

Administration, if an equivalent replacement vessel will not become operational at the time of deactivation.”

### § 891c. Design of NOAA vessels

#### (a) Design requirement

Except for the vessel designs identified under subsection (b), the Secretary, working through the Office of the NOAA Corps Operations and the Systems Procurement Office, shall—

- (1) prepare requirements for each class of vessel to be constructed or converted under the Plan; and
- (2) contract competitively from nongovernmental entities with expertise in shipbuilding for vessel design and construction based on the requirements for each class of vessel to be acquired.

#### (b) Exception

The Secretary shall—

- (1) report to Congress identifying any existing vessel design or design proposal that meets the requirements of the Plan within 30 days after October 29, 1992, and shall promptly advise the Congress of any modification of these designs; and
- (2) submit to Congress as part of the annual update of the Plan required in section 891b of this title, any subsequent existing vessel design or design proposals that meet the requirements of the Plan.

(Pub. L. 102-567, title VI, § 605, Oct. 29, 1992, 106 Stat. 4300.)

### § 891d. Contract authority

#### (a) Multiyear contracts

##### (1) In general

Subject to paragraphs (2) and (3), and notwithstanding section 1341 of title 31 and subsections (a) and (b) of section 6301 of title 41, the Secretary may acquire vessels for the NOAA fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

##### (2) Required findings

The Secretary may not enter into a contract pursuant to this subsection unless the Secretary finds with respect to that contract that—

- (A) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from Congress funding for the contract at the level required to avoid contract termination; and
- (B) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the NOAA fleet.

##### (3) Required contract provisions

The Secretary may not enter into a contract pursuant to this subsection unless the contract includes—

- (A) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(B) a provision that specifies the term of effectiveness of the contract; and

(C) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall only be liable for the lesser of—

- (i) an amount specified in the contract for such a termination; or
- (ii) amounts that—

(I) were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract; and

(II) are unobligated on the date of the termination.

#### (b) Service contracts

Notwithstanding any other provision of law, the Secretary may enter into multiyear contracts for oceanographic research, fisheries research, and mapping and charting services to assist the Secretary in fulfilling NOAA missions. The Secretary may only enter into these contracts if—

(1) the Secretary finds that it is in the public interest to do so;

(2) the contract is for not more than 7 years; and

(3)(A) the cost of the contract is less than the cost (including the cost of operation, maintenance, and personnel) to the NOAA of obtaining those services on NOAA vessels; or

(B) NOAA vessels are not available or cannot provide those services.

#### (c) Bonding authority

Notwithstanding any other law, the Secretary may not require a contractor for the construction, alteration, repair or maintenance of a NOAA vessel to provide a bid bond, payment bond, performance bond, completion bond, or other surety instrument in an amount greater than 20 percent of the value of the base contract quantity (excluding options) unless the Secretary determines that requiring an instrument in that amount will not prevent a responsible bidder or offeror from competing for the award of the contract.

(Pub. L. 102-567, title VI, § 606, Oct. 29, 1992, 106 Stat. 4301.)

#### CODIFICATION

In subsec. (a)(1), “subsections (a) and (b) of section 6301 of title 41” substituted for “section 3732 of the Revised Statutes of the United States (41 U.S.C. 11)” on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

### § 891e. Restriction with respect to certain shipyard subsidies

#### (a) In general

The Secretary of Commerce may not award a contract for the construction, repair (except emergency repairs), or alteration of any vessel of the National Oceanic and Atmospheric Administration in a shipyard, if that vessel benefits or would benefit from significant subsidies for the construction, repair, or alteration of vessels in that shipyard.