

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.

#### CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental 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.

#### 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 2302 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 2302 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.

#### PROMPT PAYMENT OF COSTS UNDER PRIOR LAW

Section 1403(b)(4) of Pub. L. 103-355 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 expeditious 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) 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.

(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.)

#### AMENDMENTS

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).

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 2302 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.

**§ 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.)

AMENDMENTS

1996—Pub. L. 104-320, which directed the amendment of this section by striking “a court of the United States or” in first sentence, was executed by striking “a district court of the United States or” after “to file an action in” in first sentence to reflect the probable intent of Congress.

1992—Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-320 effective Jan. 1, 2001, see section 12(f) of Pub. L. 104-320, set out as a Non-exclusivity of GAO Remedies note below.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

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.

NONEXCLUSIVITY OF GAO REMEDIES

Section 12(f) of Pub. L. 104-320 provided that: “In the event that the bid protest jurisdiction of the district courts of the United States is terminated pursuant to subsection (d) [set out as a Sunset Provision note under

section 1491 of Title 28, Judiciary and Judicial Procedure], then section 3556 of title 31, United States Code, shall be amended by striking ‘a court of the United States or’ in the first sentence.” [Bid protest jurisdiction of the district courts of the United States terminated on Jan. 1, 2001, pursuant to section 12(d) of Pub. L. 104-320.]

**§ 3557. Expedited action in protests of public-private competitions**

For any protest of a public-private competition conducted under Office of Management and Budget Circular A-76 with respect to the performance of an activity or function of a Federal agency, the Comptroller General shall administer the provisions of this subchapter in the manner best suited for expediting the final resolution of the protest and the final action in the public-private competition.

(Added Pub. L. 110-181, div. A, title III, §326(b)(1), Jan. 28, 2008, 122 Stat. 63; amended Pub. L. 110-417, [div. A], title X, §1061(c)(2), Oct. 14, 2008, 122 Stat. 4613.)

CODIFICATION

Another section 3557, added Pub. L. 110-161, div. D, title VII, §739(c)(1)(B)(i), Dec. 26, 2007, 121 Stat. 2030, related to an expedited action in protests for public-private competitions, prior to repeal by Pub. L. 110-417, [div. A], title X, §1061(c)(1), Oct. 14, 2008, 122 Stat. 4613.

AMENDMENTS

2008—Pub. L. 110-417 substituted “public-private” for “Public-Private” in section catchline.

SUBCHAPTER VI—RECOVERY AUDITS<sup>1</sup>

AMENDMENTS

2010—Pub. L. 111-204, §2(h)(6)(A)(i), July 22, 2010, 124 Stat. 2231, struck out heading “SUBCHAPTER VI—RECOVERY AUDITS”.

**[§ 3561. Repealed. Pub. L. 111-204, §2(h)(6)(A)(i), July 22, 2010, 124 Stat. 2231]**

Section, added Pub. L. 107-107, div. A, title VIII, §831(a)(1), Dec. 28, 2001, 115 Stat. 1186, related to identification of errors made by executive agencies in payments to contractors and recovery of amounts erroneously paid.

**§ 3562. Disposition of recovered funds**

(a) AVAILABILITY OF FUNDS FOR RECOVERY AUDITS AND ACTIVITIES PROGRAM.—Funds collected under a program carried out by an executive agency under section 3561<sup>1</sup> of this title shall be available to the executive agency for the following purposes:

(1) To reimburse the actual expenses incurred by the executive agency in the administration of the program.

(2) To pay contractors for services under the program in accordance with the guidance issued under section 3561(c)(5)<sup>1</sup> of this title.

[(b), (c). Repealed. Pub. L. 111-204, §2(h)(6)(A)(i), July 22, 2010, 124 Stat. 2231.]

(Added Pub. L. 107-107, div. A, title VIII, §831(a)(1), Dec. 28, 2001, 115 Stat. 1187; Pub. L. 111-204, §2(h)(6)(A), July 22, 2010, 124 Stat. 2231.)

<sup>1</sup> Editorially supplied.

<sup>1</sup> See References in Text and Codification notes below.