

eign and Domestic Commerce from provisions of section 5 of this title when aggregate amount involved did not exceed \$100.

Section 6jj, acts May 13, 1926, ch. 294, 44 Stat. 548; Feb. 23, 1927, ch. 168, 44 Stat. 1157; May 14, 1928, ch. 551, 45 Stat. 528; Feb. 28, 1929, ch. 367, 45 Stat. 1397; June 6, 1930, ch. 407, 46 Stat. 516; Feb. 20, 1931, ch. 234, 46 Stat. 1186; June 30, 1932, ch. 314, 47 Stat. 393; Feb. 28, 1933, ch. 134, 47 Stat. 1362; May 30, 1934, ch. 372, 48 Stat. 828; July 8, 1935, ch. 374, 49 Stat. 471; Apr. 17, 1936, ch. 233, 49 Stat. 1226; May 18, 1937, ch. 223, 50 Stat. 181; May 17, 1938, ch. 236, 52 Stat. 392; June 16, 1939, ch. 208, 53 Stat. 834; June 18, 1940, ch. 396, 54 Stat. 474, excepted Botanic Garden, in purchase of trees and plants, from provisions of section 5 of this title when aggregate amount involved did not exceed \$300.

§ 6kk. Omitted

CODIFICATION

Section, acts Apr. 17, 1936, ch. 233, 49 Stat. 1226; May 18, 1937, ch. 223, 50 Stat. 181; May 17, 1938, ch. 236, 52 Stat. 393; June 16, 1939, ch. 208, 53 Stat. 834; June 18, 1940, ch. 396, 54 Stat. 474, which excepted Botanic Garden, in purchase of supplies and equipment, from provisions of section 5 of this title when aggregate amount did not exceed \$50, was superseded by subsection (b) of section 6a of this title which was itself repealed by act Oct. 31, 1951, ch. 654, §1(107), 65 Stat. 705.

§ 6ll. Repealed. Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111

Section, act Apr. 22, 1926, ch. 171, 44 Stat. 314, excepted National Advisory Committee for Aeronautics from provisions of section 5 of this title when aggregate amount involved did not exceed \$50.

§ 6mm. Transferred

CODIFICATION

Section, act June 24, 1940, ch. 412, 54 Stat. 504, which excepted forest products by Indian enterprises from the forests on Indian reservations, was transferred to subsec. (d) of section 6b of this title.

§§ 7 to 7d. Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(29)–(31), formerly title V, § 502(a)(29)–(31), 63 Stat. 401; renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583

Section 7, act June 17, 1910, ch. 297, § 4, 36 Stat. 531; Ex. Ord. No. 6166, § 1, eff. June 10, 1933, as amended by Ex. Ord. No. 6623, eff. Mar. 1, 1934, related to advertisements and contracts for miscellaneous supplies for executive departments and other government establishments in Washington; Procurement Division in Department of Treasury; bond of contractor; and purchase or drawing of supplies.

Section 7a, act Feb. 27, 1929, ch. 354, § 1, 45 Stat. 1341; Ex. Ord. No. 6166, § 1, eff. June 10, 1933, as amended by Ex. Ord. No. 6623, eff. Mar. 1, 1934, related to consolidation and coordination of government purchases.

Section 7b, act Feb. 27, 1929, ch. 354, § 2, 45 Stat. 1342; Ex. Ord. No. 6166, § 1, June 10, 1933, as amended by Ex. Ord. No. 6623, Mar. 1, 1934, provided for requisition of supplies and reimbursement.

Section 7c, act Feb. 27, 1929, ch. 354, § 3, 45 Stat. 1342; Ex. Ord. No. 6166, § 1, eff. June 10, 1933, as amended by Ex. Ord. No. 6623, eff. Mar. 1, 1934, provided for a general supply fund and reports and audits.

Section 7c–1, act May 14, 1935, ch. 110, 49 Stat. 234; Ex. Ord. No. 6166, § 1, eff. June 10, 1933, as amended by Ex. Ord. No. 6623, eff. Mar. 1, 1934, related to expenditures incidental to operation of government fuel yards.

Section 7d, act Feb. 27, 1929, ch. 354, § 4, 45 Stat. 1342, related to Secretary of Treasury's authority to prescribe regulations.

For similar subject matter, see section 201 et seq. of this title and sections 471 et seq. and 751 et seq. of Title 40, Public Buildings, Property, and Works.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1949, see section 605 of act June 30, 1949.

§ 8. Opening bids

Whenever proposals for supplies have been solicited, the parties responding to such solicitation shall be duly notified of the time and place of opening the bids, and be permitted to be present either in person or by attorney, and a record of each bid shall then and there be made.

(R.S. § 3710.)

CODIFICATION

R.S. § 3710 derived from Res. Jan. 31, 1868, No. 8, 15 Stat. 246.

EXEMPTION OF FUNCTIONS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 252, 260 of this title.

§ 9. Repealed. Feb. 19, 1948, ch. 65, § 11(a), 62 Stat. 25

Section, R.S. § 3717, related to separate proposals for works or material or labor. See sections 2303 to 2305 of Title 10, Armed Forces.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Feb. 19, 1948, see section 13 of act Feb. 19, 1948.

§ 10. Omitted

CODIFICATION

Section, act Mar. 3, 1875, ch. 133, § 2, 18 Stat. 455, related to preferential treatment of American material in contracts for public improvements, was superseded. See sections 10a to 10d of this title.

