

Stat. 2255; Pub. L. 112-239, div. A, title VIII, § 867, Jan. 2, 2013, 126 Stat. 1862.)

Editorial Notes

REFERENCES IN TEXT

Section 3(a) of the Small Business Act, referred to in subsec. (c)(2), is classified to section 632(a) of Title 15, Commerce and Trade.

AMENDMENTS

2013—Subsec. (e)(2). Pub. L. 112-239 inserted at end “The report shall also include a summary of the most prevalent grounds for sustaining protests during such preceding year.”

2009—Subsec. (b)(1)(C) to (H). Pub. L. 111-84 added subpar. (C), redesignated former subpars. (C) to (G) as (D) to (H), respectively, and substituted “, (E), and (F)” for “, and (E)” in subpar. (G).

1996—Subsec. (a)(1). Pub. L. 104-106, § 5501(2)(A), substituted “100 days” for “125 days”.

Subsec. (b)(2). Pub. L. 104-106, § 4321(d)(3), substituted “section 3553(d)(3)(C)(i)(L)” for “section 3553(d)(2)(A)(i)”.

Subsec. (e)(1). Pub. L. 104-106, § 5501(2)(B)(i), substituted “Government Reform and Oversight” for “Government Operations”.

Subsec. (e)(2). Pub. L. 104-106, § 5501(2)(B)(ii), substituted “100 days” for “125 days”.

1994—Subsec. (a)(1). Pub. L. 103-355, § 1403(a)(1), substituted “125 days after” for “90 working days from”.

Subsec. (a)(2). Pub. L. 103-355, § 1403(a)(2), substituted “65 days after” for “45 calendar days from”.

Subsec. (a)(3), (4). Pub. L. 103-355, § 1403(a)(3), (4), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(3). Pub. L. 103-355, § 1403(b)(1), added par. (3).

Subsec. (c). Pub. L. 103-355, § 1403(b)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may declare an appropriate interested party to be entitled to the costs of—

“(A) filing and pursuing the protest, including reasonable attorneys’ fees; and

“(B) bid and proposal preparation.

“(2) Monetary awards to which a party is declared to be entitled under paragraph (1) of this subsection shall be paid promptly by the Federal agency concerned out of funds available to or for the use of the Federal agency for the procurement of property and services.”

Subsec. (e). Pub. L. 103-355, § 1403(b)(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows:

“(e)(1) The head of the procuring activity responsible for the solicitation, proposed award, or award of the contract shall report to the Comptroller General, if the Federal agency has not fully implemented those recommendations within 60 days of receipt of the Comptroller General’s recommendations under subsection (b) of this section.

“(2) Not later than January 31 of each year, the Comptroller General shall transmit to Congress a report describing each instance in which a Federal agency did not fully implement the Comptroller General’s recommendations during the preceding fiscal year.”

1988—Subsec. (a)(1). Pub. L. 100-463 struck out “unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period” after “submitted to the Comptroller General” before period at end.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Gov-

ernmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-84 applicable to any protest or civil action that relates to a public-private competition conducted after Oct. 28, 2009, under Office of Management and Budget Circular A-76, or any successor circular, and to a decision made after Oct. 28, 2009, to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A-76, see section 327(d) of Pub. L. 111-84, set out as a note under section 3551 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by section 4321(d)(3) of 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.

Amendment by section 5501(2) of 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.

INCLUSION OF INFORMATION ON COMMON GROUNDS FOR SUSTAINING BID PROTESTS IN ANNUAL GOVERNMENT ACCOUNTABILITY OFFICE REPORTS TO CONGRESS

Pub. L. 114-328, div. A, title VIII, § 889, Dec. 23, 2016, 130 Stat. 2323, provided that: “The Comptroller General of the United States shall include in the annual report to Congress on the Government Accountability Office each year a list of the most common grounds for sustaining protests relating to bids for contracts during such year.”

