CHAPTER 84—COMMERCIAL SPACE COMPETITIVENESS

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§ 5801. Findings

The Congress finds that—

(1) commercial activities of the private sector have substantially contributed to the strength of both the United States space program and the national economy;

(2) a robust United States space transportation capability remains a vital cornerstone of the United States space program;

(3) the availability of commercial launch services is essential for the continued growth of the United States commercial space sector;

(4) a timely extension of the excess third party claims payment provisions of chapter 701 of title 49 is appropriate and necessary to enable the private sector to continue covering maximum probable liability risks while protecting the private sector from uninsurable levels of liability which could hinder international competitiveness;

(5) a program to demonstrate how recipients of Federal grants can purchase launch services directly from the private sector has the potential to improve the capabilities of the United States commercial launch industry;

(6) improvements and additions to the Nation's space transportation infrastructure contribute to a robust and cost effective space transportation capability for both public sector and private sector users;

(7) private sector use of available Government facilities on a reimbursable basis contributes to a stronger commercial space sector;

(8) the Federal Government should purchase space goods and services which are commercially available, or could be made available commercially in response to a Government procurement request, whenever such goods or services meet Government mission requirements in a cost effective manner;

(9) it is appropriate for the Government to act as an anchor tenant for commercial space development projects which have a reasonable potential to develop non-Federal markets and which meet Federal needs in a cost effective manner; and

(10) the provision of compensation to commercial providers of space goods and services for termination of contracts at the convenience of the Government assists in enabling the private sector to invest in space activities which are initially dependent on Government purchases.

(Pub. L. 102–588, title V, § 501, Nov. 4, 1992, 106 Stat. 5122.)

CODIFICATION

In par. (4), ''chapter 701 of title 49'' substituted for ''the Commercial Space Launch Act [49 App. U.S.C. 2601 et seq.]'' on authority of Pub. L. 103–272, § 6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

SPACE COOPERATION WITH FORMER SOVIET REPUBLICS

Section 218 of Pub. L. 102–588 provided that:

''(a) REPORT TO CONGRESS.—Within one year after the date of enactment of this Act [Nov. 4, 1992], the President shall submit to Congress a report describing—

''(1) the opportunities for increased space related trade with the independent states of the former Soviet Union;

''(2) a technology procurement plan for identifying and evaluating all unique space hardware, space technology, and space services available to the United States from the independent states of the former Soviet Union, specifically including those technologies the National Aeronautics and Space Administration has identified as high priority in its Space Research and Technology Integrated Technology Plan.[;]

''(3) the trade missions carried out pursuant to subsection (c), including the private participation and the results of such missions;

''(4) the offices and accounts of the National Aeronautics and Space Administration to which expenses for either cooperative activities or procurement actions, involving the independent states of the former Soviet Union, are charged;

''(5) any barriers, regulatory or practical, that inhibit space-related trade between the United States and the independent states of the former Soviet Union, including such barriers in either the United States or the independent states; and

''(6) any anticompetitive issues raised by a potential acquisition.

''(b) NOTIFICATION TO CONGRESS.—If any United States Government agency denies a request for a license or other approval that may be necessary to conduct discussions on space-related matters with the independent states of the former Soviet Union, that agency shall immediately notify the Speaker of the House of Representatives and President of the Senate. Each such notification shall include a statement of the reasons for the denial.

''(c) ROLE OF THE OFFICE OF SPACE COMMERCE.—The Office of Space Commerce of the Department of Commerce is authorized and encouraged to conduct trade missions to appropriate independent states of the former Soviet Union for the purpose of familiarizing United States aerospace industry representatives with space hardware, space technologies, and space services that may be available from the independent states, and with the business practices and overall business climate in the independent states. The Office of Space Commerce shall also advise the Administrator [of the National Aeronautics and Space Administration] as to the impact on United States industry of each potential acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union, specifically including any anticompetitive issues the Office may observe.''

