

(3) NOTIFICATION OF CONGRESS.—Not later than 15 days after the Administrator receives a written notification under paragraph (2), the Administrator shall transmit the notification to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(e) FIFTEEN PERCENT THRESHOLD.—

(1) DETERMINATION, REPORT, AND INITIATION OF ANALYSIS.—Not later than 30 days after receiving a written notification under subsection (d)(2), the Administrator shall determine whether the development cost of the program is likely to exceed the estimate provided in the Baseline Report of the program by 15 percent or more, or whether a milestone is likely to be delayed by 6 months or more. If the determination is affirmative, the Administrator shall—

(A) transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, not later than 15 days after making the determination, a report that includes—

(i) a description of the increase in cost or delay in schedule and a detailed explanation for the increase or delay;

(ii) a description of actions taken or proposed to be taken in response to the cost increase or delay; and

(iii) a description of any impacts the cost increase or schedule delay, or the actions described under clause (ii), will have on any other program within the Administration; and

(B) if the Administrator intends to continue with the program, promptly initiate an analysis of the program, which shall include, at a minimum—

(i) the projected cost and schedule for completing the program if current requirements of the program are not modified;

(ii) the projected cost and the schedule for completing the program after instituting the actions described under subparagraph (A)(ii); and

(iii) a description of, and the projected cost and schedule for, a broad range of alternatives to the program.

(2) COMPLETION OF ANALYSIS AND TRANSMITTAL TO COMMITTEES.—The Administration shall complete an analysis initiated under paragraph (1)(B) not later than 6 months after the Administrator makes a determination under this subsection. The Administrator shall transmit the analysis to the Committee on Science and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate not later than 30 days after its completion.

(f) THIRTY PERCENT THRESHOLD.—If the Administrator determines under subsection (e) that the development cost of a program will exceed the estimate provided in the Baseline Report of the program by more than 30 percent, then, beginning 18 months after the date the Administrator transmits a report under subsection

(e)(1)(A), the Administrator shall not expend any additional funds on the program, other than termination costs, unless Congress has subsequently authorized continuation of the program by law. An appropriation for the specific program enacted subsequent to a report being transmitted shall be considered an authorization for purposes of this subsection. If the program is continued, the Administrator shall submit a new Baseline Report for the program no later than 90 days after the date of enactment of the Act under which Congress has authorized continuation of the program.

(Pub. L. 111-314, §3, Dec. 18, 2010, 124 Stat. 3360; Pub. L. 115-10, title VIII, §828, Mar. 21, 2017, 131 Stat. 66.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
30104	42 U.S.C. 16613.	Pub. L. 109-155, title I, §103, Dec. 30, 2005, 119 Stat. 2907.

In subsections (b)(2), (c)(1), (d)(3), and (e)(1)(A), (2), the words “Committee on Science and Technology” are substituted for “Committee on Science” on authority of Rule X(1)(o) of the Rules of the House of Representatives, adopted by House Resolution No. 6 (110th Congress, January 5, 2007).

Editorial Notes

AMENDMENTS

2017—Subsec. (a)(1). Pub. L. 115-10 substituted “Procedural Requirements 7120.5E, dated August 14, 2012” for “Procedural Requirements 7120.5c, dated March 22, 2005”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

CHAPTER 303—CONTRACTING AND PROCUREMENT

Sec. 30301.	Guaranteed customer base.
30302.	Quality assurance personnel.
30303.	Tracking and data relay satellite services.
30304.	Award of contracts to small businesses and disadvantaged individuals.
30305.	Outreach program.
30306.	Small business contracting.
30307.	Requirement for independent cost analysis.
30308.	Cost effectiveness calculations.
30309.	Use of abandoned and underutilized buildings, grounds, and facilities.
30310.	Exception to alternative fuel procurement requirement.

Statutory Notes and Related Subsidiaries

ONE SMALL STEP TO PROTECT HUMAN HERITAGE IN SPACE

Pub. L. 116-275, Dec. 31, 2020, 134 Stat. 3358, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘One Small Step to Protect Human Heritage in Space Act’.

