

able alternatives, determined by a comparison of all related direct and indirect costs including, in the case of Government costs, applicable Government labor and overhead costs as well as contractor charges, and taking into account the ability of each alternative to accommodate mission requirements as well as the related factors of risk, reliability, schedule, and technical performance.

(5) **LAUNCH.**—The term “launch” means to place, or attempt to place, a launch vehicle and its payload, if any, in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space.

(6) **LAUNCH SERVICES.**—The term “launch services” means activities involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch.

(7) **LAUNCH SUPPORT FACILITIES.**—The term “launch support facilities” means facilities located at launch sites or launch ranges that are required to support launch activities, including launch vehicle assembly, launch vehicle operations and control, communications, flight safety functions, and payload operations, control, and processing.

(8) **LAUNCH VEHICLE.**—The term “launch vehicle” means any vehicle constructed for the purpose of operating in or placing a payload in outer space or in suborbital trajectories, and includes components of that vehicle.

(9) **PAYLOAD.**—The term “payload” means an object which a person undertakes to launch, and includes subcomponents of the launch vehicle specifically designed or adapted for that object.

(10) **PAYLOAD INTEGRATION SERVICES.**—The term “payload integration services” means activities involved in integrating multiple payloads into a single payload for launch or integrating a payload with a launch vehicle.

(11) **SPACE RECOVERY SUPPORT FACILITIES.**—The term “space recovery support facilities” means facilities required to support activities related to the recovery of payloads returned from space to a space recovery site, including operations and control, communications, flight safety functions, and payload processing.

(12) **SPACE TRANSPORTATION INFRASTRUCTURE.**—The term “space transportation infrastructure” means facilities, associated equipment, and real property (including launch sites, launch support facilities, space recovery sites, and space recovery support facilities) required to perform launch or space recovery activities.

(13) **STATE.**—The term “State” means the several States, the District of Columbia, Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(14) **UNITED STATES.**—The term “United States” means the States, collectively.

(Pub. L. 111-314, § 3, Dec. 18, 2010, 124 Stat. 3404.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
50501	15 U.S.C. 5802.	Pub. L. 102-588, title V, § 502, Nov. 4, 1992, 106 Stat. 5123.

FINDINGS

Pub. L. 102-588, title V, § 501, Nov. 4, 1992, 106 Stat. 5122, provided that: “The Congress finds that—

“(1) commercial activities of the private sector have substantially contributed to the strength of both the United States space program and the national economy;

“(2) a robust United States space transportation capability remains a vital cornerstone of the United States space program;

“(3) the availability of commercial launch services is essential for the continued growth of the United States commercial space sector;

“(4) a timely extension of the excess third party claims payment provisions of the Commercial Space Launch Act [now 51 U.S.C. 50901 et seq.] is appropriate and necessary to enable the private sector to continue covering maximum probable liability risks while protecting the private sector from uninsurable levels of liability which could hinder international competitiveness;

“(5) a program to demonstrate how recipients of Federal grants can purchase launch services directly from the private sector has the potential to improve the capabilities of the United States commercial launch industry;

“(6) improvements and additions to the Nation’s space transportation infrastructure contribute to a robust and cost effective space transportation capability for both public sector and private sector users;

“(7) private sector use of available Government facilities on a reimbursable basis contributes to a stronger commercial space sector;

“(8) the Federal Government should purchase space goods and services which are commercially available, or could be made available commercially in response to a Government procurement request, whenever such goods or services meet Government mission requirements in a cost effective manner;

“(9) it is appropriate for the Government to act as an anchor tenant for commercial space development projects which have a reasonable potential to develop non-Federal markets and which meet Federal needs in a cost effective manner; and

“(10) the provision of compensation to commercial providers of space goods and services for termination of contracts at the convenience of the Government assists in enabling the private sector to invest in space activities which are initially dependent on Government purchases.”

[For definition of terms used in section 501 of Pub. L. 102-588, set out above, see section 502 of Pub. L. 102-588, title V, Nov. 4, 1992, 106 Stat. 5123, which was classified to former section 5802 of Title 15, Commerce and Trade, and was repealed and reenacted as this section by Pub. L. 111-314, §§ 3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444.]

§ 50502. Launch voucher demonstration program

(a) **REQUIREMENT TO ESTABLISH PROGRAM.**—The Administrator shall establish a demonstration program to award vouchers for the payment of commercial launch services and payload integration services for the purpose of launching payloads funded by the Administration.

(b) **AWARD OF VOUCHERS.**—The Administrator shall award vouchers under subsection (a) to appropriate individuals as a part of grants administered by the Administration for the launch of—

(1) payloads to be placed in suborbital trajectories; and

(2) small payloads to be placed in orbit.

