

Statutory Notes and Related Subsidiaries**PROHIBITION ON TRANSFER OF FUNDS TO OTHER DEPARTMENTS AND AGENCIES**

Pub. L. 101-189, div. A, title XVI, §1604, Nov. 29, 1989, 103 Stat. 1598, provided that funds available for military functions of Department of Defense could not be made available to any other department or agency of Federal Government pursuant to a provision of law enacted after Nov. 29, 1989, unless, not less than 30 days before such funds were made available to such other department or agency, Secretary of Defense submitted to congressional defense committees a report describing effect on military preparedness of making such funds available to such department or agency, prior to repeal and restatement in section 2215 of Title 10, Armed Forces, by Pub. L. 103-160, div. A, title XI, §1106(a)(1), (b), Nov. 30, 1993, 107 Stat. 1750.

§ 1532. Withdrawal and credit

An amount available under law may be withdrawn from one appropriation account and credited to another or to a working fund only when authorized by law. Except as specifically provided by law, an amount authorized to be withdrawn and credited is available for the same purpose and subject to the same limitations provided by the law appropriating the amount. A withdrawal and credit is made by check and without a warrant.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 933.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 1532 | 31:628-1. | Sept. 6, 1950, ch. 896, §1210(less last proviso), 64 Stat. 765. |

The word “limitations” is substituted for “limitations, conditions, and restrictions” to eliminate unnecessary words.

§ 1533. Transfers of appropriations for salaries and expenses to carry out national defense responsibilities

An appropriation of an executive agency for salaries and expenses is available to carry out national defense responsibilities assigned to the agency under law. A transfer necessary to carry out this section may be made between appropriations or allocations within the executive agency. An allocation may not be made to an executive agency that can carry out with its regular personnel a defense activity assigned to it by using the authority of this section to realign its regular programs.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 933.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 1533 | 31:697. | June 2, 1951, ch. 121, ch. XI(proviso immediately before heading “Independent Offices”), 65 Stat. 61. |

The words “executive agency” are substituted for “department, agency, or corporation, in the executive branch of the Government” because of section 102 of the revised title. The words “authority of this section” are substituted for “foregoing authority” for clarity.

§ 1534. Adjustments between appropriations

(a) An appropriation available to an agency may be charged at any time during a fiscal year for the benefit of another appropriation available to the agency to pay costs—

(1) when amounts are available in both the appropriation to be charged and the appropriation to be benefited; and

(2) subject to limitations applicable to the appropriations.

(b) Amounts paid under this section are charged on a final basis during, or as of the close of, the fiscal year to the appropriation benefited. The appropriation charged under subsection (a) of this section shall be appropriately credited.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 933.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--|
| 1534(a) | 31:628a(1st sentence). | June 29, 1966, Pub. L. 89-473, §1, 80 Stat. 221. |
| 1534(b) | 31:628a(last sentence). | |

In subsection (a), the words “Subject to limitations applicable with respect to each appropriation concerned” are omitted as surplus. The words “or any bureau or office thereof” are omitted as being included in “agency”. The words “to pay costs” are substituted for “for the purpose of financing the procurement of materials and services, or financing other costs” to eliminate unnecessary words.

In subsection (b), the words “amounts paid under this section” are substituted for “such expenses so financed”, and the words “appropriations charged under subsection (a) of this section” are substituted for “financing appropriation”, for clarity.

§ 1535. Agency agreements

(a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if—

(1) amounts are available;

(2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;

(3) the agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and

(4) the head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

(b) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the order. A bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

(c) A condition or limitation applicable to amounts for procurement of an agency or unit

placing an order or making a contract under this section applies to the placing of the order or the making of the contract.

(d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is deobligated to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in—

- (1) providing goods or services; or
- (2) making an authorized contract with another person to provide the requested goods or services.

(e) This section does not—

- (1) authorize orders to be placed for goods or services to be provided by convict labor; or
- (2) affect other laws about working funds.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 933; Pub. L. 98–216, §1(2), Feb. 14, 1984, 98 Stat. 3.)

