

Pub. L. 107-248, title VIII, §8008, Oct. 23, 2002, 116 Stat. 1537.

Pub. L. 107-117, div. A, title VIII, §8008, Jan. 10, 2002, 115 Stat. 2248.

Pub. L. 106-259, title VIII, §8008, Aug. 9, 2000, 114 Stat. 675.

Pub. L. 106-79, title VIII, §8008, Oct. 25, 1999, 113 Stat. 1232.

Pub. L. 105-262, title VIII, §8008, Oct. 17, 1998, 112 Stat. 2298.

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8009], Sept. 30, 1996, 110 Stat. 3009-71, 3009-89.

Pub. L. 104-61, title VIII, §8010, Dec. 1, 1995, 109 Stat. 653.

Pub. L. 103-335, title VIII, §8010, Sept. 30, 1994, 108 Stat. 2618.

Pub. L. 103-139, title VIII, §8011, Nov. 11, 1993, 107 Stat. 1439.

Pub. L. 102-396, title IX, §9013, Oct. 6, 1992, 106 Stat. 1903.

Pub. L. 102-172, title VIII, §8013, Nov. 26, 1991, 105 Stat. 1173.

Pub. L. 101-511, title VIII, §8014, Nov. 5, 1990, 104 Stat. 1877.

Pub. L. 101-165, title IX, §9021, Nov. 21, 1989, 103 Stat. 1133.

[§§ 3502 to 3511. Omitted]

Editorial Notes

CODIFICATION

See Codification note set out under section 3501 of this title.

SUBCHAPTER II—MULTIYEAR CONTRACTS FOR ACQUISITION OF SERVICES

Sec.

3531. Multiyear contracts: acquisition of services.

Editorial Notes

AMENDMENTS

2021—Pub. L. 117-81, div. A, title XVII, §1701(k)(3)(A)(i), (B), Dec. 27, 2021, 135 Stat. 2143, amended Pub. L. 116-283, div. A, title XVIII, §1822(c), formerly §1822(m), Jan. 1, 2021, 134 Stat. 4203, which added this analysis, by making the redesignation of section 1822(m) as 1822(c) and by adding item 3531 and striking out what would have been items 3531 to 3535.

§ 3531. Multiyear contracts: acquisition of services

(a) **AUTHORITY.**—Subject to subsections (d) and (e), the head of an agency may enter into contracts for periods of not more than five years for services described in subsection (b), and for items of supply related to such services, for which funds would otherwise be available for obligation only within the fiscal year for which appropriated whenever the head of the agency finds that—

(1) there will be a continuing requirement for the services consonant with current plans for the proposed contract period;

(2) the furnishing of such services will require a substantial initial investment in plant or equipment, or the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized work force; and

(3) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

(b) **COVERED SERVICES.**—The authority under subsection (a) applies to the following types of services:

(1) Operation, maintenance, and support of facilities and installations.

(2) Maintenance or modification of aircraft, ships, vehicles, and other highly complex military equipment.

(3) Specialized training necessitating high quality instructor skills (for example, pilot and air crew members; foreign language training).

(4) Base services (for example, ground maintenance; in-plane refueling; bus transportation; refuse collection and disposal).

(5) Environmental remediation services for—

(A) an active military installation;

(B) a military installation being closed or realigned under a base closure law; or

(C) a site formerly used by the Department of Defense.

(c) **APPLICABLE PRINCIPLES.**—In entering into multiyear contracts for services under the authority of this section, the head of the agency shall be guided by the following principles:

(1) The portion of the cost of any plant or equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the anticipated useful commercial life of such plant or equipment. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, with due consideration given to such factors as location of facilities, specialized nature thereof, and obsolescence.

(2) Consideration shall be given to the desirability of obtaining an option to renew the contract for a reasonable period not to exceed three years, at prices not to include charges for plant, equipment and other nonrecurring costs, already amortized.

