

of a grant or cooperative agreement, or any subcontractor or subgrantee under such contract, grant, or cooperative agreement to the extent necessary to ensure that funds available under the contract, grant, or cooperative agreement—

“(A) are not subject to extortion or corruption; and

“(B) are not provided directly or indirectly to persons or entities that are actively supporting an insurgency or otherwise actively opposing United States or coalition forces in a contingency operation.

“(3) WRITTEN DETERMINATION.—The authority to examine records pursuant to the contract clause described in paragraph (2) may be exercised only upon a written determination by the contracting officer or comparable official responsible for a grant or cooperative agreement, upon a finding by the Commander of the United States Central Command, that there is reason to believe that funds available under the contract, grant, or cooperative agreement concerned may have been subject to extortion or corruption or may have been provided directly or indirectly to persons or entities that are actively supporting an insurgency or otherwise actively opposing United States or coalition forces in a contingency operation.

“(4) FLOWDOWN.—A clause described in paragraph (2) shall also be required in any subcontract or subgrant under a covered contract, grant, or cooperative agreement if the subcontract or subgrant has an estimated value in excess of \$100,000.

“(b) REPORTS.—Not later than March 1 of each of 2013, 2014, and 2015, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of the authority provided by this section in the preceding calendar year. Each report shall identify, for the calendar year covered by such report, each instance in which the Department of Defense exercised the authority provided under this section to examine records, explain the basis for the action taken, and summarize the results of any examination of records so undertaken.[.] Any report under this subsection may be submitted in classified form.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘contingency operation’ has the meaning given that term in section 101(a)(13) of title 10, United States Code.

“(2) The term ‘covered contract, grant, or cooperative agreement’ means a contract, grant, or cooperative agreement with an estimated value in excess of \$100,000 that will be performed in the United States Central Command theater of operations in support of a contingency operation.

“(d) SUNSET.—

“(1) IN GENERAL.—The clause described by subsection (a)(2) shall not be required in any contract, grant, or cooperative agreement that is awarded after the date that is three years after the date of the enactment of this Act [Dec. 31, 2011].

“(2) CONTINUING EFFECT OF CLAUSES INCLUDED BEFORE SUNSET.—Any clause described by subsection (a)(2) that is included in a contract, grant, or cooperative agreement pursuant to this section before the date specified in paragraph (1) shall remain in effect in accordance with its terms.”

EXEMPTION OF FUNCTIONS

Functions with respect to purchases authorized to be made outside limits of United States or District of Columbia under 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.

FOREIGN CONTRACTORS

Secretaries of Defense, Army, Navy, or Air Force, or their designees, to determine, prior to exercising au-

thority provided in amendment of this section by Pub. L. 89-607 to exempt certain contracts with foreign contractors from 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. (1) of Part I of Ex. Ord. No. 10789, and that alternate sources of supply are not reasonably available, see par. (1) of Part I of Ex. Ord. No. 10789, Nov. 14, 1958, 23 F.R. 8897, as amended, set out as a note under section 1431 of Title 50, War and National Defense.

§ 2313a. Defense Contract Audit Agency: annual report

(a) REQUIRED REPORT.—The Director of the Defense Contract Audit Agency shall prepare an annual report of the activities of the Agency during the previous fiscal year. The report shall include, at a minimum—

(1) a description of significant problems, abuses, and deficiencies encountered during the conduct of contractor audits;

(2) statistical tables showing—

(A) the total number of audit reports completed and pending;

(B) the priority given to each type of audit;

(C) the length of time taken for each type of audit;

(D) the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs); and

(E) an assessment of the number and types of audits pending for a period longer than allowed pursuant to guidance of the Defense Contract Audit Agency;

(3) a summary of any recommendations of actions or resources needed to improve the audit process; and

(4) any other matters the Director considers appropriate.

(b) SUBMISSION OF ANNUAL REPORT.—Not later than March 30 of each year, the Director shall submit to the congressional defense committees the report required by subsection (a).

(c) PUBLIC AVAILABILITY.—Not later than 60 days after the submission of an annual report to the congressional defense committees under subsection (b), the Director shall make the report available on the publicly available website of the Agency or such other publicly available website as the Director considers appropriate.

(Added Pub. L. 112-81, div. A, title VIII, § 805(a), Dec. 31, 2011, 125 Stat. 1486.)

§ 2314. Laws inapplicable to agencies named in section 2303 of this title

Sections 6101(b)–(d) and 6304 of title 41 do not apply to the procurement or sale of property or services by the agencies named in section 2303 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 133; Pub. L. 96-513, title V, § 511(78), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 103-160, div. A, title VIII, § 822(b)(2), Nov. 30, 1993, 107 Stat. 1706; Pub. L. 111-350, § 5(b)(16), Jan. 4, 2011, 124 Stat. 3843.)