HISTORICAL AND REVISION NOTES 1982 ACT

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 1535(a) | 31:686(a)(1st sentence words before 15th comma, last proviso). | Mar. 4, 1915, ch. 143, §1(3d proviso on p. 1084), 38 Stat. 1084; May 21, 1920, ch. 194, §7(a), 41 Stat. 613; June 30, 1932, ch. 314, §601, 47 Stat. 417; restated July 20, 1942, ch. 507, 56 Stat. 661; Aug. 23, 1958, Pub. L. 85–726, §1407, 72 Stat. 808; Aug. 6, 1981, Pub. L. 97–31, §12(1), 95 Stat. 154; Dec. 29, 1981, Pub. L. 97–136, §11, 95 Stat. 1707. |
| 1535(b) | 31:686(a)(1st sentence 1st proviso). | |
| 1535(c) | 31:686(a)(1st sentence words between 15th comma and 1st proviso, last sentence). | |
| 1535(d) | 31:686(c). | May 21, 1920, ch. 194, §7(c), 41 Stat. 613; June 30, 1932, ch. 314, §601, 47 Stat. 417; restated June 26, 1943, ch. 150, §1, 57 Stat. 219. |
| | 31:686–1. | Sept. 6, 1950, ch. 896, §1210(last proviso), 64 Stat. 765. |
| 1535(e)(1) | 31:686b(a), (b). | June 30, 1932, ch. 314, §602(a), (b), (c)(related to §602), 47 Stat. 418. |
| 1535(e)(2) | 31:686b(c)(related to 31:686, 686b). | |

In the section, the word “agency” is substituted for “executive department or independent establishment of the Government” for clarity. See 12 Comp. Gen. 442 (1932) and *United States v. Mitchell*, 425 F. Supp. 917 (D.D.C. 1976). The words “major organizational unit” or “unit” are substituted for “bureau or office” for consistency in the revised title. The words “to fill the order” or “filling the order” are substituted for “such requisitioned” and “as may be requisitioned” for clarity and because of the restatement. The words “goods or services” are substituted for “materials, supplies, equipment, work, or services” to eliminate unnecessary words.

In subsection (a)(4), the words “the head of the agency decides” are added, and the words “commercial enterprise” are substituted for “private agencies”, for clarity. The words “by competitive bids” are omitted as surplus because of various procurement laws.

In subsection (b), the words “The Secretary of Defense” are added for clarity because of Comptroller General decision B–20179 (Apr. 1, 1981). The words “a military department of the Department of Defense” are substituted for “the Department of the Army, Navy Department” for consistency with title 10 and to apply the source provisions to the Department of the Air

Force because of sections 205(a) and 207(a) and (f) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501, 502), and section 1 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 488). The words “Secretary of Transportation in carrying out duties and powers related to aviation and the Coast Guard” are substituted for “Federal Aviation Agency, Coast Guard” to reflect the transfer of those functions to the Secretary of Transportation. The words “the Administrator of General Services” are added to reflect the transfer of the functions of the Bureau of Federal Supply of the Treasury Department to the Administrator by section 102(a) of the Act of June 30, 1949 (40:752(a)). The words “the Administrator of” are added before “Maritime Administration” for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (c), the words “pursuant to such order” are omitted as unnecessary.

Subsection (d) is substituted for the source provisions being restated to reflect decisions of the Comptroller General, including 31 Comp. Gen. 83 (1951), 34 Comp. Gen. 418 (1955), 39 Comp. Gen. 317 (1959), and 55 Comp. Gen. 1497 (1976).

In subsection (e), the words “any Government department or independent establishment, or any bureau or office thereof” and “except as otherwise provided by law” are omitted as unnecessary because of the restatement. The text of 31:686b(a) is omitted as executed.

1984 ACT

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---|---|
| 1535(a) | 31 App.:686(a) (1st sentence words before 15th comma, proviso) | May 21, 1920, ch. 194, §7(a) (1st, 2d sentences), 41 Stat. 613; June 30, 1932, ch. 314, §601, 47 Stat. 417; restated July 20, 1942, ch. 507, 56 Stat. 661; Aug. 23, 1958, Pub. L. 85–726, §1407, 72 Stat. 808; Aug. 6, 1981, Pub. L. 97–136, §11, 95 Stat. 1707; Oct. 15, 1982, Pub. L. 97–332, §1(1)–(3), 96 Stat. 1622. |
| 1535(b) | 31 App.:686(a) (1st sentence words between 15th comma and proviso, 2d sentence) | |
| 1535(c) | 31 App.:686(a) (last sentence) | May 21, 1920, ch. 194, 41 Stat. 607, §7(a) (last sentence); added Oct. 15, 1982, Pub. L. 97–332, §1(4), 96 Stat. 1622. |

Editorial Notes

AMENDMENTS

1984—Subsec. (a)(3). Pub. L. 98–216, §1(2)(A), inserted “or get by contract” after “provide”.

