

transmit the analysis to the Committee on Science and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate not later than 30 days after its completion.

(f) **THIRTY PERCENT THRESHOLD.**—If the Administrator determines under subsection (e) that the development cost of a program will exceed the estimate provided in the Baseline Report of the program by more than 30 percent, then, beginning 18 months after the date the Administrator transmits a report under subsection (e)(1)(A), the Administrator shall not expend any additional funds on the program, other than termination costs, unless Congress has subsequently authorized continuation of the program by law. An appropriation for the specific program enacted subsequent to a report being transmitted shall be considered an authorization for purposes of this subsection. If the program is continued, the Administrator shall submit a new Baseline Report for the program no later than 90 days after the date of enactment of the Act under which Congress has authorized continuation of the program.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3360; Pub. L. 115–10, title VIII, § 828, Mar. 21, 2017, 131 Stat. 66.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
30104 .....	42 U.S.C. 16613.	Pub. L. 109–155, title I, § 103, Dec. 30, 2005, 119 Stat. 2907.

In subsections (b)(2), (c)(1), (d)(3), and (e)(1)(A), (2), the words “Committee on Science and Technology” are substituted for “Committee on Science” on authority of Rule X(1)(o) of the Rules of the House of Representatives, adopted by House Resolution No. 6 (110th Congress, January 5, 2007).

AMENDMENTS

2017—Subsec. (a)(1). Pub. L. 115–10 substituted “Procedural Requirements 7120.5E, dated August 14, 2012” for “Procedural Requirements 7120.5c, dated March 22, 2005”.

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

**CHAPTER 303—CONTRACTING AND PROCUREMENT**

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30301.	Guaranteed customer base.
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30310.	Exception to alternative fuel procurement requirement.

DETECTION AND AVOIDANCE OF COUNTERFEIT PARTS

Pub. L. 115–10, title VIII, § 823, Mar. 21, 2017, 131 Stat. 62, provided that:

“(a) **FINDINGS.**—Congress makes the following findings:

“(1) A 2012 investigation by the Committee on Armed Services of the Senate of counterfeit electronic parts in the Department of Defense supply chain from 2009 through 2010 uncovered 1,800 cases and over 1,000,000 counterfeit parts and exposed the threat such counterfeit parts pose to service members and national security.

“(2) Since 2010, the Comptroller General of the United States has identified in 3 separate reports the risks and challenges associated with counterfeit parts and counterfeit prevention at both the Department of Defense and NASA, including inconsistent definitions of counterfeit parts, poorly targeted quality control practices, and potential barriers to improvements to these practices.

“(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the presence of counterfeit electronic parts in the NASA supply chain poses a danger to United States government astronauts, crew, and other personnel and a risk to the agency overall.

“(c) **REGULATIONS.**—

“(1) **IN GENERAL.**—Not later than 270 days after the date of enactment of this Act [Mar. 21, 2017], the Administrator shall revise the NASA Supplement to the Federal Acquisition Regulation to improve the detection and avoidance of counterfeit electronic parts in the supply chain.

“(2) **CONTRACTOR RESPONSIBILITIES.**—In revising the regulations under paragraph (1), the Administrator shall—

“(A) require each covered contractor—

“(i) to detect and avoid the use or inclusion of any counterfeit parts in electronic parts or products that contain electronic parts;

“(ii) to take such corrective actions as the Administrator considers necessary to remedy the use or inclusion described in clause (i); and

“(iii) including a subcontractor, to notify the applicable NASA contracting officer not later than 30 calendar days after the date the covered contractor becomes aware, or has reason to suspect, that any end item, component, part or material contained in supplies purchased by NASA, or purchased by a covered contractor or subcontractor for delivery to, or on behalf of, NASA, contains a counterfeit electronic part or suspect counterfeit electronic part; and

“(B) prohibit the cost of counterfeit electronic parts, suspect counterfeit electronic parts, and any corrective action described under subparagraph (A)(ii) from being included as allowable costs under agency contracts, unless—

“(i)(I) the covered contractor has an operational system to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts that has been reviewed and approved by NASA or the Department of Defense; and

“(II) the covered contractor has provided the notice under subparagraph (A)(iii); or

“(ii) the counterfeit electronic parts or suspect counterfeit electronic parts were provided to the covered contractor as Government property in accordance with part 45 of the Federal Acquisition Regulation.

“(3) **SUPPLIERS OF ELECTRONIC PARTS.**—In revising the regulations under paragraph (1), the Administrator shall—

“(A) require NASA and covered contractors, including subcontractors, at all tiers—

“(i) to obtain electronic parts that are in production or currently available in stock from—

“(I) the original manufacturers of the parts or their authorized dealers; or

“(II) suppliers who obtain such parts exclusively from the original manufacturers of the parts or their authorized dealers; and

“(ii) to obtain electronic parts that are not in production or currently available in stock from

suppliers that meet qualification requirements established under subparagraph (C);

“(B) establish documented requirements consistent with published industry standards or Government contract requirements for—

- “(i) notification of the agency; and
- “(ii) inspection, testing, and authentication of electronic parts that NASA or a covered contractor, including a subcontractor, obtains from any source other than a source described in subparagraph (A);

“(C) establish qualification requirements, consistent with the requirements of section 2319 of title 10, United States Code, pursuant to which NASA may identify suppliers that have appropriate policies and procedures in place to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts; and

“(D) authorize a covered contractor, including a subcontractor, to identify and use additional suppliers beyond those identified under subparagraph (C) if—

- “(i) the standards and processes for identifying such suppliers comply with established industry standards;
- “(ii) the covered contractor assumes responsibility for the authenticity of parts provided by such suppliers under paragraph (2); and
- “(iii) the selection of such suppliers is subject to review and audit by NASA.

