

Subsec. (a)(3). Pub. L. 115-232, §211(1)(C), which directed substitution of “Under Secretaries of Defense” for “Under Secretary of Defense for Acquisition, Technology, and Logistics” in par. (3) of subsec. (a)(2), was executed by making the substitution in par. (3) of subsec. (a), to reflect the probable intent of Congress.

Subsec. (b)(2). Pub. L. 115-232, §211(2), inserted “the prototype” after “carry out”.

Subsec. (f)(3) to (5). Pub. L. 115-232, §211(3), added pars. (3) and (4) and redesignated former par. (3) as (5).

2017—Subsec. (a)(2)(A). Pub. L. 115-91, §864(a)(1), (2), in introductory provisions, substituted “for a transaction (for a prototype project)” for “for a prototype project”, “\$100,000,000” for “\$50,000,000”, and “\$500,000,000” for “\$250,000,000”.

Subsec. (a)(2)(B). Pub. L. 115-91, §864(a)(1), (3), in introductory provisions, substituted “for a transaction (for a prototype project)” for “for a prototype project” and “\$500,000,000” for “\$250,000,000”.

Subsec. (d)(1)(A). Pub. L. 115-91, §216, inserted “or nonprofit research institution” after “defense contractor”.

Subsec. (d)(1)(B). Pub. L. 115-91, §864(b), inserted “(including small businesses participating in a program described under section 9 of the Small Business Act (15 U.S.C. 638))” after “small businesses”.

Subsec. (d)(1)(C). Pub. L. 115-91, §864(c), substituted “provided by sources other than” for “provided by parties to the transaction”.

Subsec. (f)(1). Pub. L. 115-91, §864(d), inserted at end “A transaction includes all individual prototype sub-projects awarded under the transaction to a consortium of United States industry and academic institutions.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118-159, div. A, title VIII, §818(b), Dec. 23, 2024, 138 Stat. 1982, provided that: “This section [amending this section] and the amendments made by this section shall apply with respect to a transaction for a prototype project under section 4022(i) of title 10, United States Code, entered into on or after the date of the enactment of this section [Dec. 23, 2024].”

##### EFFECTIVE DATE OF 2023 AMENDMENT; IMPLEMENTATION

Pub. L. 118-31, div. A, title VIII, §822(b), Dec. 22, 2023, 137 Stat. 327, provided that: “The amendments made by this section [amending this section] shall apply with respect to transactions entered into on or after the date of the enactment of this Act [Dec. 22, 2023].”

Amendment by section 913(a)(3) of Pub. L. 118-31 effective 180 days after Dec. 22, 2023, with additional implementation requirements, see section 913(b)(1), (2) of Pub. L. 118-31, set out as notes under section 1766 of this title.

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(u)(2)(B), (F)(i)(IV) of 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.

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.

##### LIMITATION ON MISSILE DEFENSE AGENCY PRODUCTION OF SATELLITES AND GROUND SYSTEMS ASSOCIATED WITH OPERATION OF SUCH SATELLITES

Pub. L. 117-81, div. A, title XVI, §1662(a), Dec. 27, 2021, 135 Stat. 2103, which provided that the Director of the Missile Defense Agency could not authorize or obligate funding for a program of record for the production of satellites or ground systems associated with the operation of such satellites and could authorize, with the concurrence of the Space Acquisition Council, the pro-

duction of one or more prototype satellites, consistent with the requirements of the Missile Defense Agency, was repealed by Pub. L. 118-159, div. A, title XVI, §1649(b)(2), Dec. 23, 2024, 138 Stat. 2199. See section 5537 of this title.

##### RELAXATION OF DEPARTMENT OF DEFENSE OTHER TRANSACTION AUTHORITY REQUIREMENTS RELATED TO THE NATIONAL EMERGENCY FOR THE CORONAVIRUS DISEASE 2019

Pub. L. 116-136, div. B, title III, §13006, Mar. 27, 2020, 134 Stat. 522, provided that:

“(a) Notwithstanding paragraph (3) of section 2371b(a) of title 10, United States Code [now 10 U.S.C. 4022(a)], the authority of a senior procurement executive or director of the Defense Advanced Research Projects Agency or Missile Defense Agency under paragraph (2)(A) of such section [probably should be “subsection”], and the authority of the Under Secretaries of Defense under paragraph (2)(B) of such section [probably should be “subsection”], for any transaction related to the national emergency for the Coronavirus Disease 2019 (COVID-19) may be delegated to such officials in the Department of Defense as the Secretary of Defense shall specify for purposes of this section.

“(b)(1) Notwithstanding clause (ii) of section 2371b(a)(2)(B) of title 10, United States Code [now 10 U.S.C. 4022(a)(2)(B)], no advance notice to Congress is required under that clause for transitions described in that section that are related to the national emergency for the Coronavirus Disease 2019 (COVID-19).

“(2) In the event a transaction covered by paragraph (1) is carried out, the Under Secretary of Defense for Research and Engineering or the Under Secretary of Defense for Acquisition and Sustainment, as applicable, shall submit to the congressional defense committees a notice on the carrying out of such transaction as soon as is practicable after the commencement of the carrying out of such transaction.

“(3) In this subsection, the term ‘congressional defense committees’ has the meaning given such term in section 101(a)(16) of title 10, United States Code.”

##### REPEAL OF OBSOLETE AUTHORITY; TRANSITION PROVISION

Pub. L. 114-92, div. A, title VIII, §815(c), Nov. 25, 2015, 129 Stat. 896, provided that: “Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; [former] 10 U.S.C. 2371 note) is hereby repealed. Transactions entered into under the authority of such section 845 shall remain in force and effect and shall be modified as appropriate to reflect the amendments made by this section [enacting this section, amending former section 2302 of this title, and amending provisions set out as a note under section 4001 of this title].”