Subsec. (a)(4). Pub. L. 98–216, §1(2)(B), inserted “by contract” after “provided”.

Subsecs. (b), (c). Pub. L. 98–216, §1(2)(C)–(E), redesignated subsec. (c) as (b). Former subsec. (b), which provided that the Secretary of Defense, the Secretary of a military department of the Department of Defense, the Secretary of Transportation in carrying out duties and powers related to aviation and the Coast Guard, the Secretary of the Treasury, the Administrator of General Services, and the Administrator of the Maritime Administration could place orders under this section for goods and services that an agency or unit filling the order might be able to provide or procure by contract, was struck out.

Statutory Notes and Related Subsidiaries

PREVENTING ABUSE OF INTERAGENCY CONTRACTS

Pub. L. 110–417, [div. A], title VIII, §865, Oct. 14, 2008, 122 Stat. 4550, as amended by Pub. L. 115–232, div. A, title VIII, §875, Aug. 13, 2018, 132 Stat. 1906, provided that:

“(a) OFFICE OF MANAGEMENT AND BUDGET POLICY GUIDANCE.—

“(1) REPORT AND GUIDELINES.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], the Director of the Office of Management and Budget shall—

“(A) submit to Congress a comprehensive report on interagency acquisitions, including their frequency of use, management controls, cost-effectiveness, and savings generated; and

“(B) issue guidelines to assist the heads of executive agencies in improving the management of interagency acquisitions.

“(2) MATTERS COVERED BY GUIDELINES.—For purposes of paragraph (1)(B), the Director shall include guidelines on the following matters:

“(A) Procedures for the use of interagency acquisitions to maximize competition, deliver best value to executive agencies, and minimize waste, fraud, and abuse.

“(B) Categories of contracting inappropriate for interagency acquisition.

“(C) Requirements for training acquisition work-force personnel in the proper use of interagency acquisitions.

“(b) REGULATIONS REQUIRED.—

“(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], the Federal Acquisition Regulation shall be revised to require that—

“(A) all interagency assisted acquisitions include a written agreement between the requesting agency and the servicing agency assigning responsibility for the administration and management of the contract; and

“(B) all interagency assisted acquisitions include sufficient documentation to ensure an adequate audit.

“(2) MULTI-AGENCY CONTRACTS.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to require any multi-agency contract entered into by an executive agency after the effective date of such regulations to be supported by a business case analysis detailing the administration of such contract, including an analysis of all direct and indirect costs to the Federal Government of awarding and administering such contract and the impact such contract will have on the ability of the Federal Government to leverage its purchasing power.

“(c) AGENCY REPORTING REQUIREMENT.—The senior procurement executive for each executive agency shall, as directed by the Director of the Office of Management and Budget, submit to the Director annual reports on the actions taken by the executive agency pursuant to the guidelines issued under subsection (a).

“(d) DEFINITIONS.—In this section:

“(1) The term ‘executive agency’ has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 403(1)) [see 41 U.S.C. 133], except that, in the case of a military department, it means the Department of Defense.

“(2) The term ‘head of executive agency’ means the head of an executive agency except that, in the case of a military department, the term means the Secretary of Defense.

“(3) The term ‘interagency acquisition’ means a procedure by which an executive agency needing supplies or services (the requesting agency) obtains them from another executive agency (the servicing agency). The term includes acquisitions under section 1535 of title 31, United States Code (commonly referred to as the ‘Economy Act’), Federal Supply Schedules above \$500,000, and Governmentwide acquisition contracts.

“(4) The term ‘multi-agency contract’ means a task or delivery order contract established for use by more than one executive agency to obtain supplies and services, consistent with section 1535 of title 31,

United States Code (commonly referred to as the ‘Economy Act’).”

