

(b) To place a fair proportion of the total purchases with small business concerns in accordance with section 302(b) of the Federal Property and Administrative Services Act of 1949, as amended [41 U.S.C. 252(b)], section 2(b) of the Armed Services Procurement Act of 1947, as amended [41 U.S.C. 151(b)], and section 202 of the Small Business Act of 1953 [15 U.S.C. 631]; or

(c) To reject a bid or offer to furnish material of foreign origin in any situation in which the domestic supplier offering the lowest price for furnishing the desired materials undertakes to produce substantially all of such materials in areas of substantial unemployment, as determined by the Secretary of Labor in accordance with such appropriate regulations as he may establish and during such period as the President may determine that it is in the national interest to provide to such areas preference in the award of Government contracts: *Provided*, that nothing in this section shall prevent the rejection of a bid or offered price which is excessive; or

(d) To reject any bid or offer for materials of foreign origin if such rejection is necessary to protect essential national-security interests after receiving advice with respect thereto from the President or from the Director of the Federal Emergency Management Agency. In providing this advice the Director shall be governed by the principle that exceptions under this section shall be made only upon a clear showing that the payment of a greater differential than the procedures of this section generally prescribe is justified by consideration of national security.

SEC. 4. The head of each executive agency shall issue such regulations as may be necessary to insure that procurement practices under his jurisdiction conform to the provisions of this order.

SEC. 5. This order shall apply only to contracts entered into after the date hereof. In any case in which the head of an executive agency proposing to purchase domestic materials determines that a greater differential than that provided in this order between the cost of such materials of domestic origin and materials of foreign origin is not unreasonable or that the purchase of materials of domestic origin is not inconsistent with the public interest, this order shall not apply. A written report of the facts of each case in which such a determination is made shall be submitted to the President through the Director of the Office of Management and Budget by the official making the determination within 30 days thereafter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 5528.

§ 11. No contracts or purchases unless authorized or under adequate appropriation; report to the Congress

(a) No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment, except in the Department of Defense and in the Department of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, for clothing, subsistence, forage, fuel, quarters,¹ transportation, or medical and hospital supplies, which, however, shall not exceed the necessities of the current year.

(b) The Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy shall immediately advise the Congress of the exercise of the authority granted in subsection (a) of this section, and shall report quarterly on the estimated obligations incurred pursuant to the authority granted in subsection (a) of this section.

¹ So in original.

(R.S. § 3732; June 12, 1906, ch. 3078, 34 Stat. 255; Oct. 15, 1966, Pub. L. 89-687, title VI, § 612(e), 80 Stat. 993; Oct. 30, 1984, Pub. L. 98-557, § 17(e), 98 Stat. 2868.)

CODIFICATION

R.S. § 3732 derived from act Mar. 2, 1861, ch. 84, § 10, 12 Stat. 220.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-557, § 17(e)(1)(A), substituted “except in the Department of Defense and in the Department of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy” for “except in the War and Navy Departments”.

Pub. L. 98-557, § 17(e)(1)(B), substituted “, transportation, or medical and hospital supplies” for “or transportation”, such change having been made by Act June 12, 1906, thereby requiring no further change in text. See Repeals note below.

Subsec. (b). Pub. L. 98-557, § 17(e)(2), inserted provisions relating to the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

1966—Pub. L. 89-687 designated existing provisions as subsec. (a) and added subsec. (b).

1906—Act June 12, 1906, inserted “medical and hospital supplies”.

REPEALS

The first proviso under the heading “MEDICAL DEPARTMENT” in act June 12, 1906, ch. 3078, 34 Stat. 255, cited as a credit to this section, was repealed by Pub. L. 98-557, § 17(e)(3), Oct. 30, 1984, 98 Stat. 2868.

CROSS REFERENCES

Contracts for Indian supplies in advance of appropriations, see section 99 of Title 25, Indians.

Expenditure by any department in excess of appropriations prohibited, see section 1341 of Title 31, Money and Finance.

Printing appropriations not to be exceeded, see section 1102 of Title 44, Public Printing and Documents.

Projects under Mexican treaties, authority to enter into contracts beyond amount appropriated, notwithstanding this section, see section 277d-3 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 2201; title 19 section 2081; title 22 section 277d-3; title 26 section 7608; title 33 section 891d; title 42 section 9619.

§ 11a. Contracts for fuel by Secretary of the Army without regard to current fiscal year

When, in the opinion of the Secretary of the Army, it is in the interest of the United States so to do, he is authorized to enter into contracts and to incur obligations for fuel in sufficient quantities to meet the requirements for one year without regard to the current fiscal year, and payments for supplies delivered under such contracts may be made from funds appropriated for the fiscal year in which the contract is made, or from funds appropriated or which may be appropriated for such supplies for the ensuing fiscal year.

(June 30, 1921, ch. 33, § 1, 42 Stat. 78; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

Section was formerly classified to section 668 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, § 1, Sept. 13, 1982, 96 Stat. 877.