##### UPDATED GUIDANCE

Pub. L. 114-92, div. A, title VIII, §815(e), Nov. 25, 2015, 129 Stat. 896, provided that: “Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall issue updated guidance to implement the amendments made by this section [enacting this section, amending former section 2302 of this title, amending provisions set out as a note under section 4001 of this title, and repealing provisions formerly set out as a note under section 2371 of this title].”

#### § 4023. Procurement for experimental purposes

(a) AUTHORITY.—The Secretary of Defense and the Secretaries of the military departments may each buy ordnance, signal, chemical activity, transportation, energy, medical, space-flight, telecommunications, and aeronautical supplies, including parts and accessories, and designs thereof, that the Secretary of Defense or the Secretary concerned considers necessary for ex-

perimental or test purposes in the development of the best supplies that are needed for the national defense.

(b) PROCEDURES.—Purchases under this section may be made inside or outside the United States and by contract or otherwise. Chapter 137<sup>1</sup> of this title applies only when such purchases are made in quantities greater than necessary for experimentation, technical evaluation, assessment of operational utility, or safety or to provide a residual operational capability.

(Added Pub. L. 103–160, div. A, title VIII, §822(c)(1), Nov. 30, 1993, 107 Stat. 1706, §2373; amended Pub. L. 103–337, div. A, title X, §1070(g), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 104–106, div. A, title VIII, §812, Feb. 10, 1996, 110 Stat. 395; Pub. L. 114–92, div. A, title VIII, §814, Nov. 25, 2015, 129 Stat. 893; Pub. L. 115–232, div. A, title VIII, §886, Aug. 13, 2018, 132 Stat. 1916; renumbered §4023, Pub. L. 116–283, div. A, title XVIII, §1841(b)(1), Jan. 1, 2021, 134 Stat. 4243; Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(B), Dec. 27, 2021, 135 Stat. 2151.)

#### Editorial Notes

##### REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (b), was repealed by Pub. L. 116–283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2021, 134 Stat. 4149. For definition of “chapter 137 legacy provisions”, see section 3016 of this title.

##### PRIOR PROVISIONS

A prior section 4023, act Aug. 10, 1956, ch. 1041, 70A Stat. 233, related to employment of civilians in service club and library services, prior to repeal by Pub. L. 87–651, title I, §116(1), Sept. 7, 1962, 76 Stat. 513.

Provisions similar to those in this section were contained in sections 4504 and 9504 of this title, prior to repeal by Pub. L. 103–160, §822(c)(2).

##### AMENDMENTS

2021—Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2373 of this title as this section.

2018—Subsec. (a). Pub. L. 115–232 inserted “telecommunications,” after “space-flight.”

2015—Subsec. (a). Pub. L. 114–92, §814(a), inserted “transportation, energy, medical, space-flight,” before “and aeronautical supplies”.

Subsec. (b). Pub. L. 114–92, §814(b), substituted “only when such purchases are made in quantities greater than necessary for experimentation, technical evaluation, assessment of operational utility, or safety or to provide a residual operational capability” for “only when such purchases are made in quantity”.

1996—Subsec. (b). Pub. L. 104–106 inserted “only” after “applies” in second sentence.

1994—Subsec. (a). Pub. L. 103–337 substituted “chemical activity, and aeronautical supplies,” for “and chemical activity supplies.”

#### 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.

<sup>1</sup> See References in Text note below.

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.

#### § 4024. Merit-based award of grants for research and development

(a) It is the policy of Congress that an agency named in section 3063 of this title should not be required by legislation to award a new grant for research, development, test, or evaluation to a non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be awarded through merit-based selection procedures.

(b) A provision of law may not be construed as requiring a new grant to be awarded to a specified non-Federal Government entity unless that provision of law—

(1) specifically refers to this subsection;

(2) specifically identifies the particular non-Federal Government entity involved; and

(3) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in subsection (a).

(c) For purposes of this section, a grant is a new grant unless the work provided for in the grant is a continuation of the work performed by the specified entity under a preceding grant.

(d) This section shall not apply with respect to any grant that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an agency named in section 3063 of this title and to report on such matters to the Congress or any agency of the Federal Government.

(Added Pub. L. 103–355, title VII, §7203(a)(2), Oct. 13, 1994, 108 Stat. 3380, §2374; renumbered §4024 and amended Pub. L. 116–283, div. A, title XVIII, §§1841(b)(1), (c), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4243, 4294; Pub. L. 117–81, div. A, title XVII, §1701(u)(2)(B), (D), Dec. 27, 2021, 135 Stat. 2151; Pub. L. 118–31, div. A, title XVIII, §1801(a)(31), Dec. 22, 2023, 137 Stat. 685.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 4024 was renumbered section 7374 of this title.

##### AMENDMENTS

2023—Subsecs. (a), (d). Pub. L. 118–31 substituted “section 3063 of this title” for “section 2303(a) of this title”.

2021—Pub. L. 116–283, §1841(c), which directed the renumbering of section 2374 of this title as section 4008 instead of this section, was amended generally by Pub. L. 117–81, §1701(u)(2)(D), effective as if included therein, so that such renumbering was no longer directed.

Pub. L. 116–283, §1841(b)(1), as amended by Pub. L. 117–81, §1701(u)(2)(B), renumbered section 2374 of this title as this section.

Subsecs. (a), (d). Pub. L. 116–283, §1883(b)(2), which directed that each reference in the text of title 10 to a section that was redesignated by title XVIII of Pub. L. 116–283, as such section was in effect before the redesignation, be amended by striking such reference and inserting a reference to the appropriate redesignated sec-