§ 10a. American materials required for public use

Notwithstanding any other provision of law, and unless the head of the department or independent establishment concerned shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States, shall be acquired for public use. This section shall not apply with respect to articles, materials, or supplies for use outside the United States, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. This section shall not apply to manufactured articles, materials, or supplies procured under any contract the award value of which is

less than or equal to the micro-purchase threshold under section 428 of this title.

(Mar. 3, 1933, ch. 212, title III, § 2, 47 Stat. 1520; Pub. L. 100-418, title VII, § 7005(b), Aug. 23, 1988, 102 Stat. 1553; Pub. L. 103-355, title IV, § 4301(b), Oct. 13, 1994, 108 Stat. 3347.)

AMENDMENTS

1994—Pub. L. 103-355 inserted at end “This section shall not apply to manufactured articles, materials, or supplies procured under any contract the award value of which is less than or equal to the micro-purchase threshold under section 428 of this title.”

1988—Pub. L. 100-418, §§ 7004, 7005(b), temporarily substituted “Federal agency” for “department or independent establishment”. See Effective and Termination Dates of 1988 Amendment note below.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4301(c) of Pub. L. 103-355 provided that: “Notwithstanding any other provision of law—

“(1) section 32 of the Office of Federal Procurement Policy Act [41 U.S.C. 428], as added by subsection (a); and

“(2) the amendment made by subsection (b) [amending this section]; shall take effect on the date of the enactment of this Act [Oct. 13, 1994] and shall be implemented in the Federal Acquisition Regulation not later than 60 days after such date of enactment.”

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Section 7004 of title VII of Pub. L. 100-418 provided that: “The amendments made by this title [see Short Title of 1988 Amendment note below] shall cease to be effective on April 30, 1996, unless the Congress, after reviewing the report required by section 305(k) of the Trade Agreements Act of 1979 [former 19 U.S.C. 2515(k)], and other relevant information, extends such date. After such date, the President may modify or terminate any or all actions taken pursuant to such amendments.”

Section 7005(f) of title VII of Pub. L. 100-418 provided that: “The amendments made by this section [amending sections 10a, 10b, 10c, and 10d of this title and section 2511 of Title 19, Customs Duties] shall take effect upon enactment [Aug. 23, 1988].”

SHORT TITLE OF 1988 AMENDMENT

Section 7001 of title VII of Pub. L. 100-418 provided that: “This title [enacting section 10b-1 of this title, amending this section, sections 10b, 10c, and 10d of this title, and sections 2511 and 2515 of Title 19, Customs Duties, enacting provisions set out as notes under section 10a of this title, and amending provisions set out as notes under section 10c of this title] may be cited as the ‘Buy American Act of 1988’.”

SHORT TITLE

Section 7, formerly section 5, of title III of act Mar. 3, 1933, as added by Pub. L. 103-355, title X, § 10005(f)(4), Oct. 13, 1994, 108 Stat. 3409, and renumbered and amended by Pub. L. 104-106, div. D, title XLIII, § 4321(a)(11), Feb. 10, 1996, 110 Stat. 671, provided that: “This title [enacting this section, sections 10b and 10c of this title, and provisions set out as notes under section 10c of this title] may be cited as the ‘Buy American Act’.”

IMPLEMENTATION OF BUY AMERICAN ACT WITH RESPECT TO CERTAIN WATER RESOURCE PROJECTS

Pub. L. 100-371, title V, § 508, July 19, 1988, 102 Stat. 875, provided that:

“(a) GENERAL RULE.—For purposes of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c) [41 U.S.C. 10a, 10b, 10b-1, 10c], commonly known as the Buy American Act, a cofferdam or any other temporary

structure to be constructed by the Secretary of the Army, acting through the Chief of Engineers, shall be treated in the same manner as a permanent dam constructed by the Secretary of the Army.

“(b) APPLICABILITY.—Subsection (a) shall only apply to contracts entered into after the date of the enactment of this Act [July 19, 1988].”

EXEMPTION OF FUNCTIONS

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

APPLICABILITY OF BUY AMERICAN ACT WITH RESPECT TO EUROPEAN COMMUNITY

For applicability of Buy American Act to procurements covered by agreement with the European Community on government procurement, see Ex. Ord. No. 12849, May 25, 1993, 58 F.R. 30931, set out as a note under section 2511 of Title 19, Customs Duties.

ACT REFERRED TO IN OTHER SECTIONS

The Buy American Act is referred to in sections 10b-3, 42, 428 of this title; title 10 section 2533; title 15 sections 2507, 5528; title 19 sections 2512, 2513, 3105; title 20 sections 6067, 9275; title 24 section 225h; title 25 section 1638b.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10b, 10b-2, 10c, 10d of this title; title 10 sections 2457, 2533.

§ 10b. Contracts for public works; specification for use of American materials; blacklisting contractors violating requirements

(a) Every contract for the construction, alteration, or repair of any public building or public work in the United States growing out of an appropriation heretofore made or hereafter to be made shall contain a provision that in the performance of the work the contractor, subcontractors, material men, or suppliers, shall use only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States except as provided in section 10a of this title: *Provided, however,* That if the head of the department or independent establishment making the contract shall find that in respect to some particular articles, materials, or supplies it is impracticable to make such requirement or that it would unreasonably increase the cost, an exception shall be noted in the specifications as to that particular article, material, or supply, and a public record made of the findings which justified the exception.

(b) If the head of a department, bureau, agency, or independent establishment which has made any contract containing the provision required by subsection (a) of this section finds that in the performance of such contract there has been a failure to comply with such provisions, he shall make public his findings, including therein the name of the contractor obligated under such contract, and no other contract for the construction, alteration, or repair of any public building or public work in the United