REVIEW AND ENHANCEMENT OF EXISTING AUTHORITIES FOR USING AIR FORCE AND AIR NATIONAL GUARD MODULAR AIRBORNE FIRE-FIGHTING SYSTEMS AND OTHER DEPARTMENT OF DEFENSE ASSETS TO FIGHT WILDFIRES

Pub. L. 108-136, div. A, title X, § 1058, Nov. 24, 2003, 117 Stat. 1619, as amended by Pub. L. 117-81, div. A, title X, § 1065, Dec. 27, 2021, 135 Stat. 1910, provided that:

“(a) REVIEW REQUIRED.—The Director of the Office of Management and Budget shall conduct a review of existing authorities regarding the use of Air Force and Air National Guard Modular Airborne Fire-Fighting Systems units and other Department of Defense assets to fight wildfires to ensure that, in accordance with applicable legal requirements, such assets are available in the most expeditious manner to fight wildfires on Federal lands or non-Federal lands at the request of a Federal agency or State government. In conducting the review, the Director shall specifically consider—

“(1) any adverse impact caused by the restrictions contained in section 1535(a)(4) of title 31, United States Code, or caused by the interpretation of such restrictions, on the ability of the Forest Service and other Federal agencies to procure such firefighting services; and

“(2) whether the authorities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including section 403(c) of such Act (42 U.S.C. 5170b), are being properly utilized to facilitate an expeditious Department of Defense response to State requests under, and consistent with, such Act for firefighting services.

“(b) DETERMINATION REQUIRED.—On the basis of the review, the Director shall make a determination regarding whether existing authorities are being used in a manner consistent with using the available capabilities of Department of Defense assets to fight wildfires in the most expeditious and efficacious way to minimize the risk to public safety.

“(c) EXPEDITED ECONOMY ACT REVIEW PROCESS.—If the Director determines under subsection (b) that existing authorities are adequate for the deployment of Department of Defense assets to fight wildfires, the Director shall develop and implement, subject to subsection (f), such modifications to the process for conducting the cost comparison required by section 1535(a)(4) of title 31, United States Code, as the Director considers appropriate to further expedite the procurement of such firefighting services.

“(d) DEVELOPMENT AND IMPLEMENTATION OF REVISED POLICIES.—If the Director determines under subsection (b) that the existing authorities or their use is inadequate or can be improved, the Director shall develop and implement, subject to subsection (f), such regulations, policies, and interagency procedures as may be necessary to improve the ability of the Department of Defense to respond to a request by a Federal agency or State government to assist in fighting wildfires on Federal lands or non-Federal lands under section 1535(a) of title 31, United States Code, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or both.

“(e) REPORTING REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act [Nov. 24, 2003], the Director shall transmit to Congress a report—

“(1) containing the results of the review conducted under subsection (a) and the determination made under subsection (b); and

“(2) based on such determination, describing the modifications proposed to be made to existing authorities under subsection (c) or (d), including whether there is a need for legislative changes to further improve the procedures for using Department of Defense assets to fight wildfires.

“(f) DELAYED IMPLEMENTATION.—The modifications described in the report prepared under subsection (e) to

be made to existing authorities under subsection (c) or (d) shall not take effect until the end of the 30-day period beginning on the date on which the report is transmitted to Congress.

“(g) UPDATED REVIEW AND ENHANCEMENT OF AUTHORITIES.—(1) Not later than 120 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022 [Dec. 27, 2021], the Director shall—

“(A) conduct a second review under subsection (a) and make a second determination under subsection (b); and

“(B) submit to Congress a report that includes—

“(i) the results of the second review and second determination required by subparagraph (A); and

“(ii) a description, based on such second determination, of any new modifications proposed to be made to existing authorities under subsection (c) or (d), including whether there is a need for legislative changes to further improve the procedures for using Department of Defense assets to fight wildfires.

“(2) Pursuant to the second determination under subsection (b) required by paragraph (1)(A), the Director shall develop and implement such modifications, regulations, policies, and interagency procedures as the Director determines appropriate pursuant to subsections (c) and (d). Any such modification, regulation, policy, or interagency procedure shall not take effect until the end of the 30-day period beginning on the date on which the report is submitted to Congress under paragraph (1)(B).”

