

provisions as par. (1)(A)(i) and (ii) and (B), respectively, redesignated subpar. (B)(i) and (ii) and its concluding provisions as par. (2)(A)(i) and (ii) and (B), respectively, and inserted par. headings.

Subsec. (a)(1)(A). Pub. L. 116-283, §1825(f)(2)(A), (B), substituted “In this chapter” for “In this section” and “paragraph (2)” for “subparagraph (B)” in introductory provisions.

Subsec. (b). Pub. L. 116-283, §1825(f)(3), after redesignation of section 2401(d)(2) of this title as subsec. (b) of this section, inserted heading, substituted “this chapter” for “this section” in introductory provisions, and redesignated subpar. (A) as par. (1) and subpar. (B) and its cls. (i) and (ii) as par. (2) and subpars. (A) and (B), respectively.

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.

§ 3675. Capital lease or lease-purchase treated as an acquisition

(a) IN GENERAL.—If a lease or charter covered by this chapter is a capital lease or a lease-purchase—

(1) the lease or charter shall be treated as an acquisition and shall be subject to all applicable statutory and regulatory requirements for the acquisition of aircraft, naval vessels, or combat vehicles; and

(2) funds appropriated to the Department of Defense for operation and maintenance may not be obligated or expended for the lease or charter.

(b) DEFINITIONS.—In this section, the terms “capital lease” and “lease-purchase” have the meanings given those terms in Appendix B to Office of Management and Budget Circular A-11, as in effect on January 6, 2006.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1825(a), (g), Jan. 1, 2021, 134 Stat. 4206, 4208.)

Editorial Notes

CODIFICATION

The text of subsec. (f) of section 2401 of this title, which was transferred to this section and amended by Pub. L. 116-283, §1825(g), was based on Pub. L. 109-163, div. A, title VIII, §815(c)(2), Jan. 6, 2006, 119 Stat. 3382; Pub. L. 111-84, div. A, title X, §1073(a)(24), Oct. 28, 2009, 123 Stat. 2473.

AMENDMENTS

2021—Pub. L. 116-283, §1825(g)(1)(A), transferred subsec. (f) of section 2401 of this title to this section, struck out subsec. (f) designation at beginning, and redesignated pars. (1) and (2) of such former subsec. (f) as subsecs. (a) and (b), respectively.

Subsec. (a). Pub. L. 116-283, §1825(g)(2), after redesignation of section 2401(f)(1) of this title as subsec. (a) of this section, inserted heading, substituted “this chapter” for “this section” in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 116-283, §1825(g)(3), after redesignation of section 2401(d)(2) of this title as subsec. (b) of this section, inserted heading and substituted “In this section” for “In this subsection”.

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.

§ 3676. Guidelines

The Director of the Office of Management and Budget and the Secretary of the Treasury shall jointly issue guidelines for determining under what circumstances the Department of Defense may use lease or charter arrangements for aircraft, naval vessels, and combat vehicles rather than directly procuring such aircraft, vessels, and combat vehicles.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1825(a), (h), Jan. 1, 2021, 134 Stat. 4206, 4208.)

Editorial Notes

CODIFICATION

The text of subsec. (g) of section 2401 of this title, which was transferred to this section and amended by Pub. L. 116-283, §1825(h), 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)(2), Oct. 19, 1984, 98 Stat. 2600; Pub. L. 109-163, div. A, title VIII, §815(c)(1), Jan. 6, 2006, 119 Stat. 3382.

AMENDMENTS

2021—Pub. L. 116-283, §1825(h), transferred subsec. (g) of section 2401 of this title to this section and struck out subsec. (g) designation at beginning.

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.

§ 3677. Contracts for lease or use of vessels for a term of greater than two years but less than five years: prior notice to congressional committees

The Secretary of a military department may make a contract for the lease of a vessel or for the provision of a service through use by a contractor of a vessel, the term of which is for a period of greater than two years, but less than five years, only if—

(1) the Secretary has notified the congressional defense committees of the proposed contract and included in such notification—

(A) a detailed description of the terms of the proposed contract and a justification for entering into the proposed contract rather than obtaining the capability provided for by the lease, charter, or services involved through purchase of the vessel;

(B) a determination that entering into the proposed contract as a means of obtaining the vessel is the most cost-effective means of obtaining such vessel; and

(C) a plan for meeting the requirement provided by the proposed contract upon completion of the term of the lease contract; and

(2) a period of 60 days has expired following the date on which notice was received by such committees.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (i), Jan. 1, 2021, 134 Stat. 4206, 4208.)

