

for the Department of Defense, for purposes other than engaging in the operation or maintenance of the vessel; and

“(B) the individual—

“(i) accompanies, supervises, guards, or maintains unit equipment aboard a ship, commonly referred to as supercargo personnel;

“(ii) is one of the force protection personnel of the vessel;

“(iii) is a specialized repair technician; or

“(iv) is otherwise required by the Secretary of Defense to be aboard the vessel.

“(2) BACKGROUND CHECK.—

“(A) IN GENERAL.—This section shall not apply to an individual unless—

“(i) the name and other necessary identifying information for the individual is submitted to the Secretary for a background check; and

“(ii) except as provided in subparagraph (B), the individual successfully passes a background check by the Secretary prior to going aboard the vessel.

“(B) WAIVER.—The Secretary may waive the application of subparagraph (A)(ii) for an individual who holds a merchant mariner’s document issued under chapter 73 of title 46, United States Code, or a transportation security card issued under section 70105 of such title.

“(3) EXEMPTED INDIVIDUAL NOT TREATED AS IN ADDITION TO THE CREW.—An individual who, under paragraph (1), is not treated as a riding gang member shall not be counted as an individual in addition to the crew for the purposes of section 3304 of title 46, United States Code.”

[Amendments made by Pub. L. 117-263 to section 70105 of Title 46, Shipping, referred to in section 1018(a)(2), (b)(2)(B) of Pub. L. 109-364, set out above, are such that section 70105 now refers to “transportation worker identification credential” rather than “transportation security card”. See section 70105 of Title 46.]

§ 3671. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles

(a)(1) The Secretary of a military department may make a contract for the lease of a vessel, aircraft, or combat vehicle or for the provision of a service through use by a contractor of a vessel, aircraft, or combat vehicle only as provided in subsection (b) if—

(A) the contract will be a long-term lease or charter; or

(B) the terms of the contract provide for a substantial termination liability on the part of the United States.

(2) The Secretary of a military department may make a contract that is an agreement to lease or charter or an agreement to provide services and that is (or will be) accompanied by a contract for the actual lease, charter, or provision of services only as provided in subsection (b) if the contract for the actual lease, charter, or provision of services is (or will be) a contract described in paragraph (1).

(b)(1) The Secretary may make a contract described in subsection (a)(1) if—

(A) the Secretary has been specifically authorized by law to make the contract;

(B) before a solicitation for proposals for the contract was issued the Secretary notified the congressional defense committees of the Secretary’s intention to issue such a solicitation;

(C) the Secretary has notified those committees of the proposed contract and provided a detailed description of the terms of the pro-

posed contract and a justification for entering into the proposed contract rather than providing for the lease, charter, or services involved through purchase of the vessel, aircraft, or combat vehicle to be used under the contract, and a period of 30 days of continuous session of Congress has expired following the date on which notice was received by such committees; and

(D) the Secretary has certified to those committees—

(i) that entering into the proposed contract as a means of obtaining the vessel, aircraft, or combat vehicle is the most cost-effective means of obtaining such vessel, aircraft, or combat vehicle; and

(ii) that the Secretary has determined that the lease complies with all applicable laws, Office of Management and Budget circulars, and Department of Defense regulations.

(2) For purposes of paragraph (1)(C), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in a computation of such 30-day period.

(3) Upon receipt of a notice under paragraph (1)(C), a committee identified in paragraph (1)(B) may request the Inspector General of the Department of Defense or the Comptroller General of the United States to conduct a review of the proposed contract to determine whether or not such contract meets the requirements of this section.

(4) If a review is requested under paragraph (3), the Inspector General of the Department of Defense or the Comptroller General of the United States, as the case may be, shall submit to the Secretary and the congressional defense committees a report on such review before the expiration of the period specified in paragraph (1)(C).

(5) In the case of a contract described in subsection (a)(1)(B), the commander of the special operations command may make a contract without regard to this subsection if funds are available and obligated for the full cost of the contract (including termination costs) on or before the date the contract is awarded.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1825(a), (b), Jan. 1, 2021, 134 Stat. 4206; Pub. L. 118-159, div. A, title VIII, §811(b), Dec. 23, 2024, 138 Stat. 1979.)

Editorial Notes

CODIFICATION

The text of subsec. (a) of section 2401 of this title, which was transferred to this section by Pub. L. 116-283, §1825(b), was based on Pub. L. 98-94, title XII, §1202(a)(1), Sept. 24, 1983, 97 Stat. 679; Pub. L. 109-163, div. A, title VIII, §815(a)(1), Jan. 6, 2006, 119 Stat. 3381.

The text of subsec. (b) of section 2401 of this title, which was transferred to this section by Pub. L. 116-283, §1825(b), was based on Pub. L. 98-94, title XII, §1202(a)(1), Sept. 24, 1983, 97 Stat. 679; Pub. L. 104-106, div. A, title XV, §§1502(a)(20), Feb. 10, 1996, 110 Stat. 504; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(13)], Oct. 30, 2000, 114 Stat. 1654, 1654A-291; Pub. L. 109-163, div. A, title VIII, §815(a)(1), (b), Jan. 6, 2006, 119 Stat. 3381; Pub. L. 110-181, div. A, title VIII, §824,

Jan. 28, 2008, 122 Stat. 227; Pub. L. 112-239, div. A, title X, § 1076(f)(26), Jan. 2, 2013, 126 Stat. 1953.