“SEC. 2. FINDINGS; SENSE OF CONGRESS.

“(a) Findings.—Congress makes the following findings:

“(1) On July 16, 1969, the Apollo 11 spacecraft launched from the John F. Kennedy Space Center carrying Neil A. Armstrong, Edwin E. ‘Buzz’ Aldrin, Jr., and Michael Collins.

“(2) July 20, 2019, marked the 50th anniversary of the date on which the Apollo 11 spacecraft landed on the Moon and Neil Armstrong and Buzz Aldrin became the first humans to set foot on a celestial body off the Earth.

“(3) The landing of the Apollo 11 spacecraft and humanity’s first off-world footprints are achievements unparalleled in history, a direct product of the work and perseverance of the more than 400,000 individuals who contributed to the development of the Apollo missions on the shoulders of centuries of science and engineering pioneers from all corners of the world.

“(4) Among the thousands of individuals who have contributed to the achievements of the National Aeronautics and Space Administration (in this section referred to as ‘NASA’) are African-American women such as Katherine Johnson, Dorothy Vaughn, Mary Jackson, and Dr. Christine Darden, who made critical contributions to NASA space programs. Katherine Johnson worked at NASA for 35 years and calculated the trajectory of the Apollo 11 landing and the trajectories for the spaceflights of astronauts Alan Shepard and John Glenn. Katherine Johnson, together with many other individuals the work of whom often went unacknowledged, helped broaden the scope of space travel and charted new frontiers for humanity’s exploration of space.

“(5) The landing of the Apollo 11 spacecraft was made on behalf of all humankind, and Neil Armstrong and Buzz Aldrin were accompanied by messages of peace from the leaders of more than 70 countries.

“(6) The lunar landing sites of the Apollo 11 spacecraft, the robotic spacecraft that preceded the Apollo 11 mission, and the crewed and robotic spacecraft that followed, are of outstanding universal value to humanity.

“(7) Such landing sites—

“(A) are the first archaeological sites with human activity that are not on Earth;

“(B) provide evidence of the first achievements of humankind in the realm of space travel and exploration; and

“(C) contain artifacts and other evidence of human exploration activities that remain a potential source of cultural, historical, archaeological, anthropological, scientific, and engineering knowledge.

“(8) On July 20, 2011, NASA published the voluntary guidance entitled ‘NASA’s Recommendations to Space-Faring Entities: How to Protect and Preserve the Historic and Scientific Value of U.S. Government Lunar Artifacts’.

“(9) In March 2018, the Office of Science and Technology Policy published a report entitled ‘Protecting & Preserving Apollo Program Lunar Landing Sites & Artifacts’.

“(10) Article one of the ‘Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,’ commonly known as the ‘Outer Space Treaty,’ states ‘[o]uter space, including the moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies.’

“(11) Article eight of the Outer Space Treaty states, ‘[a] State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body. Ownership of objects launched into outer space, including objects landed or constructed

on a celestial body, and of their component parts, is not affected by their presence in outer space or on a celestial body or by their return to the Earth.’

“(12) Article nine of the Outer Space Treaty states, ‘[i]n the exploration and use of outer space, including the moon and other celestial bodies, States Parties to the Treaty shall be guided by the principle of co-operation and mutual assistance and shall conduct all their activities in outer space, including the moon and other celestial bodies, with due regard to the corresponding interests of all other States Parties to the Treaty,’ and continues, ‘[i]f a State Party to the Treaty has reason to believe that an activity or experiment planned by it or its nationals in outer space, including the moon and other celestial bodies, would cause potentially harmful interference with activities of other States Parties in the peaceful exploration and use of outer space, including the moon and other celestial bodies, it shall undertake appropriate international consultations before proceeding with any such activity or experiment. A State Party to the Treaty which has reason to believe that an activity or experiment planned by another State Party in outer space, including the moon and other celestial bodies, would cause potentially harmful interference with activities in the peaceful exploration and use of outer space, including the moon and other celestial bodies, may request consultation concerning the activity or experiment.’