PROMPT PAYMENT OF COSTS UNDER PRIOR LAW

Pub. L. 103-355, title I, § 1403(b)(4), Oct. 13, 1994, 108 Stat. 3290, provided that: “Costs to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act [Oct. 13, 1994], shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly.”

§ 3555. Regulations; authority of Comptroller General to verify assertions

(a) The Comptroller General shall prescribe such procedures as may be necessary to the ex-

peditious decision of protests under this subchapter, including procedures for accelerated resolution of protests under the express option authorized by section 3554(a)(2) of this title. Such procedures shall provide that the protest process may not be delayed by the failure of a party to make a filing within the time provided for the filing.

(b) The procedures shall provide that, in the computation of any period described in this subchapter—

(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

(2) the last day after such act, event, or default be included, unless—

(A) such last day is a Saturday, a Sunday, or a legal holiday; or

(B) in the case of a filing of a paper at the Government Accountability Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the Government Accountability Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

(c) ELECTRONIC FILING AND DOCUMENT DISSEMINATION SYSTEM.—

(1) ESTABLISHMENT AND OPERATION OF SYSTEM.—The Comptroller General shall establish and operate an electronic filing and document dissemination system under which, in accordance with procedures prescribed by the Comptroller General—

(A) a person filing a protest under this subchapter may file the protest through electronic means; and

(B) all documents and information required with respect to the protest may be disseminated and made available to the parties to the protest through electronic means.

(2) IMPOSITION OF FEES.—

(A) IN GENERAL.—The Comptroller General may require each person who files a protest under this subchapter to pay a fee to support the establishment and operation of the electronic system under this subsection, without regard to whether or not the person uses the system with respect to the protest.

(B) AMOUNT.—The Comptroller General shall establish (and from time to time shall update) a schedule setting forth the amount of the fee to be paid under subparagraph (A).

(3) TREATMENT OF AMOUNTS COLLECTED.—

(A) ESTABLISHMENT OF ACCOUNT.—The Comptroller General shall maintain a separate account among the accounts of the Government Accountability Office for the electronic system under this subsection, and shall deposit all amounts received as fees under paragraph (2) into the account.

(B) USE OF AMOUNTS.—Amounts in the account maintained under this paragraph shall be available to the Comptroller General, without fiscal year limitation, solely to establish and operate the electronic system under this subsection.

(d) The Comptroller General may use any authority available under chapter 7 of this title

and this chapter to verify assertions made by parties in protests under this subchapter.

(Added Pub. L. 98-369, div. B, title VII, §2741(a), July 18, 1984, 98 Stat. 1202; amended Pub. L. 103-355, title I, §1404, Oct. 13, 1994, 108 Stat. 3291; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 113-76, div. I, title I, §1501, Jan. 17, 2014, 128 Stat. 433.)

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2014—Subsec. (c). Pub. L. 113-76 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.”

2004—Subsec. (b)(2)(B). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in two places.

1994—Subsec. (a). Pub. L. 103-355, §1404(c), substituted “The Comptroller General” for “Not later than January 15, 1985, the Comptroller General”.

Subsecs. (b) to (d). Pub. L. 103-355, §1404(a), (b), added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

Statutory Notes and Related Subsidiaries

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.

§ 3556. Nonexclusivity of remedies; matters included in agency record

This subchapter does not give the Comptroller General exclusive jurisdiction over protests, and nothing contained in this subchapter shall affect the right of any interested party to file a protest with the contracting agency or to file an action in the United States Court of Federal Claims. In any such action based on a procurement or proposed procurement with respect to which a protest has been filed under this subchapter, the reports required by sections 3553(b)(2) and 3554(e)(1) of this title with respect to such procurement or proposed procurement and any decision or recommendation of the Comptroller General under this subchapter with respect to such procurement or proposed procurement shall be considered to be part of the agency record subject to review.

(Added Pub. L. 98-369, div. B, title VII, §2741(a), July 18, 1984, 98 Stat. 1202; amended Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 104-320, §12(f), Oct. 19, 1996, 110 Stat. 3876.)

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1996—Pub. L. 104-320, which directed the amendment of this section by striking “a court of the United