

(A) applies the fundamental operating principles and procedures in the Federal Acquisition Regulation;

(B) uses efficient commercial standards of practice; and

(C) is suitable for adoption and uninterrupted use by the Republic of Panama after the Canal Transfer Date.

(2) The Regulation shall contain provisions regarding the establishment of the Panama Canal Board of Contract Appeals described in section 3862 of this title.

(b) Supplement to Regulation

The Commission shall develop a Supplement to the Regulation (in this section referred to as the “Supplement”) that identifies both the provisions of Federal law applicable to procurement of goods and services by the Commission and the provisions of Federal law waived by the Commission under subsection (c).

(c) Waiver authority

(1) Subject to paragraph (2), the Commission shall determine which provisions of Federal law should not apply to procurement by the Commission and may waive those laws for purposes of the Regulation and Supplement.

(2) For purposes of paragraph (1), the Commission may not waive—

(A) chapter 21 of title 41;

(B) chapter 71 of title 41, other than section 7104(b) of title 41; or

(C) civil rights, environmental, or labor laws.

(d) Consultation with Administrator for Federal Procurement Policy

In establishing the Regulation and developing the Supplement, the Commission shall consult with the Administrator for Federal Procurement Policy.

(e) Effective date

The Regulation and the Supplement shall take effect on the date of publication in the Federal Register, or January 1, 1999, whichever is earlier.

(Pub. L. 96-70, title III, §3101, as added Pub. L. 105-85, div. C, title XXXV, §3541, Nov. 18, 1997, 111 Stat. 2070.)

CODIFICATION

In subsec. (c)(2)(A), “chapter 21 of title 41” substituted for “section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (c)(2)(B), “chapter 71 of title 41, other than section 7104(b) of title 41” substituted for “the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), other than section 10(a) of such Act (41 U.S.C. 609(a))” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 3861, Pub. L. 96-70, title III, §3101, Sept. 27, 1979, 93 Stat. 496, related to disinterment, transportation, and reinterment of remains, prior to repeal by Pub. L. 104-201, div. C, title XXXV, §3546(a)(5), Sept. 23, 1996, 110 Stat. 2868.

§ 3862. Panama Canal Board of Contract Appeals

(a) Establishment

(1) The Secretary of Defense, in consultation with the Commission, may establish a board of contract appeals, to be known as the Panama Canal Board of Contract Appeals, in accordance with sections 7105(a), (c) to (e), (g), 7106(a), and 7107(a) of title 41. Except as otherwise provided by this section, the Panama Canal Board of Contract Appeals (in this section referred to as the “Board”) shall be subject to chapter 71 of title 41 in the same manner as any other agency board of contract appeals established under that chapter.

(2) The Board shall consist of three members. At least one member of the Board shall be licensed to practice law in the Republic of Panama. Individuals appointed to the Board shall take an oath of office, the form of which shall be prescribed by the Secretary of Defense.

(3) Compensation for members of the Board of Contract Appeals shall be established by the Commission’s supervisory board. The annual compensation established for members may not exceed the rate of basic pay established for level IV of the Executive Schedule under section 5315 of title 5. The compensation of a member may not be reduced during the member’s term of office from the level established at the time of the appointment of the member.

(b) Exclusive jurisdiction to decide appeals

Notwithstanding section 7104(b)(1) of title 41 or any other provision of law, the Board shall have exclusive jurisdiction to decide an appeal from a decision of a contracting officer under section 7105(e) of title 41.

(c) Exclusive jurisdiction to decide protests

The Board shall decide protests submitted to it under this subsection by interested parties in accordance with subchapter V¹ of title 31. Notwithstanding section 3556 of that title, section 1491(b) of title 28, and any other provision of law, the Board shall have exclusive jurisdiction to decide such protests. For purposes of this subsection—

(1) except as provided in paragraph (2), each reference to the Comptroller General in sections 3551 through 3555 of title 31, is deemed to be a reference to the Board;

(2) the reference to the Comptroller General in section 3553(d)(3)(C)(ii) of such title is deemed to be a reference to both the Board and the Comptroller General;

(3) the report required by paragraph (1) of section 3554(e) of such title shall be submitted to the Comptroller General as well as the committees listed in such paragraph;

(4) the report required by paragraph (2) of such section shall be submitted to the Comptroller General as well as Congress; and

(5) section 3556 of such title shall not apply to the Board, but nothing in this subsection shall affect the right of an interested party to file a protest with the appropriate contracting officer.

