

may, during a period specified in subsection (g), sell the aircraft and aircraft parts referred to in paragraph (2) to persons or entities that contract with the Federal Government for the delivery of fire retardant by air in order to suppress wildfire.

“(2) Paragraph (1) applies to aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

“(A) excess to the needs of the Department; and

“(B) acceptable for commercial sale.

“(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

“(1) may be used only for the provision of airtanker services for wildfire suppression purposes; and

“(2) may not be flown or otherwise removed from the United States unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression efforts or for other purposes jointly approved by the Secretary of Defense and the Secretary of Agriculture in writing in advance.

“(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Agriculture certifies to the Secretary of Defense, in writing, before the sale that the person or entity is capable of meeting the terms and conditions of a contract to deliver fire retardant by air.

“(d) REGULATIONS.—(1) As soon as practicable after October 14, 1996, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section. The regulations prescribed under this paragraph shall be effective until the end of the period specified in subsection (a)(1).

“(2) The regulations shall—

“(A) ensure that the sale of the aircraft and aircraft parts is made at fair market value (as determined by the Secretary of Defense) and, to the extent practicable, on a competitive basis;

“(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

“(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end users in accordance with the conditions set forth in subsections (b) and (e); and

“(D) ensure, to the maximum extent practicable, that the Secretary consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

“(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of the regulations prescribed under subsection (d).

“(f) REPORT.—Not later than March 31, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the Secretary’s exercise of authority under this section. The report shall set forth—

“(1) the number and type of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

“(2) the persons or entities to which the aircraft were sold; and

“(3) an accounting of the current use of the aircraft sold.

“(g) PERIODS FOR EXERCISE OF AUTHORITY.—The periods specified in this subsection are the following:

“(1) The period beginning on October 1, 1996, and ending on September 30, 2005.

“(2) The period beginning on October 1, 2012, and ending on September 30, 2017.

“(h) CONSTRUCTION.—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.”

§ 2576a. Excess personal property: sale or donation for law enforcement activities

(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

(A) suitable for use by the agencies in law enforcement activities, including counterdrug, counterterrorism, disaster-related emergency preparedness, and border security activities; and

(B) excess to the needs of the Department of Defense.

(2) The Secretary shall carry out this section in consultation with the Attorney General, the Director of National Drug Control Policy, and the Secretary of Homeland Security, as appropriate.

(b) CONDITIONS FOR TRANSFER.—The Secretary of Defense may transfer personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the recipient accepts the property on an as-is, where-is basis;

(3) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment;

(4) all costs incurred subsequent to the transfer of the property are borne or reimbursed by the recipient;

(5) the recipient, on an annual basis, and with the authorization of the relevant local governing body or authority, certifies that it has adopted publicly available protocols for the appropriate use of controlled property, the supervision of such use, and the evaluation of the effectiveness of such use, including auditing and accountability policies; and

(6) after the completion of the assessment required by section 1051(e) of the National Defense Authorization Act for Fiscal Year 2016, the recipient, on an annual basis, certifies that it provides annual training to relevant personnel on the maintenance, sustainment, and appropriate use of controlled property, including respect for the rights of citizens under the Constitution of the United States and de-escalation of force.

(c) CONSIDERATION.—Subject to subsection (b)(4), the Secretary may transfer personal property under this section without charge to the recipient agency.

(d) PREFERENCE FOR CERTAIN TRANSFERS.—In considering applications for the transfer of personal property under this section, the Secretary shall give a preference to applications indicating that the transferred property will be used in the counterdrug, counterterrorism, disaster-

related emergency preparedness, or border security activities of the recipient agency. Applications that request vehicles used for disaster-related emergency preparedness, such as high-water rescue vehicles, should receive the highest preference.

(e) **PROPERTY NOT TRANSFERRABLE.**—The Secretary may not transfer to a Tribal, State, or local law enforcement agency under this section the following:

- (1) Bayonets.
- (2) Grenades (other than stun and flash-bang grenades).
- (3) Weaponized tracked combat vehicles.
- (4) Weaponized drones.

(f) **PUBLICLY ACCESSIBLE WEBSITE.**—(1) The Secretary shall create and maintain a publicly available Internet website that provides information on the controlled property transferred under this section and the recipients of such property.

(2) The contents of the Internet website required under paragraph (1) shall include all publicly accessible unclassified information pertaining to the request, transfer, denial, and repossession of controlled property under this section, including—

(A) a current inventory of all controlled property transferred to Federal and State agencies under this section, listed by the name of the recipient and the year of the transfer;

(B) all pending requests for transfers of controlled property under this section, including the information submitted by the Federal and State agencies requesting such transfers; and

(C) all reports required to be submitted to the Secretary under this section by Federal and State agencies that receive controlled property under this section.