(3) Consideration shall be given to the desirability of reserving in the agency the right, upon payment of the unamortized portion of the cost of the plant or equipment, to take title thereto under appropriate circumstances.

(d) **RESTRICTIONS APPLICABLE GENERALLY.**—(1) The head of an agency may not initiate under this section a contract for services that includes an unfunded contingent liability in excess of \$20,000,000 unless the congressional defense committees are notified of the proposed contract at least 30 days in advance of the award of the proposed contract.

(2) The head of an agency may not initiate a multiyear contract for services under this section if the value of the multiyear contract would exceed \$500,000,000 unless authority for the contract is specifically provided by law.

(3) The head of an agency may not terminate a multiyear procurement contract for services until 10 days after the date on which notice of the proposed termination is provided to the congressional defense committees.

(4) Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of \$100,000,000 may be awarded, the head of the agency concerned shall give written notification of the proposed con-

tract and of the proposed cancellation ceiling for that contract to the congressional defense committees, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

(5) In the case of a contract described in subsection (a) with a cancellation ceiling described in paragraph (4), if the budget for the contract does not include proposed funding for the costs of contract cancellation up to the cancellation ceiling established in the contract, the head of the agency concerned shall give written notification to the congressional defense committees of—

(A) the cancellation ceiling amounts planned for each program year in the proposed multiyear procurement contract, together with the reasons for the amounts planned;

(B) the extent to which costs of contract cancellation are not included in the budget for the contract; and

(C) a financial risk assessment of not including budgeting for costs of contract cancellation.

(e) CANCELLATION OR TERMINATION FOR INSUFFICIENT FUNDING AFTER FIRST YEAR.—In the event that funds are not made available for the continuation of a multiyear contract for services into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

(1) appropriations originally available for the performance of the contract concerned;

(2) appropriations currently available for procurement of the type of services concerned, and not otherwise obligated; or

(3) funds appropriated for those payments.

(f) MULTIYEAR CONTRACT DEFINED.—For the purposes of this section, a multiyear contract is a contract for the purchase of services for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

[(g) Repealed. Pub. L. 108–136, div. A, title VIII, § 843(a), Nov. 24, 2003, 117 Stat. 1553.]

(h) MILITARY INSTALLATION DEFINED.—In this section, the term “military installation” has the meaning given such term in section 2801(c)(4) of this title.

(Added Pub. L. 116–283, div. A, title XVIII, § 1822(c), formerly § 1822(m), Jan. 1, 2021, 134 Stat. 4203, as renumbered and amended Pub. L. 117–81, div. A, title XVII, § 1701(k)(3)(A)(ii), (B), Dec. 27, 2021, 135 Stat. 2143; amended Pub. L. 116–283, div. A, title XVIII, § 1822(d), as added Pub. L. 117–81, div. A, title XVII, § 1701(k)(3)(D), Dec. 27, 2021, 135 Stat. 2143; Pub. L. 117–81, div. A, title XVII, § 1701(k)(3)(C), Dec. 27, 2021, 135 Stat. 2143.)

Editorial Notes

CODIFICATION

Pub. L. 116–283, § 1822(n)–(s), which had initially directed the transfers of various subsections of section 2306c of this title to sections 3531 to 3535, was struck

out by Pub. L. 117–81, § 1701(k)(3)(C). Instead, Pub. L. 116–283, § 1822(d), as added by Pub. L. 117–81, § 1701(k)(3)(D), directed the transfer of section 2306c of this title in its entirety to this section, thereby omitting what would have been sections 3532 to 3535 of this title. The transfer of section 2306c to this section was executed by transferring the text only of section 2306c, as the section designation and catchline had already been enacted by Pub. L. 116–283, § 1822(c), formerly § 1822(m), as renumbered and amended by Pub. L. 117–81, § 1701(k)(3)(A)(ii), (B).