(c) **ASSISTANCE.**—The Administrator may provide voucher award recipients with such assistance (including contract formulation and technical support during the proposal evaluation) as

may be necessary to ensure the purchase of cost effective and reasonably reliable commercial launch services and payload integration services.

(Pub. L. 111–314, §3, Dec. 18, 2010, 124 Stat. 3405.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
50502	15 U.S.C. 5803(a)–(c).	Pub. L. 102–588, title V, §504(a)–(c), Nov. 4, 1992, 106 Stat. 5124; Pub. L. 105–303, title I, §103, Oct. 28, 1998, 112 Stat. 2851.

In subsection (a), the words “to become effective October 1, 1993”, which appeared at the end, are omitted as obsolete.

§ 50503. Anchor tenancy and termination liability

(a) ANCHOR TENANCY CONTRACTS.—Subject to appropriations, the Administrator or the Administrator of the National Oceanic and Atmospheric Administration may enter into multiyear anchor tenancy contracts for the purchase of a good or service if the appropriate Administrator determines that—

- (1) the good or service meets the mission requirements of the Administration or the National Oceanic and Atmospheric Administration, as appropriate;
- (2) the commercially procured good or service is cost effective;
- (3) the good or service is procured through a competitive process;
- (4) existing or potential customers for the good or service other than the United States Government have been specifically identified;
- (5) the long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and
- (6) private capital is at risk in the venture.

(b) TERMINATION LIABILITY.—

(1) IN GENERAL.—Contracts entered into under subsection (a) may provide for the payment of termination liability in the event that the Government terminates such contracts for its convenience.

(2) FIXED SCHEDULE OF PAYMENTS AND LIMITATION ON LIABILITY.—Contracts that provide for the payment of termination liability, as described in paragraph (1), shall include a fixed schedule of such termination liability payments. Liability under such contracts shall not exceed the total payments which the Government would have made after the date of termination to purchase the good or service if the contract were not terminated.

(3) USE OF FUNDS.—Subject to appropriations, funds available for such termination liability payments may be used for purchase of the good or service upon successful delivery of the good or service pursuant to the contract. In such case, sufficient funds shall remain available to cover any remaining termination liability.

(c) LIMITATIONS.—

(1) DURATION.—Contracts entered into under this section shall not exceed 10 years in duration.

(2) FIXED PRICE.—Such contracts shall provide for delivery of the good or service on a firm, fixed price basis.

(3) PERFORMANCE SPECIFICATIONS.—To the extent practicable, reasonable performance specifications shall be used to define technical requirements in such contracts.

(4) FAILURE TO PERFORM.—In any such contract, the appropriate Administrator shall reserve the right to completely or partially terminate the contract without payment of such termination liability because of the contractor's actual or anticipated failure to perform its contractual obligations.

(Pub. L. 111–314, §3, Dec. 18, 2010, 124 Stat. 3405.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
50503	15 U.S.C. 5806.	Pub. L. 102–588, title V, §507, Nov. 4, 1992, 106 Stat. 5127.

§ 50504. Use of Government facilities

(a) AUTHORITY.—

(1) IN GENERAL.—Federal agencies, including the Administration and the Department of Defense, may allow non-Federal entities to use their space-related facilities on a reimbursable basis if the Administrator, the Secretary of Defense, or the appropriate agency head determines that—

- (A) the facilities will be used to support commercial space activities;
- (B) such use can be supported by existing or planned Federal resources;
- (C) such use is compatible with Federal activities;
- (D) equivalent commercial services are not available on reasonable terms; and
- (E) such use is consistent with public safety, national security, and international treaty obligations.

(2) CONSULTATION.—In carrying out paragraph (1)(E), each agency head shall consult with appropriate Federal officials.

(b) REIMBURSEMENT PAYMENT.—

(1) AMOUNT.—The reimbursement referred to in subsection (a) may be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the use of such facilities by the private sector. For the purposes of this paragraph, the term “direct costs” means the actual costs that can be unambiguously associated with such use, and would not be borne by the United States Government in the absence of such use.

(2) CREDIT TO APPROPRIATION.—The amount of any payment received by the United States for use of facilities under this subsection shall be credited to the appropriation from which the cost of providing such facilities was paid.

(Pub. L. 111–314, §3, Dec. 18, 2010, 124 Stat. 3406.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
50504	15 U.S.C. 5807.	Pub. L. 102–588, title V, §508, Nov. 4, 1992, 106 Stat. 5128.