

“(4) Subchapter IV of chapter 15 of title 31, United States Code shall apply to the lease transactions under this section, except that the limitation in section 1553(b)(2) shall not apply.

“(5) The Secretary shall lease aircraft under terms and conditions consistent with this section and consistent with the criteria for an operating lease as defined in OMB Circular A-11, as in effect at the time of the lease.

“(6) Lease arrangements authorized by this section may not commence until:

“(A) The Secretary submits a report to the congressional defense committees [Committees on Armed Services of the Senate and the House of Representatives and Subcommittees on Defense of the Committees on Appropriations] of the Senate and the House of Representatives outlining the plans for implementing the Pilot Program. The report shall describe the terms and conditions of proposed contracts and describe the expected savings, if any, comparing total costs, including operation, support, acquisition, and financing, of the lease, including modification, with the outright purchase of the aircraft as modified.

“(B) A period of not less than 30 calendar days has elapsed after submitting the report.

“(7) Repealed. Pub. L. 113-76, div. C, title VIII, § 8122, Jan. 17, 2014, 128 Stat. 133.]

“(8) The Air Force shall accept delivery of the aircraft in a general purpose configuration.

“(9) At the conclusion of the lease term, each aircraft obtained under that lease may be returned to the contractor in the same configuration in which the aircraft was delivered.

“(10) The present value of the total payments over the duration of each lease entered into under this authority shall not exceed 90 percent of the fair market value of the aircraft obtained under that lease.

“(d) No lease entered into under this authority shall provide for—

“(1) the modification of the general purpose aircraft from the commercial configuration, unless and until separate authority for such conversion is enacted and only to the extent budget authority is provided in advance in appropriations Acts for that purpose; or

“(2) the purchase of the aircraft by, or the transfer of ownership to, the Air Force.

“(e) The authority granted to the Secretary of the Air Force by this section is separate from and in addition to, and shall not be construed to impair or otherwise affect, the authority of the Secretary to procure transportation or enter into leases under a provision of law other than this section.

“(f) The authority provided under this section may be used to lease not more than a total of 100 Boeing 767 aircraft and 4 Boeing 737 aircraft for the purposes specified herein.

“(g) Notwithstanding any other provision of law, any payments required for a lease entered into under this Section, or any payments made pursuant to subsection (c)(3) above, may be made from appropriations available for operation and maintenance or for lease or procurement of aircraft at the time that the lease takes effect; appropriations available for operation and maintenance or for lease or procurement of aircraft at the time that the payment is due; or funds appropriated for those payments.”

LEASE OF FIREFIGHTING, CRASH RESCUE, AND SNOW REMOVAL EQUIPMENT

Pub. L. 105-262, title VIII, § 8126, Oct. 17, 1998, 112 Stat. 2333, provided that:

“(a) The Secretary of the Army and the Secretary of the Air Force may each enter into one or more multiyear leases of nontactical firefighting equipment, nontactical crash rescue equipment, or nontactical snow removal equipment. The period of a lease entered into under this section shall be for any period not in excess of 10 years. Any such lease shall provide that

performance under the lease during the second and subsequent years of the contract is contingent upon the appropriation of funds and shall provide for a cancellation payment to be made to the lessor if such appropriations are not made.

“(b) Lease payments made under subsection (a) shall be made from amounts provided in this or future appropriations Acts.

“(c) This section is effective for all fiscal years beginning after September 30, 1998.”

CHAPTER 258—OTHER TYPES OF CONTRACTS USED FOR PROCUREMENTS FOR PARTICULAR PURPOSES

Sec.

3681. Leasing of commercial vehicles and equipment.

§ 3681. Leasing of commercial vehicles and equipment

The Secretary of Defense may use leasing in the acquisition of commercial vehicles and equipment whenever the Secretary determines that such leasing is practicable and efficient.

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

Editorial Notes

CODIFICATION

The text of subsec. (a) of section 2401a of this title, which was transferred to this section and amended by Pub. L. 116-283, § 1825(k), was based on Pub. L. 104-106, div. A, title VIII, § 807(a)(1)(B), Feb. 10, 1996, 110 Stat. 391; Pub. L. 105-85, div. A, title X, § 1073(a)(52), Nov. 18, 1997, 111 Stat. 1903.