The text of section 2306c of this title, which was transferred to this section by Pub. L. 116–283, § 1822(d), as added by Pub. L. 117–81, § 1701(k)(3)(D), was based on Pub. L. 106–398, § 1 [[div. A], title VIII, § 802(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–203; Pub. L. 107–314, div. A, title VIII, §§ 811(a), 827, Dec. 2, 2002, 116 Stat. 2608, 2617; Pub. L. 108–136, div. A, title VIII, § 843(a), title X, § 1043(c)(1), Nov. 24, 2003, 117 Stat. 1553, 1611; Pub. L. 108–375, div. A, title VIII, § 814(b), Oct. 28, 2004, 118 Stat. 2014; Pub. L. 111–84, div. A, title X, § 1073(a)(22), Oct. 28, 2009, 123 Stat. 2473.

PRIOR PROVISIONS

Prior sections 3531 and 3532 were repealed by Pub. L. 96–513, title II, §§ 210, 233(a), 234, title VII, § 701, Dec. 12, 1980, 94 Stat. 2884, 2887, 2955, effective Sept. 15, 1981.

Section 3531, act Aug. 10, 1956, ch. 1041, 70A Stat. 201, related to appointment of a general officer of the Army as the Chief of Staff to the President.

Section 3532, act Aug. 10, 1956, ch. 1041, 70A Stat. 201, provided that a colonel on the active list of the Regular Army who is detailed as special assistant to the Comptroller of the Department of Defense, has the grade of brigadier general while so serving, unless he is entitled to a higher grade.

Prior sections 3533 and 3534 were renumbered sections 7213 and 7214 of this title, respectively.

A prior section 3535, act Aug. 10, 1956, ch. 1041, 70A Stat. 201, provided that an officer assigned as Assistant to the Chief of Engineers in charge of civil works, including river and harbor and flood control improvements, be entitled to the rank, pay, and allowances of a brigadier general while so serving, prior to repeal by Pub. L. 96–513, title II, § 235, title VII, § 701, Dec. 12, 1980, 94 Stat. 2887, 2955, effective Sept. 15, 1981.

A prior section 3536 was renumbered section 7216 of this title.

Prior sections 3538 and 3539 were repealed by Pub. L. 90–235, § 4(a)(2), (b)(1), Jan. 2, 1968, 81 Stat. 759, 760.

Section 3538, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, provided for detail of officers of Ordnance Corps of the Army to serve with the Geological Survey.

Section 3539, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, provided for detail of officers of Army Medical Service for duty with the Service to Armed Forces Division of American National Red Cross and for detail of an officer of Medical Corps of the Army to be in charge of first-aid department of American National Red Cross. See section 711a of this title.

A prior section 3540, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, related to detail of members of regular or reserve components as professors and instructors in military science and tactics to educational institutions, prior to repeal by Pub. L. 88–647, title III, § 301(7), Oct. 13, 1964, 78 Stat. 1071. See section 2111 of this title.

Prior sections 3541 and 3542 were repealed by Pub. L. 103–337, div. A, title XVI, §§ 1661(c)(2), 1662(g)(2), 1691, Oct. 5, 1994, 108 Stat. 2982, 2996, 3026, effective Dec. 1, 1994.

Section 3541, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, authorized President to assign regular and reserve Army officers to National Guard Bureau. See section 10507 of this title.

Section 3542, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, authorized President to detail certain officers as chief and assistant chief of staff of divisions of Army National Guard in Federal service. See section 12502(a) of this title.

A prior section 3543, act Aug. 10, 1956, ch. 1041, 70A Stat. 202, related to number of authorized aides, prior

to repeal by Pub. L. 114-328, div. A, title V, §502(s)(1), Dec. 23, 2016, 130 Stat. 2104.

Prior sections 3544 and 3545 were repealed by Pub. L. 90-235, §4(a)(6), (b)(1), Jan. 2, 1968, 81 Stat. 759, 760.

Section 3544, act Aug. 10, 1956, ch. 1041, 70A Stat. 203, restricted performance of civil functions by commissioned officers of Regular Army. See section 973 of this title.