§ 5802. Definitions

For the purpose of this chapter—

(1) the term ''agency'' means an executive agency as defined by section 105 of title 5;

(2) the term ''anchor tenancy'' means an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable;

(3) the term ''commercial'' means having—

(A) private capital at risk, and

(B) primary financial and management responsibility for the activity reside with the private sector;

(4) the term ''cost effective'' means costing no more than the available alternatives, determined by a comparison of all related direct and indirect costs including, in the case of Government costs, applicable Government labor and overhead costs as well as contractor charges, and taking into account the ability of each alternative to accommodate mission requirements as well as the related factors of risk, reliability, schedule, and technical performance;

(5) the term ''launch'' means to place, or attempt to place, a launch vehicle and its payload, if any, in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space;

(6) the term ''launch services'' means activities involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch;

(7) the term ''launch support facilities'' means facilities located at launch sites or launch ranges that are required to support launch activities, including launch vehicle assembly, launch vehicle operations and control, communications, flight safety functions, and payload operations, control, and processing.[1]

(8) the term ''launch vehicle'' means any vehicle constructed for the purpose of operating in or placing a payload in, outer space or in suborbital trajectories, and includes components of that vehicle;

(9) the term ''payload'' means an object which a person undertakes to launch, and includes subcomponents of the launch vehicle specifically designed or adapted for that object;

(10) the term ''payload integration services'' means activities involved in integrating multiple payloads into a single payload for launch or integrating a payload with a launch vehicle;

(11) the term ''space recovery support facilities'' means facilities required to support activities related to the recovery of payloads returned from space to a space recovery site, including operations and control, communications, flight safety functions, and payload processing;

(12) the term ''space transportation infrastructure'' means facilities, associated equipment, and real property, including launch sites, launch support facilities, space recovery sites, and space recovery support facilities, required to perform launch or space recovery activities;

(13) the term ''State'' means the several States, the District of Columbia, Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(14) the term ''United States'' means the States, collectively.

(Pub. L. 102–588, title V, § 502, Nov. 4, 1992, 106 Stat. 5123.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title V of Pub. L. 102–588, Nov. 4, 1992, 106 Stat. 5122, which enacted this chapter and amended section 2454 of Title 42, The Public Health and Welfare, and section 2615 of former Title 49, Transportation. For complete classification of title V to the Code, see Tables.

[1] So in original. The period probably should be a semicolon.

§ 5803. Launch voucher demonstration program

(a) Commercial space voucher demonstration program; effective period

The Administrator shall establish a demonstration program to award vouchers for the payment of commercial launch services and payload integration services for the purpose of launching payloads funded by the National Aeronautics and Space Administration to become effective October 1, 1993.

(b) Award of vouchers

The Administrator shall award vouchers under subsection (a) of this section to appropriate individuals as a part of grants administered by the National Aeronautics and Space Administration for the launch of—

(1) payloads to be placed in suborbital trajectories; and

(2) small payloads to be placed in orbit.

(c) Assistance

The Administrator may provide voucher award recipients with such assistance, including contract formulation and technical support during the proposal evaluation, as may be necessary, to ensure the purchase of cost effective and reasonably reliable commercial launch services and payload integration services.

(d) Report

The Administrator shall conduct an ongoing review of the program established under this section, and shall, not later than January 31, 1995, report to Congress the results of such a review, together with recommendations for further action relating to the program.

(Pub. L. 102–588, title V, § 504, Nov. 4, 1992, 106 Stat. 5124; Pub. L. 105–303, title I, § 103, Oct. 28, 1998, 112 Stat. 2851.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–303, § 103(1), struck out ''the Office of Commercial Programs within'' after ''payloads funded by'' and struck out at end ''Such program shall not be effective after September 30, 1995.''

Subsecs. (c) to (e). Pub. L. 105–303, § 103(2), (3), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out heading and text of former subsec. (c). Text read as follows: ''In carrying out the demonstration program established under subsection (a) of this section, the Administrator, in awarding vouchers, is limited to the launch of payloads funded by the Office of Commercial Programs within the National Aeronautics and Space Administration.''

''ADMINISTRATOR'' DEFINED

Administrator means Administrator of the National Aeronautics and Space Administration, see section 102(f) of Pub. L. 102–588, 106 Stat. 5110.