PRIOR PROVISIONS

A prior section 3681 was renumbered section 7251 of this title.

Another prior section 3681, act Aug. 10, 1956, ch. 1041, 70A Stat. 210, related to service listed in the official Army Register, prior to repeal by Pub. L. 85-861, § 36B(9), Sept. 2, 1958, 72 Stat. 1570. See section 122 of this title.

A prior section 3682, act Aug. 10, 1956, ch. 1041, 70A Stat. 210, provided that in computing length of service, no commissioned officer of the Army could be credited with service as a cadet at the Military Academy or as a midshipman at the Naval Academy, if he was appointed as a cadet or midshipman after Aug. 24, 1912, prior to repeal by Pub. L. 90-235, § 6(a)(2), Jan. 2, 1968, 81 Stat. 761. See section 971 of this title.

A prior section 3683, acts Aug. 10, 1956, ch. 1041, 70A Stat. 210; Aug. 25, 1959, Pub. L. 86-197, § 1(4), 73 Stat. 426, related to service credit for certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department, prior to repeal by Pub. L. 99-145, title XIII, § 1301(b)(1)(A), Nov. 8, 1985, 99 Stat. 735. Pub. L. 99-145, title XIII, § 1301(b)(1)(C), Nov. 8, 1985, 99 Stat. 735, provided that such repeal would not apply in the case of a person who performed active service described in section 3683 of this title as that section was in effect on the day before Nov. 8, 1985.

A prior section 3684 was renumbered section 7252 of this title.

A prior section 3685, acts Aug. 10, 1956, ch. 1041, 70A Stat. 211; Sept. 2, 1958, Pub. L. 85-861, § 1(89), 72 Stat. 1482, set forth restrictions on the consideration of a husband or child as the dependent of a female member of the Regular Army, Army National Guard of the United States or Army Reserve, prior to repeal by Pub. L. 90-235, § 7(a)(3), Jan. 2, 1968, 81 Stat. 763.

A prior section 3686, acts Aug. 10, 1956, ch. 1041, 70A Stat. 211; Sept. 24, 1980, Pub. L. 96-357, § 5(a), 94 Stat.

1182; Oct. 19, 1984, Pub. L. 98–525, title IV, § 414(a)(7)(A), 98 Stat. 2519, related to credit to members of Army National Guard of United States for service as members of Army National Guard, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§ 1662(g)(2), 1691, Oct. 5, 1994, 108 Stat. 2996, 3026, effective Dec. 1, 1994. See section 12602 of this title.

A prior section 3687, acts Aug. 10, 1956, ch. 1041, 70A Stat. 212; Sept. 2, 1958, Pub. L. 85–861, § 1(90), 72 Stat. 1482; Sept. 7, 1962, Pub. L. 87–649, § 6(d), 76 Stat. 494, related to compensation for members of Army other than of Regular Army, prior to repeal by Pub. L. 99–661, div. A, title VI, § 604(f)(1)(A), (g), Nov. 14, 1986, 100 Stat. 3877, 3878, applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die.

A prior section 3688, act Aug. 10, 1956, ch. 1041, 70A Stat. 212, related to payment of death gratuity to survivors of members of the Army, prior to repeal by Pub. L. 85–861, § 36B(10), Sept. 2, 1958, 72 Stat. 1570. See section 1475 et seq. of this title.

A prior section 3689, acts Aug. 10, 1956, ch. 1041, 70A Stat. 213; Sept. 26, 1961, Pub. L. 87–304, § 9(c), 75 Stat. 665, related to assignments and allotments of pay, prior to repeal by Pub. L. 87–649, §§ 14c(9), 15, Sept. 7, 1962, 76 Stat. 501, 502, effective Nov. 1, 1962. See section 701 of Title 37, Pay and Allowances of the Uniformed Services.

A prior section 3690, act Aug. 10, 1956, ch. 1041, 70A Stat. 213, exempted enlisted members of the Army, while on active duty, from arrest for any debt, unless it was contracted before enlistment and amounted to at least \$20 when first contracted, prior to repeal by Pub. L. 90–235, § 7(b)(1), Jan. 2, 1968, 81 Stat. 763.

Prior section 3691 was renumbered section 7253 of this title.

