

sidered specified in a law if the quantity is specified either in a provision of that law or in any related representation that is set forth separately in a table, chart, or explanatory text included in a joint explanatory statement or governing committee report accompanying the law.

(2) In this section:

(A) The term “end item” means a production product assembled, completed, and ready for issue or deployment.

(B) The term “head of an agency” means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force.

(Added Pub. L. 107-314, div. A, title VIII, §801(a)(1), Dec. 2, 2002, 116 Stat. 2600; amended Pub. L. 108-136, div. A, title X, §1043(b)(11), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 114-328, div. A, title VIII, §852, Dec. 23, 2016, 130 Stat. 2296.)

TRANSFER OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§1801(d), 1807(f), Jan. 1, 2021, 134 Stat. 4151, 4159, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 203 of this title, inserted after section 3068, and redesignated as section 3069 of this title. See Effective Date of 2021 Amendment note below.

PRIOR PROVISIONS

A prior section 2308, acts Aug. 10, 1956, ch. 1041, 70A Stat. 131; Oct. 23, 1992, Pub. L. 102-484, div. A, title VIII, §820(a), 106 Stat. 2458; May 31, 1993, Pub. L. 103-35, title II, §201(e)(2), 107 Stat. 99; Nov. 30, 1993, Pub. L. 103-160, div. A, title IX, §904(d)(1), 107 Stat. 1728, related to assignment and delegation of procurement functions and responsibilities, prior to repeal by Pub. L. 103-355, title I, §1503(b)(1), title X, §10001, Oct. 13, 1994, 108 Stat. 3297, 3404, effective Oct. 13, 1994, except as otherwise provided.

AMENDMENTS

2016—Subsec. (c). Pub. L. 114-328 designated existing provisions as par. (1), inserted “, except as provided in paragraph (2),” after “but”, and added par. (2).

2003—Subsec. (e)(2). Pub. L. 108-136 redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which read as follows: “The term ‘congressional defense committees’ means—

- “(i) the Committee on Armed Services and the Committee on Appropriations of the Senate; and
- “(ii) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

TIME FOR ISSUANCE OF FINAL REGULATIONS

Pub. L. 107-314, div. A, title VIII, §801(b), Dec. 2, 2002, 116 Stat. 2602, provided that: “The Secretary of Defense shall issue the final regulations under section 2308(b) of title 10, United States Code (as added by subsection (a)), not later than 120 days after the date of the enactment of this Act [Dec. 2, 2002].”

§ 2309. Allocation of appropriations

(a) Appropriations available for procurement by an agency named in section 2303 of this title

may, through administrative allotment, be made available for obligation for procurement by any other agency in amounts authorized by the head of the allotting agency and without transfer of funds on the books of the Department of the Treasury.

(b) A disbursing official of the allotting agency may make any disbursement chargeable to an allotment under subsection (a) upon a voucher certified by an officer or civilian employee of the procuring agency.

(Aug. 10, 1956, ch. 1041, 70A Stat. 132; Pub. L. 97-258, §2(b)(1)(B), Sept. 13, 1982, 96 Stat. 1052.)

TRANSFER OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§1801(d), 1809(e)(1), Jan. 1, 2021, 134 Stat. 4151, 4161, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 207 of this title, as amended by section 1809(a) of Pub. L. 116-283, added after section 3133, and redesignated as section 3134 of this title. See Effective Date of 2021 Amendment note below.

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2309(a)	41:159 (2d sentence).	Feb. 19, 1948, ch. 65, §10
2309(b)	41:159 (less 1st and 2d sentences).	(less 1st sentence), 62 Stat. 25.

In subsection (a), the words “an agency named in section 2303 of this title” are substituted for the words “any such agency”.

In subsection (b), the words “an allotment under subsection (a)” are substituted for the words “such allotments”.

AMENDMENTS

1982—Subsec. (b). Pub. L. 97-258 substituted “disbursing official” for “disbursing officer”.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

§ 2310. Determinations and decisions

(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 2306(g)(1), 2307(d), or 2313(c)(2)(B) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

(2) Each finding referred to in paragraph (1) is final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.