AMENDMENTS

2024—Subsec. (b)(5). Pub. L. 118-159 substituted “subsection if funds” for “subsection if—(A) funds” and period for semicolon at end and struck out former subpars. (B) and (C) which read as follows:

“(B) the Secretary of Defense submits to the congressional defense committees a certification that there is no alternative for meeting urgent operational requirements other than making the contract; and

“(C) a period of 30 days of continuous session of Congress has expired following the date on which the certification was received by such committees.”

2021—Pub. L. 116-283, § 1825(b), transferred subsecs. (a) and (b) of section 2401 of this title to this section.

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.

§ 3672. Requirement of specific authorization by law for appropriation, and for obligation and expenditure, of funds for certain contracts relating to aircraft, naval vessels, and combat vehicles

(a) LIMITATION.—Funds may not be appropriated for any fiscal year to or for any armed force or obligated or expended for—

(1) the long-term lease or charter of any aircraft, naval vessel, or combat vehicle; or

(2) for the lease or charter of any aircraft, naval vessel, or combat vehicle the terms of which provide for a substantial termination liability on the part of the United States,

unless funds for that purpose have been specifically authorized by law.

(b) MATTER TO BE SUBMITTED TO CONGRESS.—(1) Whenever a request is submitted to Congress for the authorization of the long-term lease or charter of aircraft, naval vessels, or combat vehicles or for the authorization of a lease or charter of aircraft, naval vessels, or combat vehicles which provides for a substantial termination liability on the part of the United States, the Secretary of Defense shall submit with that request an analysis of the cost to the United States (including lost tax revenues) of any such lease or charter arrangement compared with the cost to the United States of direct procurement of the aircraft, naval vessels, or combat vehicles by the United States.

(2) Any such analysis shall be reviewed and evaluated by the Director of the Office of Management and Budget and the Secretary of the Treasury within 30 days after the date on which the request and analysis are submitted to Congress. The Director and Secretary shall conduct such review and evaluation on the basis of the guidelines issued pursuant to section 3676 of this title and shall report to Congress in writing on the results of their review and evaluation at the earliest practicable date, but in no event more than 45 days after the date on which the request and analysis are submitted to the Congress.

(3) Whenever a request is submitted to Congress for the authorization of funds for the De-

partment of Defense for the long-term lease or charter of aircraft, naval vessels, or combat vehicles authorized under this chapter, the Secretary of Defense—

(A) shall indicate in the request what portion of the requested funds is attributable to capital-hire; and

(B) shall reflect such portion in the appropriate procurement account in the request.

(Added and amended Pub. L. 116-283, div. A, title XVIII, § 1825(a), (d), (e), Jan. 1, 2021, 134 Stat. 4206, 4207.)

Editorial Notes

CODIFICATION

The text of par. (1) of subsec. (c) of section 2401 of this title, which was transferred to this section, redesignated as subsec. (a), and amended by Pub. L. 116-283, § 1825(d), was based on Pub. L. 98-94, title XII, § 1202(a)(1), Sept. 24, 1983, 97 Stat. 679; Pub. L. 98-525, title XII, § 1232(a)(1), Oct. 19, 1984, 98 Stat. 2600; Pub. L. 109-163, div. A, title VIII, § 815(a)(2), Jan. 6, 2006, 119 Stat. 3381.

The text of subsec. (e) of section 2401 of this title, which was transferred to this section, redesignated as subsec. (b), and amended by Pub. L. 116-283, § 1825(e), was based on Pub. L. 98-94, title XII, § 1202(a)(1), Sept. 24, 1983, 97 Stat. 679; Pub. L. 109-163, div. A, title VIII, § 815(a)(3), Jan. 6, 2006, 119 Stat. 3381; Pub. L. 116-92, div. A, title XVII, § 1731(a)(48), Dec. 20, 2019, 133 Stat. 1815.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283, § 1825(d), after transfer of par. (2) of section 2401(c) of this title to section 3673 of this title, redesignated remainder of subsec. (c) of section 2401 of this title as subsec. (a) of this section, inserted heading, struck out par. (1) designation before “Funds may not”, and redesignated subpars. (A) and (B) of such former par. (1) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 116-283, § 1825(e), redesignated subsec. (e) of section 2401 of this title as subsec. (b) of this section, inserted heading, and substituted “section 3676 of this title” for “subsection (g)” in par. (2) and “this chapter” for “this section” in introductory provisions of par. (3).

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.

§ 3673. Limitation on indemnification

Funds appropriated to the Department of Defense may not be used to indemnify any person under the terms of a contract entered into under this chapter—

(1) for any amount paid or due by any person to the United States for any liability arising under the Internal Revenue Code of 1986; or

(2) to pay any attorneys’ fees in connection with such contract.

(Added and amended Pub. L. 116-283, div. A, title XVIII, § 1825(a), (c), Jan. 1, 2021, 134 Stat. 4206.)

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in par. (1), is classified generally to Title 26, Internal Revenue Code.