

ated under Office of Management and Budget Circular A-76 on or after Jan. 1, 2004; and to any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A-76, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A-76, on or after Dec. 26, 2007, see section 739(c)(3) of Pub. L. 110-161, set out as a note under section 501 of this title.

Amendment by Pub. L. 110-161 applicable with respect to fiscal year 2008 and each succeeding fiscal year, see section 739(e) of Pub. L. 110-161, set out as a note under section 501 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title III, §326(d), Oct. 28, 2004, 118 Stat. 1848, provided that: “The amendments made by this section [amending this section and sections 3552 and 3553 of this title] shall apply to protests filed under subchapter V of chapter 35 of title 31, United States Code, that relate to studies initiated under Office of Management and Budget Circular A-76 on or after the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 28, 2004].”

#### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 2220 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 8752 of Title 10, Armed Forces.

#### EFFECTIVE DATE

Section applicable with respect to any protest filed after Jan. 14, 1985, see section 2751(b) of Pub. L. 98-369, set out as a note under section 2302 of Title 10, Armed Forces.

#### CONSTRUCTION OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title III, §326(e), Oct. 28, 2004, 118 Stat. 1849, provided that: “The amendments made by this section [amending this section and sections 3552 and 3553 of this title] shall not be construed to authorize the use of a protest under subchapter V of chapter 35 of title 31, United States Code, with regard to a decision made by an agency tender official.”

### § 3552. Protests by interested parties concerning procurement actions

(a) A protest concerning an alleged violation of a procurement statute or regulation shall be decided by the Comptroller General if filed in accordance with this subchapter.

(b)(1) In the case of an agency tender official who is an interested party under section 3551(2)(B) of this title, the official may file a protest in connection with the public-private competition for which the official is an interested party. At the request of a majority of the employees of the Federal agency who are engaged in the performance of the activity or function subject to such public-private competition, the official shall file a protest in connection with such public-private competition unless the official determines that there is no reasonable basis for the protest.

(2) The determination of an agency tender official under paragraph (1) whether or not to file a protest is not subject to administrative or judi-

cial review. An agency tender official shall provide written notification to Congress whenever the official makes a determination under paragraph (1) that there is no reasonable basis for a protest.

(Added Pub. L. 98-369, div. B, title VII, §2741(a), July 18, 1984, 98 Stat. 1199; amended Pub. L. 103-272, §4(f)(1)(L), July 5, 1994, 108 Stat. 1362; Pub. L. 103-355, title X, §10005(d), Oct. 13, 1994, 108 Stat. 3408; Pub. L. 104-106, div. E, title LVI, §5603, Feb. 10, 1996, 110 Stat. 700; Pub. L. 108-375, div. A, title III, §326(b), Oct. 28, 2004, 118 Stat. 1848.)

### Editorial Notes

#### AMENDMENTS

2004—Pub. L. 108-375 designated existing provisions as subsec. (a) and added subsec. (b).

1996—Pub. L. 104-106 struck out at end “An interested party who has filed a protest under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) with respect to a procurement or proposed procurement may not file a protest with respect to that procurement under this subchapter.”

1994—Pub. L. 103-272 and Pub. L. 103-355 amended section identically, substituting “section 111(f)” for “section 111(h)” and “759(f)” for “759(h)”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-375 applicable to protests filed under this subchapter that relate to studies initiated under Office of Management and Budget Circular A-76 on or after the end of the 90-day period beginning on Oct. 28, 2004, see section 326(d) of Pub. L. 108-375, set out as a note under section 3551 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, div. E, title LVII, Feb. 10, 1996, 110 Stat. 702.

#### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 8752 of Title 10, Armed Forces.

#### EFFECTIVE DATE

Section applicable with respect to any protest filed after Jan. 14, 1985, see section 2751(b) of Pub. L. 98-369, set out as a note under section 4751 of Title 10, Armed Forces.

#### CONSTRUCTION OF 2004 AMENDMENT

Amendment by Pub. L. 108-375 not to be construed to authorize the use of a protest under this subchapter with regard to a decision made by an agency tender official, see section 326(e) of Pub. L. 108-375, set out as a note under section 3551 of this title.

### § 3553. Review of protests; effect on contracts pending decision

(a) Under procedures prescribed under section 3555 of this title, the Comptroller General shall decide a protest submitted to the Comptroller General by an interested party.

(b)(1) Within one day after the receipt of a protest, the Comptroller General shall notify the Federal agency involved of the protest.

(2) Except as provided in paragraph (3) of this subsection, a Federal agency receiving a notice