

commitment was made it was impracticable to use normal procurement procedures.

(Pub. L. 85-804, § 2, Aug. 28, 1958, 72 Stat. 972.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 2304 of title 10, referred to in subd. (e), was amended generally by Pub. L. 98-369 and, as so amended, did not contain a subsec. (a)(15). Section 2304 was repealed by Pub. L. 116-283, div. A, title XVIII, §§ 1801(d), 1881(a), Jan. 1, 2021, 134 Stat. 4151, 4293, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law.

Section 252(c)(13) of title 41, referred to in subd. (e), was renumbered section 252(c)(14) of former Title 41, Public Contracts, by Pub. L. 85-800, § 2(b), Aug. 28, 1958, 72 Stat. 966. Subsequently, Pub. L. 98-369 amended section 252 of former Title 41 by striking out subsec. (c), redesignating subsec. (e) as (c)(1), and adding subsec. (c)(2).

#### Statutory Notes and Related Subsidiaries

##### NONAPPLICABILITY OF NATIONAL EMERGENCIES ACT

The provisions of the National Emergencies Act [see Short Title note set out under section 1601 of this title] shall not apply to the powers and authorities conferred by this section and actions taken hereunder, see section 1651(a)(4) of this title.

#### § 1433. Public record; examination of records by Comptroller General; exemptions: exceptional conditions; reports to Congress

(a) All actions under the authority of this chapter shall be made a matter of public record under regulations prescribed by the President and when deemed by him not to be detrimental to the national security.

(b) All contracts entered into, amended, or modified pursuant to authority contained in this chapter shall include a clause to the effect that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of and involving transactions related to such contracts or subcontracts. Under regulations to be prescribed by the President, however, such clause may be omitted from contracts with foreign contractors or foreign subcontractors if the agency head determines, with the concurrence of the Comptroller General of the United States or his designee, that the omission will serve the best interests of the United States. However, the concurrence of the Comptroller General of the United States or his designee is not required for the omission of such clause—

(1) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its books, documents, papers, or records available for examination; and

(2) where the agency head determines, after taking into account the price and availability of the property or services from United States sources, that the public interest would be best served by the omission of the clause.

If the clause is omitted based on a determination under clause (2), a written report shall be furnished to the Congress.

(Pub. L. 85-804, § 3, Aug. 28, 1958, 72 Stat. 972; Pub. L. 89-607, § 3, Sept. 27, 1966, 80 Stat. 851.)

#### Editorial Notes

##### AMENDMENTS

1966—Subsec. (b). Pub. L. 89-607 provided for exemption of certain contracts with foreign contractors from the requirement for an examination-of-records clause, such determination to be reported to Congress.

#### Statutory Notes and Related Subsidiaries

##### NONAPPLICABILITY OF THE NATIONAL EMERGENCIES ACT

The provisions of the National Emergencies Act [see Short Title note set out under section 1601 of this title] shall not apply to the powers and authorities conferred by this section and actions taken hereunder, see section 1651(a)(4) of this title.

#### Executive Documents

##### EXEMPTION OF FUNCTIONS

Functions with respect to purchases authorized to be made outside the limits of the United States or the District of Columbia under the Foreign Assistance Act of 1961, as amended [see Short Title note set out under section 2151 of Title 22, Foreign Relations and Inter-course], as exempt, see Ex. Ord. No. 11223, eff. May 12, 1965, 30 F.R. 6635, set out under section 2393 of Title 22.

##### FOREIGN CONTRACTORS

Secretaries of Defense, Army, Navy, or Air Force, or their designees, to determine, prior to exercising the authority provided in the amendment by Pub. L. 89-607 to exempt certain contracts with foreign contractors from the requirement of an examination-of-records clause, that all reasonable efforts have been made to include such examination-of-records clause, as required by par. 11 of Part I of Ex. Ord. No. 10789, and that alternate sources of supply are not reasonably available, see par. 11 of Part I of Ex. Ord. No. 10789, eff. Nov. 14, 1958, 23 F.R. 8897, as amended, set out under section 1431 of this title.

#### § 1434. Repealed. Pub. L. 105-362, title IX, § 901(r)(1)(A), Nov. 10, 1998, 112 Stat. 3291

Section, Pub. L. 85-804, § 4, Aug. 28, 1958, 72 Stat. 972; Pub. L. 104-66, title III, § 3001(g), Dec. 21, 1995, 109 Stat. 734, related to reports to Congress by departments and agencies acting under authority of this chapter and requirement that such reports be published in the Congressional Record.

#### § 1435. Effective period

This chapter shall be effective only during a national emergency declared by Congress or the President and for six months after the termination thereof or until such earlier time as Congress, by concurrent resolution, may designate. (Pub. L. 85-804, § 4, formerly § 5, Aug. 28, 1958, 72 Stat. 973; renumbered § 4, Pub. L. 105-362, title IX, § 901(r)(1)(B), Nov. 10, 1998, 112 Stat. 3291.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 4 of Pub. L. 85-804 was classified to section 1434 of this title prior to repeal by Pub. L. 105-362.

#### Statutory Notes and Related Subsidiaries

##### NONAPPLICABILITY OF NATIONAL EMERGENCIES ACT

The provisions of the National Emergencies Act [see Short Title note under section 1601 of this title] shall