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## EXECUTIVE ORDER NO. 10925

Ex. Ord. No. 10925, Mar. 6, 1961, 26 F.R. 1977, which related to nondiscrimination provisions in Government contracts and established the President's Committee on Equal Employment Opportunity, was revoked by section 403 of Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, set out as a note under section 2000e of Title 42, The Public Health and Welfare.

**§§ 1 to 4a. Repealed. Oct. 21, 1941, ch. 452, 55 Stat. 743**

Section 1, R.S. §512; act Feb. 4, 1929, ch. 146, §§1, 3, 45 Stat. 1147, establish a return office for filing returns of contracts made by Secretaries of War, Navy and Interior and appointed a clerk for this office.

Section 2, R.S. §513, required clerk to file all returns.

Section 3, R.S. §514, required clerk to keep an index book.

Section 4, R.S. §515, required clerk to provide certified copies of any returns for an established fee.

Section 4a, act Feb. 4, 1929, ch. 146, §§1, 3, 45 Stat. 1147, transferred returns office to General Accounting Office and imposed duties relating thereto upon Comptroller General.

**§ 5. Advertisements for proposals for purchases and contracts for supplies or services for Government departments; application to Government sales and contracts to sell and to Government corporations**

Unless otherwise provided in the appropriation concerned or other law, purchases and contracts for supplies or services for the Government may be made or entered into only after advertising a sufficient time previously for proposals, except (1) when the amount involved in any one case does not exceed \$25,000, (2) when the public exigencies require the immediate delivery of the articles or performance of the service, (3) when only one source of supply is available and the Government purchasing or contracting officer shall so certify, or (4) when the services are required to be performed by the contractor in person and are (A) of a technical and professional nature or (B) under Government supervision and paid for on a time basis. Except (1) as authorized by section 1638<sup>1</sup> of Appendix to title 50, (2) when otherwise authorized by law, or (3) when the reasonable value involved in any one case does not exceed \$500, sales and contracts of sale by the Government shall be governed by the requirements of this section for advertising.

In the case of wholly owned Government corporations, this section shall apply to their administrative transactions only.

(R.S. §3709; Aug. 2, 1946, ch. 744, §9(a), (c), 60 Stat. 809; June 30, 1949, ch. 288, title VI, §602(f), formerly title V, §502(e), 63 Stat. 403; renumbered Sept. 5, 1950, ch. 849, §§6(a), (b), 8(c), 64 Stat. 583, and amended Pub. L. 85-800, §7, Aug. 28, 1958, 72 Stat. 967; Pub. L. 93-356, §1, July 25, 1974, 88 Stat. 390; Pub. L. 98-191, §9(b), Dec. 1, 1983, 97 Stat. 1332.)

## REFERENCES IN TEXT

Section 1638 of Appendix to title 50, referred to in text, was repealed by act June 30, 1949, ch. 288, title VI, §602(a)(1), formerly title V, §502(a)(1), 63 Stat. 399, eff. July 1, 1949, renumbered by act Sept. 5, 1950, ch. 849, §6(a), (b), 64 Stat. 583. See section 471 et seq. of Title 40, Public Buildings, Property, and Works.

## CODIFICATION

R.S. §3709 derived from act Mar. 2, 1861, ch. 84, §10, 12 Stat. 220.

Section is also set out in the District of Columbia Code, §1-1110.

## AMENDMENTS

1983—Pub. L. 98-191 substituted "\$25,000" for "\$10,000".

1974—Pub. L. 93-356 substituted "\$10,000" for "\$2,500".

1958—Pub. L. 85-800 substituted "\$2,500" for "\$500".

1949—Act June 30, 1949, substituted "\$500" for "\$100".

1946—Act Aug. 2, 1946, among other changes, inserted cls. (1), (3), and (4), and made section applicable to sales and contracts of sale by the Government, except in certain cases.

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

## EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, set out as an Effective Date note under section 471 of Title 40, Public Buildings, Property, and Works.

## EXEMPTION OF FUNCTIONS

Functions authorized by Foreign Assistance Act of 1961, as amended, as exempt, see Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out as a note under section 2393 of Title 22, Foreign Relations and Intercourse.

