

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) of this section shall be reduced by 10 per centum.

(3) A determination of adequacy of competition for purposes of subsection (a) of this section 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) of this section and this subsection.

(4) Bidder qualification under subsection (a) of this section 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) of this section 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

¹ See References in Text note below.

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

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".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4852 of this title.

§ 303. Annual report on overseas surplus properties

Not later than March 1 of each year, the Secretary of State shall submit to Congress a report listing overseas United States surplus properties that are administered under this chapter and that have been identified for sale.

(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.)

CHAPTER 9—FOREIGN WARS, WAR MATERIALS, AND NEUTRALITY

SUBCHAPTER I—WAR MATERIALS

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| Sec. | |
| 401. | Illegal exportation of war materials. <ul style="list-style-type: none"> (a) Seizure and forfeiture of materials and carriers. (b) Applicability of laws relating to seizure, forfeiture, and condemnation. (c) Disposition of forfeited materials. |
| 402 to 405. | Repealed. |
| 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. |
| 422. | Retention for United States of defense articles procured for foreign governments. |
| 423. | Omitted. |
| | SUBCHAPTER II—NEUTRALITY |
| 441. | Proclamation of state of war between foreign states. <ul style="list-style-type: none"> (a) Issuance of proclamation. (b) Revocation of proclamation. |
| 442, 443. | Repealed. |
| 444. | American Red Cross vessels. <ul style="list-style-type: none"> (a) Transport of officers, American Red Cross personnel, medical personnel, medical supplies, food and clothing. (b) Transport of refugee children. |
| 445. | Travel on vessels of belligerent states. <ul style="list-style-type: none"> (a) Proscription by Presidential proclamation. (b) Revocation of proclamation; effect. |
| 446. | Repealed. |
| 447. | Financial transactions. <ul style="list-style-type: none"> (a) Bonds, securities, or other obligations. (b) Renewal or adjustment of indebtedness. (c) Fine and imprisonment. |