¹So in original. Probably should be “subchapter V of chapter 35”.

(d) Procedures

The Board shall prescribe such procedures as may be necessary for the expeditious decision of appeals and protests under subsections (b) and (c).

(e) Commencement

The Board shall begin to function as soon as it has been established and has prescribed procedures under subsection (d).

(f) Transition

The Board shall have jurisdiction under subsections (b) and (c) over any appeals and protests filed on or after the date on which the Board begins to function. Any appeals and protests filed before such date shall remain before the forum in which they were filed.

(g) Other functions

The Board may perform functions similar to those described in this section for such other matters or activities of the Commission as the Commission may determine and in accordance with regulations prescribed by the Commission.

(Pub. L. 96-70, title III, §3102, as added Pub. L. 105-85, div. C, title XXXV, §3541, Nov. 18, 1997, 111 Stat. 2071; amended Pub. L. 105-261, div. C, title XXXV, §3510, Oct. 17, 1998, 112 Stat. 2270.)

CODIFICATION

In subsec. (a)(1), “sections 7105(a), (c) to (e), (g), 7106(a), and 7107(a) of title 41” substituted for “section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607)”, “chapter 71 of title 41” substituted for “the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.)”, and “that chapter” substituted for “that Act” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (b), “section 7104(b)(1) of title 41” substituted for “section 10(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a)(1))” and “section 7105(e) of title 41” substituted for “section 8(d) of such Act (41 U.S.C. 607(d))” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-261, §3510(a)(1), substituted “may” for “shall” in first sentence.

Subsec. (a)(3). Pub. L. 105-261, §3510(a)(2), added par. (3).

Subsec. (e). Pub. L. 105-261, §3510(b), struck out “, but not later than January 1, 1999” before period at end.

PART 2—ADMINISTRATION

§ 3871. Annual report

Until the termination of the Panama Canal Treaty of 1977, the President shall report annually on the status of the exercise of the rights and responsibilities of the United States under that Treaty. Such report shall include a discussion of the following:

(1) The actions taken by the Government of the Republic of Panama with respect to the living conditions of persons who resided in the Canal Zone before October 1, 1979, and who continue to reside in those areas made available to the United States under the Agreement in Implementation of Article III of the Panama Canal Treaty.

(2) The terms, conditions, and charges for land-use licenses within the canal operating

areas specified in the Agreement in Implementation of Article III of the Panama Canal Treaty.

(3) The condition of former employees (and their dependents) of the Panama Canal Company and the Canal Zone Government who reside in the Republic of Panama on or after October 1, 1979.

(Pub. L. 96-70, title III, §3301, Sept. 27, 1979, 93 Stat. 497.)

DELEGATION OF FUNCTIONS

Functions vested in President by this section delegated to Secretary of State who shall perform such function in coordination with Secretary of Defense pursuant to section 1-401 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36044, set out as a note under section 3601 of this title.

REPORT TO CONGRESS ON CONDITION OF PANAMA CANAL AND CANAL OPERATIONS

Pub. L. 100-203, title V, §5418, Dec. 22, 1987, 101 Stat. 1330-271, provided that: “Out of the funds authorized to be appropriated by this part [part 1, §§5411 to 5418, of subtitle E of Pub. L. 100-203], the Commission shall prepare and submit to the Congress a report on—

“(1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce;

“(2) the effect on canal operations of the military forces under General Noriega; and

“(3) the Commission’s evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate’s ratification of the Panama Canal Treaties.”

§ 3872. Notification requirements

The Panama Canal Commission shall provide written advance notification to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Armed Services of the Senate regarding—

(1) any proposed change in the rates of tolls for use of the Panama Canal;

(2) any payment estimated to be due the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 3751 of this title; and

(3) the initiation of any major capital acquisition or construction project exceeding \$10,000,000 unless the proposed acquisition or project was included in the budget estimates submitted to Congress for the fiscal year in which the acquisition or project is to be undertaken.

(Pub. L. 101-189, div. C, title XXXV, §3503, Nov. 29, 1989, 103 Stat. 1689.)

CODIFICATION

Section enacted as part of the Panama Canal Commission Authorization Act, Fiscal Year 1990, and as part of the National Defense Authorization Act for Fiscal Years 1990 and 1991, and not as part of the Panama Canal Act of 1979 which comprises this chapter.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treat-