

Subsec. (c). Pub. L. 115-232, in introductory provisions, substituted “determination, with a supporting explanation, of whether” for “certification, with a supporting explanation, that”.

§ 1136. Acquisition approval authority

Nothing in this subchapter shall be construed as altering or diminishing in any way the statutory authority and responsibility of the Secretary of the department in which the Coast Guard is operating, or the Secretary’s designee, to—

(1) manage and administer department procurements, including procurements by department components, as required by section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341); or

(2) manage department acquisition activities and act as the Acquisition Decision Authority with regard to the review or approval of a Coast Guard Level 1 or Level 2 acquisition project or program, as required by section 16¹ of the Office of Federal Procurement Policy Act (41 U.S.C. 414) and related implementing regulations and directives.

(Added Pub. L. 111-281, title IV, § 402(a), Oct. 15, 2010, 124 Stat. 2948, § 576; renumbered § 1136, Pub. L. 115-282, title I, § 108(b), Dec. 4, 2018, 132 Stat. 4208.)

REFERENCES IN TEXT

Section 16 of the Office of Federal Procurement Policy Act, referred to in par. (2), is section 16 of Pub. L. 93-400, which was classified to section 414 of former Title 41, Public Contracts, and was repealed and reenacted as section 1702 of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855.

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 576 of this title as this section.

§ 1137. Contracting for major acquisitions programs

(a) IN GENERAL.—In carrying out authorities provided to the Secretary to design, construct, accept, or otherwise acquire assets and systems under section 501(d), the Secretary, acting through the Commandant or the head of an integrated program office established for a major acquisition program, may enter into contracts for a major acquisition program.

(b) AUTHORIZED METHODS.—Contracts entered into under subsection (a)—

- (1) may be block buy contracts;
- (2) may be incrementally funded;
- (3) may include combined purchases, also known as economic order quantity purchases, of—

- (A) materials and components; and
- (B) long lead time materials; and

(4) as provided in section 2306b of title 10, may be multiyear contracts.

(c) SUBJECT TO APPROPRIATIONS.—Any contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of amounts specifically pro-

vided in advance for that purpose in subsequent appropriations Acts.

(Added Pub. L. 115-282, title III, § 311(b), Dec. 4, 2018, 132 Stat. 4249.)

INTERNAL REGULATIONS AND POLICY

Pub. L. 115-282, title III, § 311(e), Dec. 4, 2018, 132 Stat. 4249, provided that: “Not later than 180 days after the date of enactment of this Act [Dec. 4, 2018], the Secretary of the department in which the Coast Guard is operating shall establish the internal regulations and policies necessary to exercise the authorities provided under this section [enacting this section, amending section 501 of this title, enacting provisions set out as a note under section 1133 of this title, amending provisions formerly set out as a note under former section 573 of this title, and repealing provisions set out as notes under former sections 87 and 577 of this title], including the amendments made in this section.”

SUBCHAPTER III—PROCUREMENT

AMENDMENTS

2018—Pub. L. 115-282, title I, § 108(c)(4), Dec. 4, 2018, 132 Stat. 4210, inserted subchapter III designation and heading.

§ 1151. Restriction on construction of vessels in foreign shipyards

(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.

(Added Pub. L. 100-448, § 26(a), Sept. 28, 1988, 102 Stat. 1847, § 665; renumbered § 1151, Pub. L. 115-282, title I, § 108(b), Dec. 4, 2018, 132 Stat. 4208.)

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 665 of this title as this section.

§ 1152. Advance procurement funding

(a) IN GENERAL.—With respect to any Coast Guard vessel for which amounts are appropriated and any amounts otherwise made available for vessels for the Coast Guard in any fiscal year, the Commandant may enter into a contract or place an order, in advance of a contract or order for construction of a vessel, for—

- (1) materials, parts, components, and labor for the vessel;
- (2) the advance construction of parts or components for the vessel;
- (3) protection and storage of materials, parts, or components for the vessel; and
- (4) production planning, design, and other related support services that reduce the overall procurement lead time of the vessel.

(b) USE OF MATERIALS, PARTS, AND COMPONENTS MANUFACTURED IN THE UNITED STATES.—

¹ See References in Text note below.

In entering into contracts and placing orders under subsection (a), the Commandant may give priority to persons that manufacture materials, parts, and components in the United States.

(Added Pub. L. 112-213, title II, § 211(a), Dec. 20, 2012, 126 Stat. 1551, § 577; amended Pub. L. 115-232, div. C, title XXXV, § 3531(c)(7), Aug. 13, 2018, 132 Stat. 2320; renumbered § 1152, Pub. L. 115-282, title I, § 108(b), Dec. 4, 2018, 132 Stat. 4208.)

