

section 2651a of this title and section 161(d) of Pub. L. 103-236, set out as a note under section 2651a of this title.

§ 302. Award of contracts

(a) Eligibility limitation for construction, etc., abroad

Eligibility for award of contracts under this chapter or of any other contract by the Secretary of State, including lease-back or other agreements, the purpose of which is to obtain the construction, alteration, or repair of buildings and grounds abroad, when estimated to exceed \$5,000,000, including any contract alternatives or options, shall be limited, after a determination that adequate competition will be obtained thereby, to (1) American-owned bidders and (2) bidders from countries which permit or agree to permit substantially equal access to American bidders for comparable diplomatic and consular building projects, except that participation may be permitted by or limited to host-country bidders where required by international agreement or by the law of the host country or where determined by the Secretary of State to be necessary in the interest of bilateral relations or necessary to carry out the construction project.

(b) Foreign laws and regulations; competitive status and adequacy; bidder qualifications

(1) Generally applicable laws and regulations pertaining to licensing and other qualifications to do business in the country in which the contract is to be performed shall not be deemed a limitation of access for purposes of this section.

(2) For purposes of determining competitive status, bids qualifying under subsection (a)(1) shall be reduced by 10 per centum.

(3) A determination of adequacy of competition for purposes of subsection (a) shall be made after advance publication by the Secretary of State of the proposed project, and receipt from not less than two prospective responsible bidders of intent to submit a bid or proposal. If competition is not determined to be adequate, contracts may be awarded without regard to subsection (a) and this subsection.

(4) Bidder qualification under subsection (a) shall be determined on the basis of nationality of ownership, the burden of which shall be on the prospective bidder. Qualification under subsection (a)(1) shall require evidence of (A) performance of similar construction work in the United States or at a United States diplomatic or consular establishment abroad, and (B) either (i) ownership in excess of fifty percent by United States citizens or permanent residents, or (ii) incorporation in the United States for more than three years and employment of United States citizens or permanent residents in more than half of the corporation's permanent full-time professional and managerial positions in the United States.

(5) Qualification under this section shall be established on the basis of determinations at the time bids are requested.

(c) Contracts for construction, etc., in United States

Contracts for construction, alteration, or repair in the United States for or on behalf of any

foreign mission (as defined in section 202(a)(4)¹ of title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) may, pursuant to the authority of that title [22 U.S.C. 4301 et seq.], only be awarded to or performed by bidders qualifying under subsection (a) (1) or (2) or by nationals of the country for which the contract is being performed who are granted the right of entry into the United States for that purpose.

(d) Discretionary determinations by Secretary of State

Determinations under this section shall be committed to the discretion of the Secretary of State.

(e) Termination of requirements

This section shall cease to be effective when the Secretary of State determines that there are internationally-agree-upon² rules in effect on bidding for construction contracts.

(May 7, 1926, ch. 250, § 11, as added Pub. L. 98-164, title I, § 136, Nov. 22, 1983, 97 Stat. 1029; amended Pub. L. 107-228, div. A, title II, § 206(a), Sept. 30, 2002, 116 Stat. 1364.)

REFERENCES IN TEXT

Title II of the State Department Basic Authorities Act of 1956, referred to in subsec. (c), is title II of act Aug. 1, 1956, ch. 841, as added Aug. 24, 1982, Pub. L. 97-241, title II, § 202(b), 96 Stat. 283, known as the Foreign Missions Act, which is classified principally to chapter 53 (§ 4301 et seq.) of this title. Section 202(a)(4) of title II was redesignated section 202(a)(3), and former section 202(a)(5) was redesignated section 202(a)(4), by Pub. L. 103-236, title I, § 162(o)(1), Apr. 30, 1994, 108 Stat. 409. For complete classification of title II to the Code, see Short Title note set out under section 4301 of this title and Tables.

AMENDMENTS

2002—Subsec. (b)(4)(A). Pub. L. 107-228 inserted “or at a United States diplomatic or consular establishment abroad” after “United States”.

