

1986, see section 3(a) of Pub. L. 99-634, set out as an Effective Date of 1986 Amendment note under section 51 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51, 52 of this title.

**§ 56. Administrative offsets**

**(a) Offset authority**

A contracting officer of a contracting agency may offset the amount of a kickback provided, accepted, or charged in violation of section 53 of this title against any moneys owed by the United States to the prime contractor under the prime contract to which such kickback relates.

**(b) Duties of prime contractor**

(1) Upon direction of a contracting officer of a contracting agency with respect to a prime contract, the prime contractor shall withhold from any sums owed to a subcontractor under a subcontract of the prime contract the amount of any kickback which was or may be offset against that prime contractor under subsection (a) of this section.

(2) Such contracting officer may order that sums withheld under paragraph (1)—

(A) be paid over to the contracting agency;

or

(B) if the United States has already offset the amount of such sums against that prime contractor, be retained by the prime contractor.

(3) The prime contractor shall notify the contracting officer when an amount is withheld and retained under paragraph (2)(B).

**(c) Claim of Government**

An offset under subsection (a) of this section or a direction or order of a contracting officer under subsection (b) of this section is a claim by the Government for the purposes of the Contract Disputes Act of 1978 [41 U.S.C. 601 et seq.].

**(d) "Contracting officer" defined**

As used in this section, the term "contracting officer" has the meaning given that term for the purposes of the Contract Disputes Act of 1978 [41 U.S.C. 601 et seq.].

(Mar. 8, 1946, ch. 80, §6, as added Nov. 7, 1986, Pub. L. 99-634, §2(a), 100 Stat. 3524.)

REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in subsections (c) and (d), is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, as amended, which is classified principally to chapter 9 (§601 et seq.) of this title. For complete classification of this Act to the Code see Short Title note set out under section 601 of this title and Tables.

EFFECTIVE DATE

Section effective with respect to conduct described in section 53 of this title which occurs on or after Nov. 7, 1986, see section 3(a) of Pub. L. 99-634, set out as an Effective Date of 1986 Amendment note under section 51 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51, 52 of this title.

**§ 57. Contractor responsibilities**

**(a) Procedural requirements for prevention and detection of violations**

Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall have in place and follow reasonable procedures designed to prevent and detect violations of section 53 of this title in its own operations and direct business relationships.

**(b) Cooperation in investigations requirement**

Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall cooperate fully with any Federal Government agency investigating a violation of section 53 of this title.

**(c) Reporting requirement; supplying information as favorable evidence of responsibility**

(1)(A) Whenever a prime contractor or subcontractor has reasonable grounds to believe that a violation of section 53 of this title may have occurred, the prime contractor or subcontractor shall promptly report the possible violation in writing.

(B) A contractor shall make the reports required by subparagraph (A) to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(2) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts with the Federal Government, evidence that such person has supplied information to the United States pursuant to paragraph (1) shall be favorable evidence of such person's responsibility for the purposes of Federal procurement laws and regulations.

**(d) Partial inapplicability to small contracts**

Subsections (a) and (b) of this section do not apply to a prime contract that is not greater than \$100,000 or to a prime contract for the acquisition of commercial items (as defined in section 403(12)<sup>1</sup> of this title).<sup>2</sup>

**(e) Cooperation in investigations regardless of contract amount**

Notwithstanding subsection (d) of this section, a prime contractor shall cooperate fully with any Federal Government agency investigating a violation of section 53 of this title.

(Mar. 8, 1946, ch. 80, §7, as added Nov. 7, 1986, Pub. L. 99-634, §2(a), 100 Stat. 3525; amended Oct. 13, 1994, Pub. L. 103-355, title IV, §4104(a), title VIII, §8301(c)(1), 108 Stat. 3341, 3397.)

REFERENCES IN TEXT

Section 403(12) of this title, referred to in subsec. (d), was in the original "section 4(12) of such Act (41 U.S.C. 403(12))", and was translated as meaning section 4(12) of the Office of Federal Procurement Policy Act, Pub. L. 93-400, to reflect the probable intent of Congress.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-355, §8301(c)(1), inserted before period at end "or to a prime contract for the ac-

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original.