

AMENDMENTS

1986—Pub. L. 99-634 amended section generally. Prior to amendment, section read as follows: “Any person who shall knowingly, directly or indirectly, make or receive any such prohibited payment shall be fined not more than \$10,000 or be imprisoned for not more than two years, or both.”

1960—Pub. L. 86-695 reenacted section without change.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-634 effective with respect to conduct described in section 53 of this title which occurs on or after Nov. 7, 1986, see section 3(a) of Pub. L. 99-634, set out as a note under section 51 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51, 52 of this title.

§ 55. Civil actions

(a)(1) The United States may, in a civil action, recover a civil penalty from any person who knowingly engages in conduct prohibited by section 53 of this title. The amount of such civil penalty shall be—

(A) twice the amount of each kickback involved in the violation; and

(B) not more than \$10,000 for each occurrence of prohibited conduct.

(2) The United States may, in a civil action, recover a civil penalty from any person whose employee, subcontractor or subcontractor employee violates section 53 of this title by providing, accepting, or charging a kickback. The amount of such civil penalty shall be the amount of that kickback.

(b) A civil action under this section shall be barred unless the action is commenced within 6 years after the later of (1) the date on which the prohibited conduct establishing the cause of action occurred, and (2) the date on which the United States first knew or should reasonably have known that the prohibited conduct had occurred.

(Mar. 8, 1946, ch. 80, § 5, as added Pub. L. 99-634, § 2(a), Nov. 7, 1986, 100 Stat. 3524.)

EFFECTIVE DATE

Section effective with respect to conduct described in section 53 of this title which occurs on or after Nov. 7, 1986, see section 3(a) of Pub. L. 99-634, set out as an Effective Date of 1986 Amendment note under section 51 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51, 52 of this title.

§ 56. Administrative offsets**(a) Offset authority**

A contracting officer of a contracting agency may offset the amount of a kickback provided, accepted, or charged in violation of section 53 of this title against any moneys owed by the United States to the prime contractor under the prime contract to which such kickback relates.

(b) Duties of prime contractor

(1) Upon direction of a contracting officer of a contracting agency with respect to a prime con-

tract, the prime contractor shall withhold from any sums owed to a subcontractor under a subcontract of the prime contract the amount of any kickback which was or may be offset against that prime contractor under subsection (a) of this section.

(2) Such contracting officer may order that sums withheld under paragraph (1)—

(A) be paid over to the contracting agency; or

(B) if the United States has already offset the amount of such sums against that prime contractor, be retained by the prime contractor.

(3) The prime contractor shall notify the contracting officer when an amount is withheld and retained under paragraph (2)(B).

(c) Claim of Government

An offset under subsection (a) of this section or a direction or order of a contracting officer under subsection (b) of this section is a claim by the Government for the purposes of the Contract Disputes Act of 1978 [41 U.S.C. 601 et seq.].

(d) “Contracting officer” defined

As used in this section, the term “contracting officer” has the meaning given that term for the purposes of the Contract Disputes Act of 1978 [41 U.S.C. 601 et seq.].

(Mar. 8, 1946, ch. 80, § 6, as added Pub. L. 99-634, § 2(a), Nov. 7, 1986, 100 Stat. 3524.)

REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in subsecs. (c) and (d), is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, as amended, which is classified principally to chapter 9 (§ 601 et seq.) of this title. For complete classification of this Act to the Code see Short Title note set out under section 601 of this title and Tables.

EFFECTIVE DATE

Section effective with respect to conduct described in section 53 of this title which occurs on or after Nov. 7, 1986, see section 3(a) of Pub. L. 99-634, set out as an Effective Date of 1986 Amendment note under section 51 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51, 52 of this title.

§ 57. Contractor responsibilities**(a) Procedural requirements for prevention and detection of violations**

Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall have in place and follow reasonable procedures designed to prevent and detect violations of section 53 of this title in its own operations and direct business relationships.

(b) Cooperation in investigations requirement

Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall cooperate fully with any Federal Government agency investigating a violation of section 53 of this title.

(c) Reporting requirement; supplying information as favorable evidence of responsibility

(1)(A) Whenever a prime contractor or subcontractor has reasonable grounds to believe