

(2) A provision that authorizes the Under Secretary of Defense for Acquisition and Sustainment to require a military department whose participation in a joint acquisition program has been approved for termination or substantial reduction to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1807(d)(2)(B), (E), Jan. 1, 2021, 134 Stat. 4158.)

Editorial Notes

CODIFICATION

The text of subsec. (c) of section 2311 of this title, which was transferred first to section 3065(c) of this title and then to this section and amended by Pub. L. 116–283, §1807(d)(1), (2)(B), (E), was based on Pub. L. 103–355, title I, §1503(a)(1), Oct. 13, 1994, 108 Stat. 3296; Pub. L. 107–107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 116–92, div. A, title IX, §902(49), Dec. 20, 2019, 133 Stat. 1548.

PRIOR PROVISIONS

A prior section 3067 was renumbered section 7067 of this title.

AMENDMENTS

2021—Pub. L. 116–283, §1807(d)(2)(E), redesignated subsec. (c) of section 3065 of this title as subsec. (a) of this section, struck out par. (1) designation before “The Secretary of Defense shall”, redesignated par. (2) and its subpars. (A) and (B) as subsec. (b) and pars. (1) and (2), respectively, and inserted subsec. (b) heading.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section and 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 an Effective Date of 2021 Amendment note preceding section 3001 of this title.

§ 3068. Inapplicability of certain laws

(a) LAWS INAPPLICABLE TO AGENCIES NAMED IN SECTION 3063.—Sections 6101 and 6304 of title 41 do not apply to the procurement or sale of property or services by the agencies named in section 3063 of this title.

(b) LAWS INAPPLICABLE TO PROCUREMENT OF AUTOMATIC DATA PROCESSING EQUIPMENT AND SERVICES FOR CERTAIN DEFENSE PURPOSES.—For purposes of subtitle III of title 40, the term “national security system”, with respect to a telecommunications and information system operated by the Department of Defense, has the meaning given that term by section 3552(b)(6) of title 44.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1807(e)(1)–(3), Jan. 1, 2021, 134 Stat. 4158, 4159; Pub. L. 117–81, div. A, title XVII, §1701(b)(2)(C), Dec. 27, 2021, 135 Stat. 2132.)

Editorial Notes

CODIFICATION

The text of section 2314 of this title, which was transferred to this section, designated as subsec. (a), and

amended by Pub. L. 116–283, §1807(e)(2), was based on act Aug. 10, 1956, ch. 1041, 70A Stat. 133; Pub. L. 96–513, title V, §511(78), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 103–160, div. A, title VIII, §822(b)(2), Nov. 30, 1993, 107 Stat. 1706; Pub. L. 111–350, §5(b)(16), Jan. 4, 2011, 124 Stat. 3843; Pub. L. 113–291, div. A, title X, §1071(a)(4), Dec. 19, 2014, 128 Stat. 3504.

The text of section 2315 of this title, which was transferred to this section, designated as subsec. (b), and amended by Pub. L. 116–283, §1807(e)(3), was based on Pub. L. 97–86, title IX, §908(a)(1), Dec. 1, 1981, 95 Stat. 1117; amended Pub. L. 97–295, §1(25), Oct. 12, 1982, 96 Stat. 1291; Pub. L. 104–106, div. E, title LVI, §5601(c), Feb. 10, 1996, 110 Stat. 699; Pub. L. 104–201, div. A, title X, §1074(b)(4)(B), Sept. 23, 1996, 110 Stat. 2660; Pub. L. 105–85, div. A, title X, §1073(a)(49), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 107–217, §3(b)(5), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 109–364, div. A, title IX, §906(c), Oct. 17, 2006, 120 Stat. 2354; Pub. L. 113–283, §2(e)(5)(C), Dec. 18, 2014, 128 Stat. 3087; Pub. L. 114–92, div. A, title X, §1081(a)(7), Nov. 25, 2015, 129 Stat. 1001.

PRIOR PROVISIONS

A prior section 3068 was renumbered section 7068 of this title.

Another prior section 3068, acts Aug. 10, 1956, ch. 1041, 70A Stat. 168; Sept. 7, 1962, Pub. L. 87–649, §6(a)(1), 76 Stat. 494, contained substantially the same provisions as section 7068, which formerly was numbered as section 3068, but placed the upper limit for the rank of officers of the Medical Service Corps at colonel, prior to repeal by Pub. L. 89–603.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116–283, §1807(e)(2), as amended by Pub. L. 117–81, §1701(b)(2)(C)(i), transferred text of section 2314 of this title to this section, designated it as subsec. (a), inserted heading, and substituted “section 3063” for “section 2303”.