Editorial Notes

CODIFICATION

The text of subsec. (h) of section 2401 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1825(i), was based on Pub. L. 110–181, div. A, title X, §1011, Jan. 28, 2008, 122 Stat. 303; Pub. L. 112–239, div. A, title VIII, §821, title X, §1076(f)(26), Jan. 2, 2013, 126 Stat. 1830, 1953.

AMENDMENTS

2021—Pub. L. 116–283, §1825(i), transferred subsec. (h) of section 2401 of this title to this section and struck out subsec. (h) designation at beginning.

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.

§ 3678. Contracts with terms of 18 months or more: limitation

The Secretary of Defense or the Secretary of a military department may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, unless the Secretary has considered all costs of such contract (including estimated termination liability) and has determined in writing that the contract is in the best interest of the Government.

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1825(a), (j), Jan. 1, 2021, 134 Stat. 4206, 4208.)

Editorial Notes

CODIFICATION

The text of subsec. (b) of section 2401a of this title, which was transferred to this section and amended by Pub. L. 116–283, §1825(j), was based on Pub. L. 103–355, title III, §3065(a)(1), Oct. 13, 1994, 108 Stat. 3337; Pub. L. 104–106, div. A, title VIII, §807(a)(1)(A), Feb. 10, 1996, 110 Stat. 391.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, §9081, Nov. 21, 1989, 103 Stat. 1147, which was set out as a note under section 2401 of this title, prior to repeal by Pub. L. 103–355, §3065(b).

AMENDMENTS

2021—Pub. L. 116–283, §1825(j), transferred subsec. (b) of section 2401a of this title to this section and struck

out subsec. (b) designation and heading “Limitation on Contracts With Terms of 18 Months or More” at beginning.

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.

LEASES FOR TANKER AIRCRAFT UNDER MULTIYEAR AIRCRAFT-LEASE PILOT PROGRAM

Pub. L. 107–314, div. A, title I, §133, Dec. 2, 2002, 116 Stat. 2477, provided that: “The Secretary of the Air Force may not enter into a lease for the acquisition of tanker aircraft for the Air Force under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284; 10 U.S.C. 2401a note [now 10 U.S.C. 3678 note, set out below]) until—

“(1) the Secretary submits the report specified in subsection (c)(6) of such section; and

“(2) either—

“(A) authorization and appropriation of funds necessary to enter into such lease are provided by law; or

“(B) a new start reprogramming notification for the funds necessary to enter into such lease has been submitted in accordance with established procedures.”

MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM

Pub. L. 107–206, title I, §308, Aug. 2, 2002, 116 Stat. 841, provided that: “During the current fiscal year and hereafter, section 2533a of title 10, United States Code [now 10 U.S.C. 4862], shall not apply to any transaction entered into to acquire or sustain aircraft under the authority of section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284) [set out below].”

Pub. L. 107–117, div. A, title VIII, §8159, Jan. 10, 2002, 115 Stat. 2284, as amended by Pub. L. 107–248, title VIII, §8117, Oct. 23, 2002, 116 Stat. 1564; Pub. L. 113–76, div. C, title VIII, §8122, Jan. 17, 2014, 128 Stat. 133, provided that:

“(a) The Secretary of the Air Force may, from funds provided in this Act [see Tables for classification] or any future appropriations Act, establish and make payments on a multi-year pilot program for leasing general purpose Boeing 767 aircraft and Boeing 737 aircraft in commercial configuration.

“(b) Sections 2401 [see 10 U.S.C. 3671 et seq.] and 2401a [see 10 U.S.C. 3678, 3681] of title 10, United States Code, shall not apply to any aircraft lease authorized by this section.

“(c) Under the aircraft lease Pilot Program authorized by this section:

“(1) The Secretary may include terms and conditions in lease agreements that are customary in aircraft leases by a non-Government lessor to a non-Government lessee, but only those that are not inconsistent with any of the terms and conditions mandated herein. Notwithstanding the provisions of Section [sic] 3324 of Title 31, United States Code, payment for the acquisition of leasehold interests under this section may be made for each annual term up to one year in advance.

“(2) The term of any individual lease agreement into which the Secretary enters under this section shall not exceed 10 years, inclusive of any options to renew or extend the initial lease term.

“(3) The Secretary may provide for special payments in a lessor if the Secretary terminates or cancels the lease prior to the expiration of its term. Such special payments shall not exceed an amount equal to the value of 1 year’s lease payment under the lease.