PLACEMENT OF ORDERS BY CHIEF ADMINISTRATIVE OFFICER OF THE HOUSE OF REPRESENTATIVES

Pub. L. 107–206, title I, § 904, Aug. 2, 2002, 116 Stat. 876, provided that: “Nothing in section 1535 of title 31, U.S.C. (commonly referred to as the ‘Economy Act’), or any other provision of such title may be construed to prevent or restrict the Chief Administrative Officer of the House of Representatives from placing orders under such section during any fiscal year in the same manner and to the same extent as the head of any other major organizational unit with an agency may place orders under such section during a fiscal year.”

ECONOMY ACT PURCHASES

Pub. L. 103–355, title I, § 1074, Oct. 13, 1994, 108 Stat. 3271, provided that the Federal Acquisition Regulation was to be revised to include regulations governing the exercise of authority under this section for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies, and further provided for content of regulations, establishment of system to monitor procurements under regulations, and that section would cease to be effective one year after date on which final regulations took effect. Final regulations were published in the Federal Register Sept. 26, 1995, effective Oct. 1, 1995. See 60 F.R. 49720.

DEPARTMENT OF DEFENSE PURCHASES THROUGH OTHER AGENCIES

Pub. L. 105–261, div. A, title VIII, § 814, Oct. 17, 1998, 112 Stat. 2087, which directed Secretary of Defense, not later than 90 days after Oct. 17, 1998, to revise regulations issued pursuant to section 844 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103–160, see below) to cover certain purchases greater than the micro-purchase threshold and to provide for a streamlined method of compliance for any such purchase that is not greater than the simplified acquisition threshold, ceased to be effective 1 year after date on which final regulations took effect. Final regulations were published in the Federal Register Mar. 25, 1999, effective on that date. See 64 F.R. 14399.

Pub. L. 103–160, div. A, title VIII, § 844, Nov. 30, 1993, 107 Stat. 1720, directed Secretary of Defense, not later than six months after Nov. 30, 1993, to prescribe regulations governing exercise by Department of Defense of authority under this section to purchase goods and

services under contracts entered into or administered by another agency, and provided for content of regulations, establishment of system to monitor procurements under regulations, and that section would cease to be effective one year after date on which final regulations took effect. Final regulations were published in the Federal Register Sept. 26, 1995, effective Oct. 1, 1995. See 60 F.R. 49720.

ACQUISITION OF GOODS, SERVICES, OR SPACE BY SECRETARY OF SENATE AND SERGEANT AT ARMS AND DOORKEEPER OF SENATE

Pub. L. 101–163, title I, § 8, Nov. 21, 1989, 103 Stat. 1046, as amended by Pub. L. 112–10, div. B, title IX, § 1904, Apr. 15, 2011, 125 Stat. 170, provided that:

“(1) The Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate are authorized to acquire goods, services, or space from government agencies and units by agreement under the provisions of the Economy Act, 31 U.S.C. 1535, and to make advance payments in conjunction therewith, if required by the providing agency or establishment.

“(2) No advance payment may be made under paragraph (1) unless specifically provided for in the agreement. No agreement providing for advance payment may be entered into unless it contains a provision requiring the refund of any unobligated balance of the advance.

“(3) Agreement under paragraph (1) shall be in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.”

§ 1536. Crediting payments from purchases between executive agencies

(a) An advance payment made on an order under section 1535 of this title is credited to a special working fund that the Secretary of the Treasury considers necessary to be established. Except as provided in this section, any other payment is credited to the appropriation or fund against which charges were made to fill the order.

(b) An amount paid under section 1535 of this title may be expended in providing goods or services or for a purpose specified for the appropriation or fund credited. Where goods are provided from stocks on hand, the amount received in payment is credited so as to be available to replace the goods unless—

(1) another law authorizes the amount to be credited to some other appropriation or fund; or

(2) the head of the executive agency filling the order decides that replacement is not necessary, in which case, the amount received is deposited in the Treasury as miscellaneous receipts.

(c) This section does not affect other laws about working funds.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 934.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------------------|--|
| 1536(a) | 31:686(b)(1st, 2d sentences). | May 21, 1920, ch. 194, § 7(b), 41 Stat. 613; restated June 30, 1932, ch. 314, § 601, 47 Stat. 418. |
| 1536(b) | 31:686(b)(3d, last sentences). | |
| 1536(c) | 31:686b(c)(related to 31:686). | June 30, 1932, ch. 314, § 602(c)(related to § 601), 47 Stat. 418. |

In subsection (b), the words “providing goods or services” are substituted for “furnishing the materials,