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 577 of this title as this section.

Subsec. (a). Pub. L. 115-232 substituted “Commandant” for “Commandant of the Coast Guard” in introductory provisions.

LONG LEAD TIME MATERIALS AND VESSEL PRODUCTION; IMMEDIATE AVAILABILITY OF FUNDING

Pub. L. 113-6, div. D, title V, § 557, Mar. 26, 2013, 127 Stat. 377, provided that:

“(a) Notwithstanding Office of Management and Budget Circular A-11, funds made available in fiscal year 2013, or any fiscal year thereafter, under Department of Homeland Security, Coast Guard, ‘Acquisition, Construction, and Improvements’ for—

“(1) long lead time materials, components, and designs of a vessel of the Coast Guard shall be immediately available and allotted to make a contract award notwithstanding the availability of funds for production, outfitting, post-delivery activities, and spare or repair parts; and

“(2) production of a vessel of the Coast Guard shall be immediately available and allotted to make a contract award notwithstanding the availability of funds for outfitting, post-delivery activities, and spare or repair parts.

“(b) The Secretary of Homeland Security shall develop fiscal policy that prescribes Coast Guard budgetary policies, procedures and technical direction necessary to comply with subsection (a) of this section and consistent with the Department of Defense Financial Management Regulation (Volume 2A, Chapter 1 C. Procedures for Full Funding) to include the costs associated with outfitting and post-delivery activities; spare and repair parts; and long lead time materials. The requirement set forth in this section shall not preclude the immediate availability or allotment of funds for fiscal year 2013, pursuant to subsection (a).

“(c) In this section—

“(1) the term ‘long lead time items’ means components, parts, material, or effort which must be procured in advance of the production award in order to maintain the production schedule;

“(2) the term ‘outfitting’ means procurement or installation of onboard repair parts, other secondary items, equipment, and recreation items; precommissioning crew support; general use consumables furnished to the shipbuilder; the fitting out activity to fill a vessel’s initial allowances; and contractor-furnished spares; and

“(3) the term ‘post-delivery activities’ means design, planning, Government-furnished material, and related labor for non-production and non-long lead time items contract activities and other work, including certifications, full operational capability activities and other equipment installation; spares, logistics, technical analysis, and support; correction of Government-responsible defects and deficiencies identified during builders trials, acceptance trials, and testing during the post-delivery period; costs of all work required to correct defects or deficiencies identified during the post-delivery period; and costs of all work required to correct trial card deficiencies on a vessel of a particular class, as well as on subsequent vessels of that class (whether or not delivered) until the corrective action for that cutter class is completed.”

§ 1153. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards

A Coast Guard vessel the home port of which is in the United States or Guam may not be overhauled, repaired, or maintained in a shipyard outside the United States or Guam, other than in the case of voyage repairs.

(Added Pub. L. 104-324, title III, § 311(a), Oct. 19, 1996, 110 Stat. 3920, § 96; amended Pub. L. 111-281, title II, § 218, Oct. 15, 2010, 124 Stat. 2918; renumbered § 1153, Pub. L. 115-282, title I, § 108(b), Dec. 4, 2018, 132 Stat. 4208.)

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 96 of this title as this section.

2010—Pub. L. 111-281 substituted “in the United States or Guam” for “in a State of the United States” and inserted “or Guam” after “outside the United States”.

§ 1154. Procurement of buoy chain

(a) Except as provided in subsection (b), the Coast Guard may not procure buoy chain—

(1) that is not manufactured in the United States; or

(2) substantially all of the components of which are not produced or manufactured in the United States.

(b) The Coast Guard may procure buoy chain that is not manufactured in the United States if the Secretary determines that—

(1) the price of buoy chain manufactured in the United States is unreasonable; or

(2) emergency circumstances exist.

(Added Pub. L. 104-324, title XI, § 1128(a), Oct. 19, 1996, 110 Stat. 3984, § 97; renumbered § 1154, Pub. L. 115-282, title I, § 108(b), Dec. 4, 2018, 132 Stat. 4208.)

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 97 of this title as this section.

§ 1155. Contract termination

(a) IN GENERAL.—

(1) NOTIFICATION.—Before terminating a procurement or acquisition contract with a total value of more than \$1,000,000, the Commandant of the Coast Guard shall notify each vendor under such contract and require the vendor to maintain all work product related to the contract until the earlier of—

(A) not less than 1 year after the date of the notification; or

(B) the date the Commandant notifies the vendor that maintenance of such work product is no longer required.