§ 303. Repealed. Pub. L. 114-323, title VII, § 715(a)(1), Dec. 16, 2016, 130 Stat. 1946

Section, act May 7, 1926, ch. 250, § 12, as added Pub. L. 105-277, div. G, subdiv. B, title XXII, § 2215, Oct. 21, 1998, 112 Stat. 2681-814, required Secretary of State to submit annual report on overseas surplus properties.

§ 304. Annual report on embassy construction costs

(a) In general

Not later than 180 days after December 16, 2016, and annually thereafter, the Secretary shall submit to the appropriate congressional committees and the Committees on Appropriations of the Senate and the House of Representatives a comprehensive report regarding all ongoing embassy construction projects and major embassy security upgrade projects.

(b) Contents

Each report required under subsection (a) shall include the following with respect to each ongoing embassy construction projects and major embassy security upgrade projects:

¹ See References in Text note below.

² So in original. Probably should be “internationally-agreed-upon”.

- (1) The initial cost estimate.
- (2) The amount expended on the project to date.
- (3) The projected timeline for completing the project.
- (4) Any cost overruns incurred by the project.

(c) Initial report

The first report required under subsection (a) shall include an annex regarding all embassy construction projects and major embassy security upgrade projects completed during the 10-year period ending on December 16, 2016, including, for each such project, the following:

- (1) The initial cost estimate.
- (2) The amount actually expended on the project.
- (3) Any additional time required to complete the project beyond the initial timeline.
- (4) Any cost overruns incurred by the project.

(Pub. L. 114-323, title I, §118, Dec. 16, 2016, 130 Stat. 1912; Pub. L. 115-94, §2(b), Dec. 18, 2017, 131 Stat. 2038.)

CODIFICATION

Section was enacted as part of the Department of State Authorities Act, Fiscal Year 2017, and not as part of the Foreign Service Buildings Act, 1926, which comprises this chapter.

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-94 inserted “and the Committees on Appropriations of the Senate and the House of Representatives” after “appropriate congressional committees”.

DEFINITIONS

For definitions of “Secretary” and “appropriate congressional committees” as used in this section, see section 2 of Pub. L. 114-323, set out as a note under section 2651 of this title.

CHAPTER 9—FOREIGN WARS, WAR MATERIALS, AND NEUTRALITY

SUBCHAPTER I—WAR MATERIALS

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| 406. | Interference with foreign trade. |
| 407. | Repealed. |
| 408. | Use of land and naval forces to prevent exportation. |
| 408a. | “United States” defined. |
| 409 to 420. | Repealed or Omitted. |
| 421. | Contracts by Government agencies for defense articles, services, etc., for foreign governments in interests of United States. |
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| 444. | American Red Cross vessels. |
| 445. | Travel on vessels of belligerent states. |
| 446. | Repealed. |
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| Sec. | |
| 450. | Restrictions on use of American ports. |
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SUBCHAPTER III—PREVENTION OF OFFENSES AGAINST NEUTRALITY

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PROCLAMATIONS RESPECTING WAR AND NEUTRALITY

See notes preceding section 1 of Title 50, War and National Defense.

SUBCHAPTER I—WAR MATERIALS

§ 401. Illegal exportation of war materials

(a) Seizure and forfeiture of materials and carriers

Whenever an attempt is made to export or ship from or take out of the United States any arms or munitions of war or other articles in violation of law, or whenever it is known or there shall be probable cause to believe that any arms or munitions of war or other articles are intended to be or are being or have been exported or removed from the United States in violation of law, the Secretary of the Treasury, or any person duly authorized for the purpose by the President, may seize and detain such arms or munitions of war or other articles and may seize and detain any vessel, vehicle, or aircraft containing the same or which has been or is being used in exporting or attempting to export such arms or munitions of war or other articles. The Secretary of Commerce may seize and detain any commodity (other than arms or munitions of war) or technology which is intended to be or is being exported in violation of laws governing such exports and may seize and detain any vessel, vehicle, or aircraft containing the same or which has been used or is being used in exporting or attempting to export such articles. All arms or munitions of war and other articles, vessels, vehicles, and aircraft seized pursuant to this subsection shall be forfeited.

(b) Applicability of laws relating to seizure, forfeiture, and condemnation

All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. However, with respect to seizures and forfeitures of property under this section by the