Subsec. (b). Pub. L. 116–283, §1807(e)(3), as amended by Pub. L. 117–81, §1701(b)(2)(C)(ii), transferred text of section 2315 of this title to this section, designated it as subsec. (b), and inserted heading.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and Effective Date note below.

EFFECTIVE DATE

Section and 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 an Effective Date of 2021 Amendment note preceding section 3001 of this title.

§ 3069. Buy-to-budget acquisition: end items

(a) AUTHORITY TO ACQUIRE ADDITIONAL END ITEMS.—Using funds available to the Department of Defense for the acquisition of an end item, the head of an agency making the acquisition may acquire a higher quantity of the end item than the quantity specified for the end item in a law providing for the funding of that acquisition if that head of an agency makes each of the following findings:

(1) The agency has an established requirement for the end item that is expected to remain substantially unchanged throughout the period of the acquisition.

(2) It is possible to acquire the higher quantity of the end item without additional fund-

ing because of production efficiencies or other cost reductions.

(3) The amount of the funds used for the acquisition of the higher quantity of the end item will not exceed the amount provided under that law for the acquisition of the end item.

(4) The amount so provided is sufficient to ensure that each unit of the end item acquired within the higher quantity is fully funded as a complete end item.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section. The regulations shall include, at a minimum, the following:

(1) The level of approval within the Department of Defense that is required for a decision to acquire a higher quantity of an end item under subsection (a).

(2) Authority (subject to subsection (a)) to acquire up to 10 percent more than the quantity of an end item approved in a justification and approval of the use of procedures other than competitive procedures for the acquisition of the end item under sections 3201 through 3205 of this title.

(c) NOTIFICATION OF CONGRESS.—(1) The head of an agency is not required to notify Congress in advance regarding a decision under the authority of this section to acquire a higher quantity of an end item than is specified in a law described in subsection (a), but, except as provided in paragraph (2), shall notify the congressional defense committees of the decision not later than 30 days after the date of the decision.

(2) A notification is not required under paragraph (1) if the end item being acquired in a higher quantity is an end item under a tactical missile program or a munitions program.

(d) WAIVER BY OTHER LAW.—A provision of law may not be construed as prohibiting the acquisition of a higher quantity of an end item under this section unless that provision of law—

(1) specifically refers to this section; and

(2) specifically states that the acquisition of the higher quantity of the end item is prohibited notwithstanding the authority provided in this section.

(e) DEFINITIONS.—(1) For the purposes of this section, a quantity of an end item shall be considered 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, §2308; 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; renumbered §3069 and amended Pub. L. 116-283, div. A, title XVIII, §1807(f), Jan. 1, 2021, 134 Stat. 4159.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3069 was renumbered section 7069 of this title.

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2308 of this title as this section.

Subsec. (b)(2). Pub. L. 116-283 substituted “sections 3201 through 3205” for “section 2304”.

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.”

Statutory Notes and Related Subsidiaries

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.

§ 3070. Limitation on acquisition of excess supplies

(a) TWO-YEAR SUPPLY.—The Secretary of Defense may not incur any obligation against a stock fund of the Department of Defense for the acquisition of any item of supply if that acquisition is likely to result in an on-hand inventory (excluding war reserves) of that item of supply in excess of two years of operating stocks, or in the case of ship maintenance, overhaul, and repair, in excess of five years of operating stocks.

(b) EXCEPTIONS.—The head of a procuring activity may authorize the acquisition of an item of supply in excess of the limitation contained in subsection (a) if that activity head determines in writing—

(1) that the acquisition is necessary to achieve an economical order quantity and will not result in an on-hand inventory (excluding war reserves) in excess of three years of operating stocks and that the need for the item is unlikely to decline during the period for which the acquisition is made; or

(2) that the acquisition is necessary for purposes of maintaining the industrial base, to protect against identified risk of supply chain disruptions, or for other reasons of national security.

(Added Pub. L. 102-190, div. A, title III, §317(a), Dec. 5, 1991, 105 Stat. 1338, §2213; renumbered §3070, Pub. L. 116-283, div. A, title XVIII, §1807(g)(1), Jan. 1, 2021, 134 Stat. 4159; amended Pub. L. 118-159, div. A, title VIII, §812, Dec. 23, 2024, 138 Stat. 1979.)