Section 3545, act Aug. 10, 1956, ch. 1041, 70A Stat. 203, provided that cooking for enlisted members of Army should be superintended by officers of organizations to which members belonged.

A prior section 3546, act Aug. 10, 1956, ch. 1041, 70A Stat. 203, required officers of the Medical Corps and contract surgeons to attend families of members of the Army, prior to repeal by Pub. L. 85-861, §36B(7), Sept. 2, 1958, 72 Stat. 1570.

Prior sections 3547 and 3548 were renumbered sections 7217 and 7218 of this title, respectively.

AMENDMENTS

2021—Pub. L. 117-81, §1701(k)(3)(A)(ii), (B), amended Pub. L. 116-283, §1822(c), formerly §1822(m), which enacted this section, by renumbering such section 1822(m) as 1822(c) and by substituting “Multiyear contracts: acquisition of services” for “Multiyear contracts for acquisition of services: authority; definitions” in section catchline.

Pub. L. 116-283, §1822(n), which had originally transferred subsecs. (a), (b), (f), and (h) of section 2306c of this title to this section, was repealed by Pub. L. 117-81, §1701(k)(3)(C).

Pub. L. 116-283, §1822(d), as added by Pub. L. 117-81, §1701(k)(3)(D), transferred text of section 2306c of this title to this section. See Codification note above.

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.

PILOT PROGRAM FOR LONGER TERM MULTIYEAR SERVICE CONTRACTS

Pub. L. 115-91, div. A, title VIII, §854, Dec. 12, 2017, 131 Stat. 1492, provided that:

“(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a pilot program under which the Secretary may use the authority under subsection (a) of section 2306c of title 10, United States Code [see 10 U.S.C. 3531], to enter into up to five contracts for periods of not more than 10 years for services described in subsection (b) of such section. Each contract entered into pursuant to this subsection may be extended for up to five additional one-year terms.

“(b) STUDY.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall enter into an agreement with an independent organization with relevant expertise to study best practices and lessons learned from using services contracts for periods longer than five years by commercial companies, foreign governments, and State governments, as well as service contracts for periods longer than five years used by the Federal Government, such as energy savings performance contracts (as defined in section to section [sic] 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)).

“(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the study conducted under paragraph (1).

“(c) COMPTROLLER GENERAL REPORT.—Not later than five years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the pilot program carried out under this section.”

[§§ 3532 to 3535. Omitted]

Editorial Notes

CODIFICATION

See Codification note set out under section 3531 of this title.

SUBCHAPTER III—OTHER AUTHORITIES RELATING TO MULTIYEAR CONTRACTS

Sec.

3551. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.

Editorial Notes

AMENDMENTS

2021—Pub. L. 117-81, div. A, title XVII, §1701(k)(4), Dec. 27, 2021, 135 Stat. 2144, amended Pub. L. 116-283, div. A, title XVIII, §1822(e)(1), formerly §1822(t)(1), Jan. 1, 2021, 134 Stat. 4204, which added this analysis, by renumbering such section 1822(t)(1) as 1822(e)(1).

§3551. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products

(a) TEN-YEAR CONTRACT PERIOD.—The Secretary of Defense may enter into a contract for a period of up to 10 years for the purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products for the support of a United States national security program or a United States space program.

(b) EXTENSIONS.—A contract entered into for more than one year under the authority of subsection (a) may be extended for a total of not more than 10 years pursuant to any option or options set forth in the contract.

(Added Pub. L. 107-314, div. A, title VIII, §826(a), Dec. 2, 2002, 116 Stat. 2617, §2410o; renumbered §3551, Pub. L. 116-283, div. A, title XVIII, §1822(e)(2), formerly §1822(t)(2), Jan. 1, 2021, 134 Stat. 4205, renumbered Pub. L. 117-81, div. A, title XVII, §1701(k)(4), Dec. 27, 2021, 135 Stat. 2144.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2410o of this title as this section.

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 note below.