“(b) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) as commercial enterprises and more countries acquire the ability to land on the Moon, it is necessary to encourage the development of best practices to respect the principle of due regard and to limit harmful interference to the Apollo landing site artifacts in acknowledgment of the human effort and innovation they represent, as well as their archaeological, anthropological, historical, scientific, and engineering significance and value; and

“(2) the Administrator of the National Aeronautics and Space Administration should continue to develop best practices to respect the principle of due regard and limit harmful interference with historic Apollo lunar landing site artifacts.

“SEC. 3. BEST PRACTICES RELATED TO APOLLO HISTORIC LUNAR LANDING SITE ARTIFACTS.

“(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration shall—

“(1) add the recommendations in subsection (b) as a condition or requirement to contracts, grants, agreements, partnerships or other arrangements pertaining to lunar activities carried out by, for, or in partnership with the National Aeronautics and Space Administration;

“(2) inform other relevant Federal agencies of the recommendations described in subsection (b); and

“(3) encourage the use of best practices, consistent with the recommendations in subsection (b), by other relevant Federal agencies.

“(b) RECOMMENDATIONS DESCRIBED.—The recommendations described in this subsection are—

“(1) ‘NASA’s Recommendations to Space-Faring Entities: How to Protect and Preserve the Historic and Scientific Value of U.S. Government Lunar Artifacts’ issued by the National Aeronautics and Space Administration on July 20, 2011, and updated on October 28, 2011; and

“(2) any successor recommendations, guidelines, best practices, or standards relating to the principle of due regard and the limitation of harmful interference with Apollo landing site artifacts issued by the National Aeronautics and Space Administration.

“(c) EXEMPTION.—The Administrator may waive the conditions or requirements from subsection (a)(1) as it applies to an individual contract, grant, agreement, partnership or other arrangement pertaining to lunar activities carried out by, for, or in partnership with the National Aeronautics and Space Administration so long as—

“(1) such waiver is accompanied by a finding from the Administrator that carrying out the obligation of subsection (a)(1) would be unduly prohibitive to an activity or activities of legitimate and significant historical, archaeological, anthropological, scientific, or engineering value; and

“(2) the finding in paragraph (1) is provided to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 30 days prior to the waiver taking effect.”

DETECTION AND AVOIDANCE OF COUNTERFEIT PARTS

Pub. L. 115–10, title VIII, §823, Mar. 21, 2017, 131 Stat. 62, as amended by Pub. L. 117–81, div. A, title XVII, §1702(l)(11), Dec. 27, 2021, 135 Stat. 2161, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) A 2012 investigation by the Committee on Armed Services of the Senate of counterfeit electronic parts in the Department of Defense supply chain from 2009 through 2010 uncovered 1,800 cases and over 1,000,000 counterfeit parts and exposed the threat such counterfeit parts pose to service members and national security.

“(2) Since 2010, the Comptroller General of the United States has identified in 3 separate reports the risks and challenges associated with counterfeit parts and counterfeit prevention at both the Department of Defense and NASA, including inconsistent definitions of counterfeit parts, poorly targeted quality control practices, and potential barriers to improvements to these practices.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that the presence of counterfeit electronic parts in the NASA supply chain poses a danger to United States government astronauts, crew, and other personnel and a risk to the agency overall.

“(c) REGULATIONS.—

“(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [Mar. 21, 2017], the Administrator shall revise the NASA Supplement to the Federal Acquisition Regulation to improve the detection and avoidance of counterfeit electronic parts in the supply chain.