§ 5804. Repealed. Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379

Section, Pub. L. 102–588, title V, § 505, Nov. 4, 1992, 106 Stat. 5124, related to space transportation infrastructure matching grants. See sections 70301 to 70305 of Title 49, Transportation.

§ 5805. Identification of launch support facilities

(a) Identification

The Administrator and the Secretary of Defense, as appropriate, in coordination with the Secretary of Transportation, shall conduct an inventory and identify all launch support facilities owned by the United States Government. To the extent practicable, the Administrator and the Secretary of Defense shall also identify any launch support facilities which could be made available for use by non-Federal entities on a reimbursable basis without interfering with Federal activities.

(b) Report to Congress

Not later than 1 year after November 4, 1992, the Administrator and the Secretary of Defense each shall submit to Congress a report containing the results of the identification required under subsection (a) of this section. Portions of such report may be classified and protected from public disclosure if such classification is necessary to protect national security.

(Pub. L. 102–588, title V, § 506, Nov. 4, 1992, 106 Stat. 5127.)

"ADMINISTRATOR" DEFINED

Administrator means Administrator of the National Aeronautics and Space Administration, see section 102(f) of Pub. L. 102–588, 106 Stat. 5110.

§ 5806. Anchor tenancy and termination liability

(a) Anchor tenancy contracts

Subject to appropriations, the Administrator[1] or the Administrator of the National Oceanic and Atmospheric Administration may enter into multiyear anchor tenancy contracts for the purchase of a good or service if the appropriate Administrator determines that—

(1) the good or service meets the mission requirements of the National Aeronautics and Space Administration or the National Oceanic and Atmospheric Administration, as appropriate;

(2) the commercially procured good or service is cost effective;

(3) the good or service is procured through a competitive process;

(4) existing or potential customers for the good or service other than the United States Government have been specifically identified;

(5) the long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and

(6) private capital is at risk in the venture.

(b) Termination liability

(1) Contracts entered into under subsection (a) of this section may provide for the payment of termination liability in the event that the Government terminates such contracts for its convenience.

(2) Contracts that provide for the payment of termination liability, as described in paragraph (1), shall include a fixed schedule of such termination liability payments. Liability under such contracts shall not exceed the total payments which the Government would have made after the date of termination to purchase the good or service if the contract were not terminated.

(3) Subject to appropriations, funds available for such termination liability payments may be used for purchase of the good or service upon successful delivery of the good or service pursuant to the contract. In such case, sufficient funds shall remain available to cover any remaining termination liability.

(c) Limitations

(1) Contracts entered into under this section shall not exceed 10 years in duration.

(2) Such contracts shall provide for delivery of the good or service on a firm, fixed price basis.

(3) To the extent practicable, reasonable performance specifications shall be used to define technical requirements in such contracts.

(4) In any such contract, the appropriate Administrator shall reserve the right to completely or partially terminate the contract without payment of such termination liability because of the contractor's actual or anticipated failure to perform its contractual obligations.

(Pub. L. 102–588, title V, § 507, Nov. 4, 1992, 106 Stat. 5127.)

"ADMINISTRATOR" DEFINED

Administrator means Administrator of the National Aeronautics and Space Administration, see section 102(f) of Pub. L. 102–588, 106 Stat. 5110.

§ 5807. Use of Government facilities

(a) Authority

Federal agencies, including the National Aeronautics and Space Administration and the Department of Defense, may allow non-Federal entities to use their space-related facilities on a reimbursable basis if the Administrator, the Secretary of Defense, or the appropriate agency head determines that—

(1) the facilities will be used to support commercial space activities;

(2) such use can be supported by existing or planned Federal resources;

(3) such use is compatible with Federal activities;

(4) equivalent commercial services are not available on reasonable terms; and

(5) such use is consistent with public safety, national security, and international treaty obligations.

In carrying out paragraph (5), each agency head shall consult with appropriate Federal officials.

(b) Reimbursement payment

(1) The reimbursement referred to in subsection (a) of this section may be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the use of such facilities by the private sector. For the purposes of this paragraph, the term "direct costs" means the actual costs that can be unambiguously associated with such use, and would not be borne by the United States Government in the absence of such use.