(b) WORK PRODUCT DEFINED.—In this section the term “work product”—

(1) means tangible and intangible items and information produced or possessed as a result of a contract referred to in subsection (a); and

(2) includes—

(A) any completed end items;

(B) any uncompleted end items; and

(C) any property in the contractor’s possession in which the United States Government has an interest.

(c) **PENALTY.**—A vendor that fails to maintain work product as required under subsection (a) is liable to the United States for a civil penalty of not more than \$25,000 for each day on which such work product is unavailable.

(d) **REPORT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), not later than 45 days after the end of each fiscal year the Commandant of the Coast Guard shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing—

(A) all Coast Guard contracts with a total value of more than \$1,000,000 that were terminated in the fiscal year;

(B) all vendors who were notified under subsection (a)(1) in the fiscal year, and the date of such notification;

(C) all criminal, administrative, and other investigations regarding any contract with a total value of more than \$1,000,000 that were initiated by the Coast Guard in the fiscal year;

(D) all criminal, administrative, and other investigations regarding contracts with a total value of more than \$1,000,000 that were completed by the Coast Guard in the fiscal year; and

(E) an estimate of costs incurred by the Coast Guard, including contract line items and termination costs, as a result of the requirements of this section.

(2) **LIMITATION.**—The Commandant is not required to provide a report under paragraph (1) for any fiscal year for which there is no responsive information as described in subparagraphs (A) through (E) of paragraph (1).

(Added Pub. L. 115-232, div. C, title XXXV, § 3523(a), Aug. 13, 2018, 132 Stat. 2315, § 657; renumbered § 1155, Pub. L. 115-282, title I, § 108(b), Dec. 4, 2018, 132 Stat. 4208.)

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 657 of this title as this section.

§ 1156. Limitation on unmanned aircraft systems

(a) **IN GENERAL.**—During any fiscal year for which funds are appropriated for the design or construction of an Offshore Patrol Cutter, the Commandant—

(1) may not award a contract for design of an unmanned aircraft system for use by the Coast Guard; and

(2) may lease, acquire, or acquire the services of an unmanned aircraft system only if such system—

(A) has been part of a program of record of, procured by, or used by a Federal entity (or funds for research, development, test, and evaluation have been received from a Federal entity with regard to such system) before the date on which the Commandant leases, acquires, or acquires the services of the system; and

(B) is leased, acquired, or utilized by the Commandant through an agreement with a Federal entity, unless such an agreement is

not practicable or would be less cost-effective than an independent contract action by the Coast Guard.

(b) **SMALL UNMANNED AIRCRAFT EXEMPTION.**—Subsection (a)(2) does not apply to small unmanned aircraft.

(c) **DEFINITIONS.**—In this section, the terms “small unmanned aircraft” and “unmanned aircraft system” have the meanings given those terms in section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note).¹

(Added Pub. L. 115-282, title III, § 304(b), Dec. 4, 2018, 132 Stat. 4244.)

REFERENCES IN TEXT

Section 331 of the FAA Modernization and Reform Act of 2012, referred to in subsec. (c), is section 331 of Pub. L. 112-95, title III, Feb. 14, 2012, 126 Stat. 72, which is set out in a note under section 44802 of Title 49, Transportation.

SUBCHAPTER IV—DEFINITIONS

AMENDMENTS

2018—Pub. L. 115-282, title I, § 108(c)(5), Dec. 4, 2018, 132 Stat. 4210, inserted subchapter IV designation and heading.

§ 1171. Definitions

In this chapter:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) **CHIEF ACQUISITION OFFICER.**—The term “Chief Acquisition Officer” means the officer appointed under section 308 of this title.

(3) **CUSTOMER OF A MAJOR ACQUISITION PROGRAM.**—The term “customer of a major acquisition program” means the operating field unit of the Coast Guard that will field the system or systems acquired under a major acquisition program.

(4) **LEVEL 1 ACQUISITION.**—The term “Level 1 acquisition” means—

(A) an acquisition by the Coast Guard—

(i) the estimated life-cycle costs of which exceed \$1,000,000,000; or

(ii) the estimated total acquisition costs of which exceed \$300,000,000; or

(B) any acquisition that the Chief Acquisition Officer of the Coast Guard determines to have a special interest—

(i) due to—

(I) the experimental or technically immature nature of the asset;

(II) the technological complexity of the asset;

(III) the commitment of resources; or

(IV) the nature of the capability or set of capabilities to be achieved; or

(ii) because such acquisition is a joint acquisition.

(5) **LEVEL 2 ACQUISITION.**—The term “Level 2 acquisition” means an acquisition by the Coast Guard—

¹ See References in Text note below.