## SECTION INAPPLICABLE TO ARMED SERVICES AND NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Section inapplicable to procurement of supplies or services by Armed Services and National Aeronautics and Space Administration, see section 2314 of Title 10, Armed Forces.

## REPEAL OF EXEMPTIONS

Section 9(b) of act Aug. 2, 1946, provided: "Exemptions from section 3709, Revised Statutes [this section], in other law in amounts of \$100 or less are hereby repealed."

## CROSS REFERENCES

Architect of Capitol, procurement of supplies and services, see section 6a-1 of this title.

Armed services, procurement of supplies and services, see sections 2301 et seq. and 2381 et seq. of Title 10, Armed Forces.

## Conservation, National Park Service—

Hiring of work animals and equipment not required to comply with this section in certain cases, see section 17i of Title 16, Conservation.

Seeding and tree planting within national forests, open purchases without advertisement, see section 504 of Title 16.

Services and accommodations for public in national parks and national monuments, see section 17b of Title 16.

Contracts for transportation of moneys, bullion, coin, etc., see section 24 of this title.

Control of coal-mine fires, employment of equipment by Secretary of Interior without regard to this section, see section 556 of Title 30, Mineral Lands and Mining.

Definition of terms employed in this section, see section 5a of this title.

Farm Credit Administration, maintenance and disposal of properties by, see section 1141b of Title 12, Banks and Banking.

Farm Housing, service and supply contracts less than specified amount unaffected by provisions of this section, see section 1480 of Title 42, The Public Health and Welfare.

Federal Deposit Insurance Corporation, Comptroller General authorized for purposes of audit thereof to employ by contract professional services of firms and organizations of certified public accountants without regard to this section, see section 1827 of Title 12, Banks and Banking.

## Federal Power Commission—

Bonneville power project, purchase of supplies and services without advertisement, see section 832g of Title 16, Conservation.

Contracts for engraving, lithographing, and photolithographing, without advertisement for proposals, see section 825k of Title 16.

Fort Peck power project, purchase of supplies and services without advertisement, see section 833f of Title 16.

Fishery resources, authority of Secretary of Interior to contract to utilize state facilities and services without regard to this section, see section 757 of Title 16.

Highway research program, inapplicability of this section to contracts, see section 307 of Title 23, Highways.

House of Representatives, procurement of packing boxes, see section 100 of Title 2, The Congress.

## Housing—

Contracts for hazard insurance and purchases by Federal Housing Commissioner, excepted, see sections 1703, 1710, and 1713 of Title 12, Banks and Banking.

Purchases and contracts by Department of Housing and Urban Development and Office of Thrift Supervision excepted from this section, see section 1701c of Title 12.

Purchases and contracts for services or supplies under specified amount for national defense housing excepted from this section, see section 1750c of Title 12.

International health research, authority of President to contract with public and nonprofit private institutions and agencies and individuals in participating foreign countries without regard to provisions of this section, see section 2103 of Title 22, Foreign Relations and Intercourse.

Menominee Indian Reservation, supplies for operations on reservation, and sale of Indian-produced forest products, see section 6b of this title.

National Fisheries Center and Aquarium, authority of Secretary of Interior to provide for vessels for specimen collecting purposes without regard to this section, see section 1052 of Title 16, Conservation.

National Science Foundation, contracts and other arrangements, see section 1870 of Title 42, The Public Health and Welfare.

Procurement of transportation services from common carrier, exception of, see section 10721 of Title 49, Transportation.

## Public Printing—

Authority required to authorize publication of advertisements, notices, or proposals for any Executive Department, see section 3702 of Title 44, Public Printing and Documents.

Purchase of paper and materials for the Government Printing Office, see section 501 et seq. of Title 44.

Railroad Retirement Board, services and supplies for, see section 361 of Title 45, Railroads.

Reconditioning of foreign merchant vessels acquired under emergency authority, see section 198 of Title 50, War and National Defense.

References to this section deemed references to section 252 of this title, see section 260 of this title.

Small Business Administrator, power to pursue assigned claims to final collection in connection with loans, see section 634 of Title 15, Commerce and Trade.

## State Department—

Institution for training, acquisition of realty and other property and equipment for without regard to this section, see section 4024 of Title 22, Foreign Relations and Intercourse.

International Labour Conference, printing and binding for without regard to this section, see section 272a of Title 22.

