

“(ii) Section 303A ([former] 41 U.S.C. 253a) [see 41 U.S.C. 3306].

“(iii) Section 303B ([former] 41 U.S.C. 253b) [now 41 U.S.C. 3308, 3701 to 3708, 4702].

“(iv) Section 303C [former] (41 U.S.C. 253c) [now 41 U.S.C. 3311].

“(C) The following provisions of the Office of Federal Procurement Policy Act:

“(i) Section 4(6) ([former] 41 U.S.C. 403(6)) [see 41 U.S.C. 107].

“(ii) Section 18 ([former] 41 U.S.C. 416) [see 41 U.S.C. 1708].

“(g) DEFINITION.—In this section, the term ‘commercial item’ has the meaning provided that term in section 4(12) of the Office of Federal Procurement Policy Act [see 41 U.S.C. 103].

“(h) EXPIRATION OF AUTHORITY.—The authority to conduct the test under subsection (a) and to award contracts under such test shall expire 4 years after the date of the enactment of this Act. Contracts entered into before such authority expires shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

“(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the test conducted pursuant to subsection (a).”

**§ 40111. Multiyear procurement contracts for services and related items**

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31, the Administrator of the Federal Aviation Administration may make a contract of not more than 5 years for the following types of services and items of supply related to those services for which amounts otherwise would be available for obligation only in the fiscal year for which appropriated:

- (1) operation, maintenance, and support of facilities and installations.
- (2) operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment.
- (3) specialized training requiring high quality instructor skills, including training of pilots and aircrew members and foreign language training.
- (4) base services, including ground maintenance, aircraft refueling, bus transportation, and refuse collection and disposal.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section only if the Administrator finds that—

- (1) there will be a continuing requirement for the service consistent with current plans for the proposed contract period;
- (2) providing the service will require a substantial initial investment in plant or equipment, or will incur a substantial contingent liability for assembling, training, or transporting a specialized workforce; and
- (3) the contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

(c) CONSIDERATIONS.—When making a contract under this section, the Administrator shall be guided by the following:

- (1) The part of the cost of a plant or equipment amortized as a cost of contract performance may not be more than the ratio between the period of contract performance and the an-

ticipated useful commercial life (instead of physical life) of the plant or equipment, considering the location and specialized nature of the plant or equipment, obsolescence, and other similar factors.

(2) The Administrator shall consider the desirability of—

- (A) obtaining an option to renew the contract for a reasonable period of not more than 3 years, at a price that does not include charges for nonrecurring costs already amortized; and
- (B) reserving in the Administrator the right, on payment of the unamortized part of the cost of the plant or equipment, to take title to the plant or equipment under appropriate circumstances.

(d) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

- (1) an appropriation originally available for carrying out the contract;
- (2) an appropriation currently available for procuring the type of service concerned and not otherwise obligated; or
- (3) amounts appropriated for payments to end the contract.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1107.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40111(a) .....	49 App.:1344(e)(1).	Aug. 23, 1958, Pub. L. 85-726, §303(e), 72 Stat. 747; May 21, 1970, Pub. L. 91-258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94-353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96-470, §112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444; re-stated Nov. 5, 1990, Pub. L. 101-508, §9118(a), 104 Stat. 1388-366.
40111(b) .....	49 App.:1344(e)(2).	
40111(c) .....	49 App.:1344(e)(3).	
40111(d) .....	49 App.:1344(e)(4).	

In this section, the word “Administrator” in section 303(e) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words “periods of” are omitted as surplus. In clause (3), the words “training of” are added for clarity. In clause (4), the word “aircraft” is substituted for “in-plane” for clarity.

In subsection (c)(2)(A), the words “plant, equipment, and other” are omitted as surplus.

In subsection (d), the words “canceled or” and “cancellation or” are omitted as being included in “ended” and “ending”, respectively.

**§ 40112. Multiyear procurement contracts for property**

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31 and to the extent that amounts otherwise are available for obligation, the Administrator of the Federal Aviation Administration may make a contract of more than one but not more than 5 fiscal years to purchase property, except a contract to construct, alter, or make a major repair or improvement to real property.