (g) and except in the case of procurement procedures otherwise expressly authorized by statute, the head of an agency in conducting a procurement for property or services—

(A) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this chapter and the Federal Acquisition Regulation; and

(B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

(2) In determining the competitive procedure appropriate under the circumstances, the head of an agency—

(A) shall solicit sealed bids if—

(i) time permits the solicitation, submission, and evaluation of sealed bids;

(ii) the award will be made on the basis of price and other price-related factors;