International Refugee Organization, funds available for expenditure without regard to this section, see section 289c of Title 22.

South Pacific Commission, printing and binding for without regard to this section, see section 280b of Title 22.

United Nations, printing and binding for without regard to this section, see section 287e of Title 22.

Stationery for United States Senate and House of Representatives, advertisement for sealed proposals, see section 106 of Title 2, The Congress.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5a, 6a, 6a-1, 6a-2, 6b, 252, 260 of this title; title 2 sections 61g-7, 72a, 135a, 141a, 475, 604, 1108; title 5 sections 3109, 4105, 8709, 8714a, 8714b, 8714c, 8902; title 7 sections 87e-1, 427i, 1624, 3318; title 8 sections 1231, 1355; title 10 sections 2013, 2314; title 12 sections 1141b, 1701c, 1701z-2, 1703, 1710, 1713, 1739, 1747g, 1747k, 1750c, 1788, 1827; title 15 sections 634, 2218, 2507, 2609, 2626; title 16 sections 17b, 17i, 343b, 450jj-1, 504, 580c, 590z-3, 594-5, 757, 916l, 961, 1052, 2104;

title 18 section 3672; title 20 sections 1034, 1070a–11, 2012, 2106, 4513, 4710, 5608, 5708, 8508; title 21 sections 360ii, 872; title 22 sections 272a, 280b, 280i, 280k, 287e, 287r, 289c, 290b, 2103, 2179, 2509, 4024; title 23 sections 140, 502; title 24 sections 322, 324; title 25 section 450j; title 28 sections 524, 604, 624, 753; title 29 section 671; title 30 section 556; title 31 sections 781, 9703; title 33 sections 1123, 1254; title 38 sections 1966, 7317, 7802, 8122, 8201; title 40 sections 71a, 212a–4, 216c, 276a–7, 481, 484, 609, 758; title 42 sections 238m, 242k, 242m, 285a–2, 285b–3, 285n, 289c, 289e, 290aa–9, 295o, 299c–3, 300c–22, 300u, 300cc–41, 1395u, 1395ww, 1480, 1532, 1543, 1563, 1592d, 1592h, 1870, 2051, 2061, 2063, 2075, 2096, 2210, 2293, 2295, 2310, 2349, 2362, 3211, 3535, 4081, 4082, 4101, 4372, 6616, 7403, 7404, 7412, 10303; title 45 section 361; title 46 App. section 1295d; title 49 sections 1113, 5334, 10721, 13712, 15504, 47305; title 50 sections 198, 1902; title 50 App. section 1918.

### § 5a. Definitions

The word “department” as used in this Act shall be construed to include independent establishments, other agencies, wholly owned Government corporations (the transactions of which corporations shall be subject to the authorizations and limitations of this Act, except that section 5 of this title shall apply to their administrative transactions only), and the government of the District of Columbia, but shall not include the Senate, House of Representatives, or office of the Architect of the Capitol, or the officers or employees thereof. The words “continental United States” as used herein shall be construed to mean the forty-eight States and the District of Columbia. The word “Government” shall be construed to include the government of the District of Columbia. The word “appropriation” shall be construed as including funds made available by legislation under section 9104 of title 31.

(Aug. 2, 1946, ch. 744, § 18, 60 Stat. 811.)

#### REFERENCES IN TEXT

This Act, referred to in text, means act Aug. 2, 1946, ch. 744, 60 Stat. 806. For complete classification of this Act to the Code see Tables.

#### CODIFICATION

“Section 9104 of title 31” substituted in text for “section 104 of the Government Corporation Control Act, approved December 6, 1945 [31 U.S.C. 849]” on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was formerly classified to section 73b–4 of title 5 prior to the general revision and reenactment of Title 5, Government Organization and Employees by Pub. L. 89–554, Sept. 6, 1966 80 Stat. 378.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 1344.