(g) **CONTROLLED PROPERTY.**—In this section, the term “controlled property” means any item assigned a demilitarization code of B, C, D, E, G, or Q under Department of Defense Manual 4160.21–M, “Defense Materiel Disposition Manual”, or any successor document.

(Added Pub. L. 104–201, div. A, title X, §1033(a)(1), Sept. 23, 1996, 110 Stat. 2639; amended Pub. L. 114–92, div. A, title X, §§1051(a)–(c), 1052, Nov. 25, 2015, 129 Stat. 979–981; Pub. L. 115–91, div. A, title X, §1081(a)(43), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–283, div. A, title X, §1053, Jan. 1, 2021, 134 Stat. 3850.)

Editorial Notes

REFERENCES IN TEXT

Section 1051(e) of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsec. (b)(6), is section 1051(e) of Pub. L. 114–92, div. A, title X, Nov. 25, 2015, 129 Stat. 980, which is not classified to the Code.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–189, div. A, title XII, §1208, Nov. 29, 1989, 103 Stat. 1566, as amended, which was set out as a note under section 372 of this title, prior to repeal by Pub. L. 104–201, §1033(b)(1). Section 372 of this title was renumbered section 272 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

AMENDMENTS

2021—Subsec. (a)(1)(A). Pub. L. 116–283, §1053(a)(1), inserted “disaster-related emergency preparedness,” after “counterterrorism.”

Subsec. (b)(6). Pub. L. 116–283, §1053(b)(1), inserted “, including respect for the rights of citizens under the Constitution of the United States and de-escalation of force” before period at end.

Subsec. (d). Pub. L. 116–283, §1053(a)(2), amended subsec. (d) generally. Prior to amendment, text read as follows: “In considering applications for the transfer of personal property under this section, the Secretary shall give a preference to those applications indicating that the transferred property will be used in the counterdrug, counterterrorism, or border security activities of the recipient agency.”

Subsecs. (e) to (g). Pub. L. 116–283, §1053(b)(2), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

2017—Subsec. (b)(4). Pub. L. 115–91 struck out “and” at end.

2015—Subsec. (a)(1)(A). Pub. L. 114–92, §1052(1)(A), substituted “counterdrug, counterterrorism, and border security activities” for “counter-drug and counter-terrorism activities”.

Subsec. (a)(2). Pub. L. 114–92, §1052(1)(B), substituted “the Attorney General, the Director of National Drug Control Policy, and the Secretary of Homeland Security, as appropriate” for “the Attorney General and the Director of National Drug Control Policy”.

Subsec. (b)(5), (6). Pub. L. 114–92, §1051(b), added pars. (5) and (6).

Subsec. (d). Pub. L. 114–92, §1052(2), substituted “counterdrug, counterterrorism, or border security activities” for “counter-drug or counter-terrorism activities”.

Subsec. (e). Pub. L. 114–92, §1051(a), added subsec. (e).

Subsec. (f). Pub. L. 114–92, §1051(c), added subsec. (f).

Statutory Notes and Related Subsidiaries

PROCESS FOR COMMUNICATING AVAILABILITY OF SURPLUS AMMUNITION

Pub. L. 114–328, div. A, title III, §344, Dec. 23, 2016, 130 Stat. 2084, provided that:

“(a) **IN GENERAL.**—The Secretary of Defense shall implement a formal process to provide Federal Government agencies outside the Department of Defense with information on the availability of surplus, serviceable ammunition from the Department of Defense for the purpose of reducing costs relating to the storage and disposal of such ammunition.

“(b) **IMPLEMENTATION DEADLINE.**—The Secretary shall implement the process described in subsection (a) beginning not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016].”

§ 2576b. Excess personal property: sale or donation to assist firefighting agencies

(a) **TRANSFER AUTHORIZED.**—Subject to subsection (b), the Secretary of Defense shall transfer to a firefighting agency in a State any personal property of the Department of Defense that the Secretary determines is—

(1) excess to the needs of the Department of Defense; and

(2) suitable for use in providing fire and emergency medical services, including personal protective equipment and equipment for communication and monitoring.

(b) **CONDITIONS FOR TRANSFER.**—The Secretary of Defense shall transfer personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the recipient firefighting agency accepts the property on an as-is, where-is basis;