(Aug. 10, 1956, ch. 1041, 70A Stat. 132; Pub. L. 85-800, § 10, Aug. 28, 1958, 72 Stat. 967; Pub. L. 87-653, § 1(f), Sept. 10, 1962, 76 Stat. 529; Pub. L. 89-607, § 1(1), Sept. 27, 1966, 80 Stat. 850; Pub. L. 90-378, § 2, July 5, 1968, 82 Stat. 290; Pub. L. 98-369, div. B, title VII, § 2725, July 18, 1984, 98 Stat. 1193; Pub. L. 99-145, title XIII, § 1303(a)(16), Nov. 8, 1985, 99 Stat. 739; Pub. L. 103-355, title I, § 1504, Oct. 13, 1994, 108 Stat. 3297.)

TRANSFER OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§ 1801(d), 1864(b), Jan. 1, 2021, 134 Stat. 4151, 4279, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 367 of this title, as amended by section 1864(a) of Pub. L. 116-283, inserted after the table of sections, and redesignated as section 4751 of this title. See Effective Date of 2021 Amendment note below.

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2310(a)	41:156(a) (1st sentence).	Feb. 19, 1948, ch. 65, § 7(a) (1st sentence), (c), 62 Stat. 24.
2310(b)	41:156(c).	

In subsection (a), the words “required * * * under” are substituted for the words “provided in”.

In subsection (b), the word “person” is substituted for the word “official”. The words “to which it applies” are inserted for clarity.

AMENDMENTS

1994—Pub. L. 103-355 amended section generally. Prior to amendment, section read as follows:

“(a) Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except for determinations and decisions under section 2304 or 2305 of this title, for a class of purchases or contracts. Such a determination or decision, including a determination or decision under section 2304 or 2305 of this title, is final.

“(b) Each determination or decision under section 2306(c), 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision, which finding shall set out facts and circumstances that—

“(1) clearly indicate why the type of contract selected under section 2306(c) of this title is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality required except under such a contract;

“(2) support the findings required by section 2306(g)(1) of this title;

“(3) clearly indicate why advance payments under section 2307(c) of this title would be in the public interest; or

“(4) clearly indicate why the application of section 2313(b) of this title to a contract or subcontract with a foreign contractor or foreign subcontractor would not be in the public interest.

Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies.”

1985—Subsec. (a). Pub. L. 99-145 inserted “this” after “2305 of”.

1984—Subsec. (a). Pub. L. 98-369, § 2725(1), inserted “, except for determinations and decisions under section 2304 or 2305 of title,” and “, including a determination or decision under section 2304 or 2305 of this title,”.

Subsec. (b). Pub. L. 98-369, § 2725(2), amended subsec. (b) generally, striking out requirement that determinations to negotiate contracts be based on written findings by the contracting officers making the determinations.

1968—Subsec. (b). Pub. L. 90-378 inserted “section 2306(g)(1),” after “clauses (11)–(16) of section 2304(a), section 2306(c),”, and “(3) support the findings required by section 2306(g)(1),” after “kind or quality required except under such a contract,”, and redesignated former cls. (3) to (5) as (4) to (6), respectively.

1966—Subsec. (b). Pub. L. 89-607 inserted reference to section 2313(c), added cl. (4), and redesignated former cl. (4) as (5).

1962—Subsec. (b). Pub. L. 87-653 substituted “section 2306(c)” for “section 2306”, required decisions to negotiate contracts under section 2304(a)(2), (7), (8), (10) to (12) of this title to be based on a written finding by the person making the decision, which findings shall set out facts and circumstances illustrative of conditions described in section 2304(a)(11) to (16), indicate why the type of contract selected under section 2306(c) is likely to be less costly than any other or that its impracticable to obtain the required property or services except under such contract, indicate why advance payments under section 2307(c) would be in the public interest, or establish with respect to section 2304(a), (2), (7), (8), (10) to (12) that formal advertising would not have been feasible and practicable.

1958—Subsec. (b). Pub. L. 85-800 substituted “2307(c)” for “2307(a)”.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 2302 of this title.

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 1962 AMENDMENT

For effective date of amendment by Pub. L. 87-653, see section 1(h) of Pub. L. 87-653, set out as a note under section 2304 of this title.

§ 2311. Assignment and delegation of procurement functions and responsibilities

(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

(1) the head of an agency may delegate functions and assign responsibilities relating to procurement to any officer or employee within such agency;

(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to