### § 6. Repealed. Oct. 31, 1951, ch. 654, § 1(98)–(105), 65 Stat. 705

Section, acts Oct. 10, 1940, ch. 851, § 1, 54 Stat. 1109; June 28, 1941, ch. 258, titles II, III, IV, 55 Stat. 281, 289, 292, 302; June 8, 1942, ch. 396, 56 Stat. 347; July 2, 1942, ch. 472, titles II, III, IV, 56 Stat. 483, 500, 505; June 28, 1943, ch. 173, titles I, II, 57 Stat. 236, 243; June 26, 1944, ch. 277, titles I, II, 58 Stat. 351, 358; June 13, 1945, ch. 189, 59 Stat. 256; July 1, 1946, ch. 530, 60 Stat. 405; June 30, 1947, ch. 166, title II, § 204, 61 Stat. 208; June 30, 1949, ch. 288, title I, §§ 103, 104(a), 63 Stat. 380, which excepted from provisions of section 5 of this title a number of specified Government departments and agencies, when

purchases or services were not in excess of certain specified amounts up to \$500.

Another provision of title III of act July 2, 1942, ch. 472, 56 Stat. 493, which also had been shown as one of the sources of this former section, made an exception with respect to purchases or services rendered for the Office of the Administrator of Civil Aeronautics, when the aggregate amount involved did not exceed \$100. That provision was not repealed, but, if it did not expire with that act, which was an appropriation act, it was superseded by section 5 of this title, as amended.

A prior section 6, acts Feb. 27, 1893, ch. 168, 27 Stat. 485; Mar. 1, 1899, ch. 325, 30 Stat. 957; Mar. 2, 1911, ch. 192, 36 Stat. 975; May 18, 1916, ch. 125, 39 Stat. 126; Mar. 1, 1919, ch. 86, 40 Stat. 1262; May 29, 1920, ch. 214, 41 Stat. 677; June 12, 1922, ch. 218, 42 Stat. 638; Feb. 13, 1923, ch. 72, 42 Stat. 1244; Feb. 15, 1934, ch. 13, 48 Stat. 351, related to exceptions to the requirements of section 5 of this title, prior to repeal by act Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111. See sections 5, 6a, and 6b of this title.

### § 6a. Advertisements for proposals for purchases and contracts for supplies or services for Government departments; limited to particular agencies under specified circumstances

Section 5 of this title shall not be construed to apply under any appropriation Act to the following departments and independent offices under the circumstances specified herein:

(a) American Battle Monuments Commission—to any leases in foreign countries for office or garage space.

(b) to (e) Repealed. Oct. 31, 1951, ch. 654, § 1(107), 65 Stat. 705.

(f) The Bureau of Interparliamentary Union for Promotion of International Arbitration—to stenographic reporting services by contract if deemed necessary.

(g) Repealed. Oct. 31, 1951, ch. 654, § 1(107), 65 Stat. 705.

(h) Department of State—when the purchase or service relates to the packing of personal and household effects of Diplomatic, Consular, and Foreign Service officers and clerks for foreign shipment.

(i) Repealed. Oct. 31, 1951, ch. 654, § 1(107), 65 Stat. 705.

(j) The International Committee of Aerial Legal Experts—to stenographic and other service by contract as deemed necessary.

(June 12, 1917, ch. 27, 40 Stat. 144; May 13, 1926, ch. 294, 44 Stat. 547; Oct. 10, 1940, ch. 851, § 2, 54 Stat. 1110; June 28, 1941, ch. 259, 55 Stat. 344; Oct. 31, 1951, ch. 654, §§ 1(106)–(108), 3(8), (9), 4(9), 65 Stat. 705, 708, 709; Pub. L. 85–75, July 1, 1957, 71 Stat. 251.)

#### CODIFICATION

Opening par., and subsecs. (a), (f), (h), and (j) of this section are from act Oct. 10, 1940, § 2, opening par., and pars. (a), (f), and (j). Remainder of paragraphs of section 2 were repealed. See 1951 amendment note set out under this section.

Subsec. (o) of this section, which was from Act May 13, 1926, ch. 294, § 1, 44 Stat. 547, made section 5 of this title inapplicable to the Architect of the Capitol in the purchase of supplies and equipment and procurement of services when the aggregate amount thereof did not exceed \$1,000 in any instance and was omitted as superseded by section 6a–1 of this title.

Subsec. (p) of this section, which was from act June 12, 1917, ch. 27, § 1, 40 Stat. 144, made section 5 of this title inapplicable to expenditures not exceeding \$50 by the United States Geological Survey and was repealed by act Oct. 31, 1951, ch. 654, § 1(106), 66 Stat. 705.