(2) The amount of any payment received by the United States for use of facilities under this

[1] See "Administrator" Defined note below.

subsection shall be credited to the appropriation from which the cost of providing such facilities was paid.

(Pub. L. 102–588, title V, § 508, Nov. 4, 1992, 106 Stat. 5128.)

''ADMINISTRATOR'' DEFINED

Administrator means Administrator of the National Aeronautics and Space Administration, see section 102(f) of Pub. L. 102–588, 106 Stat. 5110.

§ 5808. Commercial Space Achievement Award

(a) Establishment

There is established a Commercial Space Achievement Award. The award shall consist of a medal, which shall be of such design and materials and bear such inscriptions as determined by the Secretary of Commerce. A cash prize may also be awarded if funding for the prize is available under subsection (d) of this section.

(b) Criteria for award

The Secretary of Commerce shall periodically make, and the Chairman of the National Space Council shall present, awards under this section to individuals, corporations, corporate divisions, or corporate subsidiaries substantially engaged in commercial space activities who in the opinion of the Secretary of Commerce best meet the following criteria:

(1) For corporate entities, at least one-half of the revenues from the space-related activities of the corporation, division, or subsidiary is derived from sources other than the United States Government.

(2) The activities and achievements of the individual, corporation, division, or subsidiary have substantially contributed to the United States gross national product and the stature of United States industry in international markets, with due consideration for both the economic magnitude and the technical quality of the activities and achievements.

(3) The individual, corporation, division, or subsidiary has substantially advanced space technology and space applications directly related to commercial space activities.

(c) Limitations

No individual or corporate entity may receive an award under this section more than once every 5 years.

(d) Funding for award

The Secretary of Commerce may seek and accept gifts of money from public and private sources for the purpose of making cash prize awards under this section. Such money may be used only for that purpose, only such money may be used for that purpose, and the Secretary of Commerce shall make publicly available an itemized list of the sources of such funding.

(Pub. L. 102–588, title V, § 510, Nov. 4, 1992, 106 Stat. 5129.)

CHAPTER 85—ARMORED CAR INDUSTRY RECIPROCITY

Sec.
5901. Findings.
5902. State reciprocity of weapons licenses issued to armored car company crew members.
5903. Relation to other laws.
5904. Definitions.

§ 5901. Findings

Congress finds that—

(1) the distribution of goods and services to consumers in the United States requires the free flow of currency, bullion, securities, supplemental nutrition assistance program benefits, and other items of unusual value in interstate commerce;

(2) the armored car industry transports and protects such items in interstate commerce, including daily transportation of currency and supplemental nutrition assistance program benefits valued at more than $1,000,000,000;

(3) armored car crew members are often subject to armed attack by individuals attempting to steal such items;

(4) to protect themselves and the items they transport, such crew members are armed with weapons;

(5) various States require both weapons training and a criminal record background check before licensing a crew member to carry a weapon; and

(6) there is a need for each State to reciprocally accept weapons licenses of other States for armored car crew members to assure the free and safe transport of valuable items in interstate commerce.

(Pub. L. 103–55, § 2, July 28, 1993, 107 Stat. 276; Pub. L. 110–234, title IV, § 4002(b)(1)(E), (2)(L), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, § 4(a), title IV, § 4002(b)(1)(E), (2)(L), June 18, 2008, 122 Stat. 1664, 1857, 1858.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Pars. (1), (2). Pub. L. 110–246, § 4002(b)(1)(E), (2)(L), substituted ''supplemental nutrition assistance program benefits'' for ''food stamps''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(E), (2)(L) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–287, § 1, Oct. 27, 1998, 112 Stat. 2776, provided that: ''This Act [amending section 5902 of this title and enacting provisions set out as a note under section 5902 of this title] may be cited as the 'Armored Car Reciprocity Amendments of 1998'.''

SHORT TITLE

Section 1 of Pub. L. 103–55 provided that: ''This Act [enacting this chapter] may be cited as the 'Armored Car Industry Reciprocity Act of 1993'.''