A prior section 3692, act Aug. 10, 1956, ch. 1041, 70A Stat. 213, provided qualifications to receive a rating as a pilot in time of peace, prior to repeal by Pub. L. 92–168, § 1(1), Nov. 24, 1971, 85 Stat. 489. See section 2003 of this title.

A prior section 3693, act Aug. 10, 1956, ch. 1041, 70A Stat. 214, provided for replacement of a lost or destroyed certificate of discharge from Army, prior to repeal by Pub. L. 90–235, § 7(a)(3), Jan. 2, 1968, 81 Stat. 763. See section 1041 of this title.

AMENDMENTS

2021—Pub. L. 116–283, § 1825(k), transferred subsec. (a) of section 2401a of this title to this section and struck out subsec. (a) designation and heading “Leasing of Commercial Vehicles and Equipment” 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.

Subpart D—General Contracting Provisions

Editorial Notes

AMENDMENTS

2021—Pub. L. 117–81, div. A, title XVII, § 1701(h)(1), Dec. 27, 2021, 135 Stat. 2140, amended subpart heading generally. Prior to amendment, heading read as follows: “General Contracting Requirements”.

2018—Pub. L. 115–232, div. A, title VIII, § 801(a), Aug. 13, 2018, 132 Stat. 1828, added subpart heading.

Statutory Notes and Related Subsidiaries

PILOT PROGRAM TO ACCELERATE CONTRACTING AND PRICING PROCESSES

Pub. L. 115–232, div. A, title VIII, § 890, Aug. 13, 2018, 132 Stat. 1919, as amended by Pub. L. 116–92, div. A, title VIII, § 825, Dec. 20, 2019, 133 Stat. 1491; Pub. L. 116–283, div. A, title XVIII, § 1831(j)(7), Jan. 1, 2021, 134 Stat. 4217; Pub. L. 117–263, div. A, title VIII, § 818, Dec. 23, 2022, 136 Stat. 2708; Pub. L. 118–31, div. A, title VIII, § 841, Dec. 22, 2023, 137 Stat. 339, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall establish a pilot program to reform and accelerate the contracting and pricing processes associated with contracts in excess of \$50,000,000 by—

“(1) basing price reasonableness determinations on actual cost and pricing data for purchases of the same or similar products for the Department of Defense; and

“(2) reducing the cost and pricing data to be submitted in accordance with chapter 271 of title 10, United States Code.

“(b) IMPLEMENTATION GUIDANCE.—The Secretary, acting through the Under Secretary of Defense for Acquisition and Sustainment, shall ensure that each senior contracting official (as defined in section 1737 of title 10, United States Code) for a contract described in subsection (a) has the discretion to implement the pilot program under this section efficiently and effectively by ensuring the following:

“(1) That the pilot program does not include any preferences for contract type or specific contract requirements.

“(2) That each Secretary of a military department has minimal reporting requirements to the Under Secretary of Defense for Acquisition and Sustainment with respect to the pilot program.

“(c) REPORT.—Not later than January 30, 2021, 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 results of the pilot program authorized under subsection (a).

“(d) SUNSET.—The authority to carry out the pilot program under this section shall expire on January 2, 2028.”

GUIDANCE AND TRAINING RELATED TO EVALUATING REASONABLENESS OF PRICE

Pub. L. 112–239, div. A, title VIII, § 831, Jan. 2, 2013, 126 Stat. 1842, provided that:

“(a) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall issue guidance on the use of the authority provided by sections 2306a(d) [now 10 U.S.C. 3705] and 2379 [now 10 U.S.C. 3455] of title 10, United States Code. The guidance shall—

“(1) include standards for determining whether information on the prices at which the same or similar items have previously been sold is adequate for evaluating the reasonableness of price;

“(2) include standards for determining the extent of uncertified cost information that should be required in cases in which price information is not adequate for evaluating the reasonableness of price;

“(3) ensure that in cases in which such uncertified cost information is required, the information shall be provided in the form in which it is regularly maintained by the offeror in its business operations; and

“(4) provide that no additional cost information may be required by the Department of Defense in any case in which there are sufficient non-Government sales to establish reasonableness of price.

“(b) TRAINING AND EXPERTISE.—Not later than 270 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall develop and begin implementation of a plan of action to—