“(2) CONTRACTOR RESPONSIBILITIES.—In revising the regulations under paragraph (1), the Administrator shall—

“(A) require each covered contractor—

“(i) to detect and avoid the use or inclusion of any counterfeit parts in electronic parts or products that contain electronic parts;

“(ii) to take such corrective actions as the Administrator considers necessary to remedy the use or inclusion described in clause (i); and

“(iii) including a subcontractor, to notify the applicable NASA contracting officer not later than 30 calendar days after the date the covered contractor becomes aware, or has reason to suspect, that any end item, component, part or material contained in supplies purchased by NASA, or purchased by a covered contractor or subcontractor for delivery to, or on behalf of, NASA, contains a counterfeit electronic part or suspect counterfeit electronic part; and

“(B) prohibit the cost of counterfeit electronic parts, suspect counterfeit electronic parts, and any corrective action described under subparagraph (A)(ii) from being included as allowable costs under agency contracts, unless—

“(i) the covered contractor has an operational system to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts that has been reviewed and approved by NASA or the Department of Defense; and

“(ii) the covered contractor has provided the notice under subparagraph (A)(iii); or

“(iii) the counterfeit electronic parts or suspect counterfeit electronic parts were provided to the covered contractor as Government property in ac-

cordance with part 45 of the Federal Acquisition Regulation.

“(3) SUPPLIERS OF ELECTRONIC PARTS.—In revising the regulations under paragraph (1), the Administrator shall—

“(A) require NASA and covered contractors, including subcontractors, at all tiers—

“(i) to obtain electronic parts that are in production or currently available in stock from—

“(I) the original manufacturers of the parts or their authorized dealers; or

“(II) suppliers who obtain such parts exclusively from the original manufacturers of the parts or their authorized dealers; and

“(ii) to obtain electronic parts that are not in production or currently available in stock from suppliers that meet qualification requirements established under subparagraph (C);

“(B) establish documented requirements consistent with published industry standards or Government contract requirements for—

“(i) notification of the agency; and

“(ii) inspection, testing, and authentication of electronic parts that NASA or a covered contractor, including a subcontractor, obtains from any source other than a source described in subparagraph (A);

“(C) establish qualification requirements, consistent with the requirements of section 3243 of title 10, United States Code, pursuant to which NASA may identify suppliers that have appropriate policies and procedures in place to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts; and

“(D) authorize a covered contractor, including a subcontractor, to identify and use additional suppliers beyond those identified under subparagraph (C) if—

“(i) the standards and processes for identifying such suppliers comply with established industry standards;

“(ii) the covered contractor assumes responsibility for the authenticity of parts provided by such suppliers under paragraph (2); and

“(iii) the selection of such suppliers is subject to review and audit by NASA.

“(d) DEFINITIONS.—In this section:

“(1) COVERED CONTRACTOR.—The term ‘covered contractor’ means a contractor that supplies an electronic part, or a product that contains an electronic part, to NASA.

“(2) ELECTRONIC PART.—The term ‘electronic part’ means a discrete electronic component, including a microcircuit, transistor, capacitor, resistor, or diode, that is intended for use in a safety or mission critical application.”

[For definitions of terms used in section 823 of Pub. L. 115–10, set out above, see section 2 of Pub. L. 115–10, set out as a note under section 10101 of this title.]

AVOIDING ORGANIZATIONAL CONFLICTS OF INTEREST IN MAJOR ADMINISTRATION ACQUISITION PROGRAMS

Pub. L. 115–10, title VIII, §830, Mar. 21, 2017, 131 Stat. 66, provided that:

“(a) REVISED REGULATIONS REQUIRED.—Not later than 270 days after the date of enactment of this Act [Mar. 21, 2017], the Administrator [of the National Aeronautics and Space Administration] shall revise the [National Aeronautics and Space] Administration Supplement to the Federal Acquisition Regulation to provide uniform guidance and recommend revised requirements for organizational conflicts of interest by contractors in major acquisition programs in order to address the elements identified in subsection (b).