“(d) DEFINITIONS.—In this section:

“(1) COVERED CONTRACTOR.—The term ‘covered contractor’ means a contractor that supplies an electronic part, or a product that contains an electronic part, to NASA.

“(2) ELECTRONIC PART.—The term ‘electronic part’ means a discrete electronic component, including a microcircuit, transistor, capacitor, resistor, or diode, that is intended for use in a safety or mission critical application.”

[For definitions of terms used in section 823 of Pub. L. 115-10, set out above, see section 2 of Pub. L. 115-10, set out as a note under section 10101 of this title.]

AVOIDING ORGANIZATIONAL CONFLICTS OF INTEREST IN MAJOR ADMINISTRATION ACQUISITION PROGRAMS

Pub. L. 115-10, title VIII, §830, Mar. 21, 2017, 131 Stat. 66, provided that:

“(a) REVISED REGULATIONS REQUIRED.—Not later than 270 days after the date of enactment of this Act [Mar. 21, 2017], the Administrator [of the National Aeronautics and Space Administration] shall revise the [National Aeronautics and Space] Administration Supplement to the Federal Acquisition Regulation to provide uniform guidance and recommend revised requirements for organizational conflicts of interest by contractors in major acquisition programs in order to address the elements identified in subsection (b).

“(b) ELEMENTS.—The revised regulations under subsection (a) shall, at a minimum—

“(1) address organizational conflicts of interest that could potentially arise as a result of—

“(A) lead system integrator contracts on major acquisition programs and contracts that follow lead system integrator contracts on such programs, particularly contracts for production;

“(B) the ownership of business units performing systems engineering and technical assistance functions, professional services, or management support services in relation to major acquisition programs by contractors who simultaneously own business units competing to perform as either the prime contractor or the supplier of a major subsystem or component for such programs;

“(C) the award of major subsystem contracts by a prime contractor for a major acquisition program to business units or other affiliates of the same parent corporate entity, and particularly the award of subcontracts for software integration or the development of a proprietary software system architecture; or

“(D) the performance by, or assistance of, contractors in technical evaluations on major acquisition programs;

“(2) require the Administration to request advice on systems architecture and systems engineering matters with respect to major acquisition programs from objective sources independent of the prime contractor;

“(3) require that a contract for the performance of systems engineering and technical assistance functions for a major acquisition program contains a provision prohibiting the contractor or any affiliate of the contractor from participating as a prime contractor or a major subcontractor in the development of a system under the program; and

“(4) establish such limited exceptions to the requirement[s] in paragraphs (2) and (3) as the Administrator considers necessary to ensure that the Administration has continued access to advice on systems architecture and systems engineering matters from highly qualified contractors with domain experience and expertise, while ensuring that such advice comes from sources that are objective and unbiased.”

§ 30301. Guaranteed customer base

No amount appropriated to the Administration may be used to fund grants, contracts, or other agreements with an expected duration of more than one year, when a primary effect of the grant, contract, or agreement is to provide a guaranteed customer base for or establish an anchor tenancy in new commercial space hardware or services unless an appropriations Act specifies the new commercial space hardware or services to be developed or used, or the grant, contract, or agreement is otherwise identified in such Act.

(Pub. L. 111-314, §3, Dec. 18, 2010, 124 Stat. 3363.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
30301 .....	42 U.S.C. 2459d.	Pub. L. 102-139, title III, (1st par. under heading “Administrative Provisions”, at 105 Stat. 771), Oct. 28, 1991, 105 Stat. 771.

The words “in this or any other Act with respect to any fiscal year” are omitted as unnecessary.

§ 30302. Quality assurance personnel

(a) EXCLUSION OF ADMINISTRATION PERSONNEL.—A person providing articles to the Administration under a contract entered into after December 9, 1991, may not exclude Administration quality assurance personnel from work sites except as provided in a contract provision that has been submitted to Congress as provided in subsection (b).

(b) CONTRACT PROVISIONS.—The Administration shall not enter into any contract which permits the exclusion of Administration quality assurance personnel from work sites unless the Administrator has submitted a copy of the provision permitting such exclusion to Congress at least 60 days before entering into the contract.

(Pub. L. 111-314, §3, Dec. 18, 2010, 124 Stat. 3363.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
30302 .....	42 U.S.C. 2459e.	Pub. L. 102-195, §19, Dec. 9, 1991, 105 Stat. 1615.