

(A) IN GENERAL.—The procedures described in this paragraph shall apply to the review of a petition under this section.

(B) ADMINISTRATIVE RECORD.—

(i) FILING OF RECORD.—The United States shall file with the court an administrative record, which shall consist of the information that the appropriate official relied upon in issuing an exclusion or removal order under section 1323(c)(5) or a covered procurement action under section 4713 of this title.

(ii) UNCLASSIFIED, NONPRIVILEGED INFORMATION.—All unclassified information contained in the administrative record that is not otherwise privileged or subject to statutory protections shall be provided to the petitioner with appropriate protections for any privileged or confidential trade secrets and commercial or financial information.

(iii) IN CAMERA AND EX PARTE.—The following information may be included in the administrative record and shall be submitted only to the court ex parte and in camera:

(I) Classified information.

(II) Sensitive security information, as defined by section 1520.5 of title 49, Code of Federal Regulations.

(III) Privileged law enforcement information.

(IV) Information obtained or derived from any activity authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), except that, with respect to such information, subsections (c), (e), (f), (g), and (h) of section 106 (50 U.S.C. 1806), subsections (d), (f), (g), (h), and (i) of section 305 (50 U.S.C. 1825), subsections (c), (e), (f), (g), and (h) of section 405 (50 U.S.C. 1845), and section 706 (50 U.S.C. 1881e) of that Act shall not apply.

(V) Information subject to privilege or protections under any other provision of law.

(iv) UNDER SEAL.—Any information that is part of the administrative record filed ex parte and in camera under clause (iii), or cited by the court in any decision, shall be treated by the court consistent with the provisions of this subparagraph and shall remain under seal and preserved in the records of the court to be made available consistent with the above provisions in the event of further proceedings. In no event shall such information be released to the petitioner or as part of the public record.

(v) RETURN.—After the expiration of the time to seek further review, or the conclusion of further proceedings, the court shall return the administrative record, including any and all copies, to the United States.

(C) EXCLUSIVE REMEDY.—A determination by the court under this subsection shall be the exclusive judicial remedy for any claim described in this section against the United States, any United States department or agency, or any component or official of any such department or agency.

(D) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting, superseding, or preventing the invocation of, any privileges or defenses that are otherwise available at law or in equity to protect against the disclosure of information.

(c) DEFINITION.—In this section, the term “classified information”—

(1) has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.); and

(2) includes—

(A) any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation to require protection against unauthorized disclosure for reasons of national security; and

(B) any restricted data, as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(Added Pub. L. 115-390, title II, §202(a), Dec. 21, 2018, 132 Stat. 5185.)

Editorial Notes

REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (b)(4)(B)(iii)(IV), is Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to chapter 36 (§1801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 50 and Tables.

The Classified Information Procedures Act, referred to in subsec. (c)(1), is Pub. L. 96-456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Dec. 21, 2018, and applicable to contracts that are awarded before, on, or after that date, see section 202(c) of Pub. L. 115-390, set out as a note under section 1321 of this title.

Title II of Pub. L. 115-390 effective 90 days after Dec. 21, 2018, see section 205 of Pub. L. 115-390, set out as a note under section 1321 of this title.

§ 1328. Termination

This subchapter shall terminate on December 31, 2033.

(Added Pub. L. 115-390, title II, §202(a), Dec. 21, 2018, 132 Stat. 5188; amended Pub. L. 117-263, div. E, title LIX, §5949(k)(1), Dec. 23, 2022, 136 Stat. 3492.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-263 substituted “December 31, 2033” for “the date that is 5 years after the date of the enactment of the Federal Acquisition Supply Chain Security Act of 2018”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Dec. 21, 2018, and applicable to contracts that are awarded before, on, or after that date, see section 202(c) of Pub. L. 115-390, set out as a note under section 1321 of this title.