“(b) ELEMENTS.—The revised regulations under subsection (a) shall, at a minimum—

“(1) address organizational conflicts of interest that could potentially arise as a result of—

“(A) lead system integrator contracts on major acquisition programs and contracts that follow lead

system integrator contracts on such programs, particularly contracts for production;

“(B) the ownership of business units performing systems engineering and technical assistance functions, professional services, or management support services in relation to major acquisition programs by contractors who simultaneously own business units competing to perform as either the prime contractor or the supplier of a major subsystem or component for such programs;

“(C) the award of major subsystem contracts by a prime contractor for a major acquisition program to business units or other affiliates of the same parent corporate entity, and particularly the award of subcontracts for software integration or the development of a proprietary software system architecture; or

“(D) the performance by, or assistance of, contractors in technical evaluations on major acquisition programs;

“(2) require the Administration to request advice on systems architecture and systems engineering matters with respect to major acquisition programs from objective sources independent of the prime contractor;

“(3) require that a contract for the performance of systems engineering and technical assistance functions for a major acquisition program contains a provision prohibiting the contractor or any affiliate of the contractor from participating as a prime contractor or a major subcontractor in the development of a system under the program; and

“(4) establish such limited exceptions to the requirement[s] in paragraphs (2) and (3) as the Administrator considers necessary to ensure that the Administration has continued access to advice on systems architecture and systems engineering matters from highly qualified contractors with domain experience and expertise, while ensuring that such advice comes from sources that are objective and unbiased.”

§ 30301. Guaranteed customer base

No amount appropriated to the Administration may be used to fund grants, contracts, or other agreements with an expected duration of more than one year, when a primary effect of the grant, contract, or agreement is to provide a guaranteed customer base for or establish an anchor tenancy in new commercial space hardware or services unless an appropriations Act specifies the new commercial space hardware or services to be developed or used, or the grant, contract, or agreement is otherwise identified in such Act.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3363.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30301	42 U.S.C. 2459d.	Pub. L. 102–139, title III, (1st par. under heading “Administrative Provisions”, at 105 Stat. 771), Oct. 28, 1991, 105 Stat. 771.

The words “in this or any other Act with respect to any fiscal year” are omitted as unnecessary.

§ 30302. Quality assurance personnel

(a) EXCLUSION OF ADMINISTRATION PERSONNEL.—A person providing articles to the Administration under a contract entered into after December 9, 1991, may not exclude Administration quality assurance personnel from work sites except as provided in a contract provision

that has been submitted to Congress as provided in subsection (b).

(b) CONTRACT PROVISIONS.—The Administration shall not enter into any contract which permits the exclusion of Administration quality assurance personnel from work sites unless the Administrator has submitted a copy of the provision permitting such exclusion to Congress at least 60 days before entering into the contract. (Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3363.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30302	42 U.S.C. 2459e.	Pub. L. 102–195, § 19, Dec. 9, 1991, 105 Stat. 1615.

In subsection (a), the date “December 9, 1991” is substituted for “the date of enactment of this Act” to reflect the date of enactment of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992 (Public Law 102–195, 105 Stat. 1605).

In subsection (a), the words “that has been submitted to Congress as provided” are substituted for “described” for clarity.

§ 30303. Tracking and data relay satellite services

(a) CONTRACTS.—The Administration is authorized, when so provided in an appropriation Act, to enter into and to maintain a contract for tracking and data relay satellite services. Such services shall be furnished to the Administration in accordance with applicable authorization and appropriations Acts. The Government shall incur no costs under such contract prior to the furnishing of such services except that the contract may provide for the payment for contingent liability of the Government which may accrue in the event the Government should decide for its convenience to terminate the contract before the end of the period of the contract. Facilities which may be required in the performance of the contract may be constructed on Government-owned lands if there is included in the contract a provision under which the Government may acquire title to the facilities, under terms and conditions agreed upon in the contract, upon termination of the contract.

(b) REPORTS TO CONGRESS.—The Administrator shall in January of each year report to the Committee on Science and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate the projected aggregate contingent liability of the Government under termination provisions of any contract authorized in this section through the next fiscal year. The authority of the Administration to enter into and to maintain the contract authorized hereunder shall remain in effect unless repealed by legislation enacted by Congress.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3363.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
30303(a)	42 U.S.C. 2463 (1st par.).	Pub. L. 95–76, § 6, July 30, 1977, 91 Stat. 315; Pub. L. 103–437, § 15(c)(3), Nov. 2, 1994, 108 Stat. 4592.
30303(b)	42 U.S.C. 2463 (last par.).	