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CHAPTER 15—COST ACCOUNTING STANDARDS

Sec.	
1501.	Cost Accounting Standards Board.
1502.	Cost accounting standards.
1503.	Contract price adjustment.
1504.	Effect on other standards and regulations.
1505.	Examinations.
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§ 1501. Cost Accounting Standards Board

(a) ORGANIZATION.—The Cost Accounting Standards Board is an independent board in the Office of Federal Procurement Policy.

(b) MEMBERSHIP.—

(1) NUMBER OF MEMBERS, CHAIRMAN, AND APPOINTMENT.—The Board consists of 5 members. One member is the Administrator, who serves as Chairman. The other 4 members, all of whom shall have experience in Federal Government contract cost accounting, are as follows:

(A) 2 representatives of the Federal Government—

(i) one of whom is a representative of the Department of Defense appointed by the Secretary of Defense; and

(ii) one of whom is an officer or employee of the General Services Administration appointed by the Administrator of General Services.

(B) 2 individuals from the private sector, each of whom is appointed by the Administrator, and—

(i) one of whom is a representative of industry; and

(ii) one of whom is particularly knowledgeable about cost accounting problems and systems and, if possible, is a representative of a public accounting firm.

(2) TERM OF OFFICE.—

(A) LENGTH OF TERM.—The term of office of each member, other than the Administrator, is 4 years. The terms are staggered, with the terms of 2 members expiring in the same year, the term of another member expiring the next year, and the term of the last member expiring the year after that.

(B) INDIVIDUAL REQUIRED TO REMAIN WITH APPOINTING AGENCY.—A member appointed under paragraph (1)(A) may not continue to serve after ceasing to be an officer or employee of the agency from which that member was appointed.

(3) VACANCY.—A vacancy on the Board shall be filled in the same manner in which the original appointment was made. A member appointed to fill a vacancy serves for the remainder of the term for which that member's predecessor was appointed.

(c) DUTIES.—The Board shall—

(1) ensure that the cost accounting standards used by Federal contractors rely, to the maximum extent practicable, on commercial standards and accounting practices and systems;

(2) within one year after the date of enactment of this subsection, and on an ongoing basis thereafter, review any cost accounting standards established under section 1502 of this title and conform such standards, where practicable, to Generally Accepted Accounting Principles; and

(3) annually review disputes involving such standards brought to the boards established in section 7105 of this title or Federal courts, and consider whether greater clarity in such standards could avoid such disputes.

(d) MEETINGS.—The Board shall meet not less than once each quarter and shall publish in the Federal Register notice of each meeting and its agenda before such meeting is held.

(e) REPORT.—The Board shall annually submit a report to the congressional defense committees, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate describing the actions taken during the prior year—

(1) to conform the cost accounting standards established under section 1502 of this title with Generally Accepted Accounting Principles; and

(2) to minimize the burden on contractors while protecting the interests of the Federal Government.

(f) SENIOR STAFF.—The Administrator, after consultation with the Board—

(1) without regard to the provisions of title 5 governing appointments in the competitive service—

(A) shall appoint an executive secretary; and

(B) may appoint, or detail pursuant to section 3341 of title 5, two additional staff members; and

(2) may pay those employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that those employees may not receive pay in excess of the maximum rate of basic pay payable for level IV of the Executive Schedule.

(g) OTHER STAFF.—The Administrator may appoint, fix the compensation of, and remove additional employees of the Board under the applicable provisions of title 5.

(h) DETAILED AND TEMPORARY PERSONNEL.—For service on advisory committees and task forces to assist the Board in carrying out its functions and responsibilities—

(1) the Board, with the consent of the head of a Federal agency, may use, without reimbursement, personnel of that agency; and

(2) the Administrator, after consultation with the Board, may procure temporary and intermittent services of personnel under section 3109(b) of title 5.

(i) COMPENSATION.—

(1) OFFICERS AND EMPLOYEES OF THE GOVERNMENT.—Members of the Board who are officers or employees of the Federal Government, and officers and employees of other agencies of the Federal Government who are used under sub-