

entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

(3) The term “nonrecurring, unrecovered costs” means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis.

(Added Pub. L. 100-322, title IV, §404(a), May 20, 1988, 102 Stat. 545; amended Pub. L. 101-237, title VI, §601(a), (b)(1), Dec. 18, 1989, 103 Stat. 2094; Pub. L. 102-83, §4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

#### AMENDMENTS

1991—Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in two places in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans’ Administration”.

Subsec. (b)(1)(A). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

Subsec. (b)(2)(A). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in two places.

Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans’ Administration”.

Subsec. (c). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary’s” for “Administrator’s”.

Subsec. (d). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

1989—Pub. L. 101-237, §601(b)(1), struck out “for certain medical items” after “Multiyear procurement” in section catchline.

Subsec. (a). Pub. L. 101-237, §601(a)(1), struck out “for use in Veterans’ Administration health-care facilities” after “supplies or services”.

Subsec. (b)(2)(A). Pub. L. 101-237, §601(a)(2), struck out “health-care” before “programs, the amount”.

Subsec. (e)(2) to (4). Pub. L. 101-237, §601(a)(3), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: “The term ‘cancel’ or ‘cancellation’ refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.”

#### § 115. Acquisition of real property

For the purposes of sections 314, 315, 316, and 2406 of this title and subchapter I of chapter 81 of this title, the Secretary may acquire and use real property—

(1) before title to the property is approved under section 3111 of title 40; and

(2) even though the property will be held in other than a fee simple interest in a case in which the Secretary determines that the interest to be acquired is sufficient for the purposes of the intended use.

(Added Pub. L. 102-86, title IV, §402(a), Aug. 14, 1991, 105 Stat. 422; amended Pub. L. 102-83, §5(c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, §1201(d)(1), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 107-217, §3(j)(1), Aug. 21, 2002, 116 Stat. 1300.)

#### AMENDMENTS

2002—Par. (1). Pub. L. 107-217 substituted “section 3111 of title 40” for “section 355 of the Revised Statutes (40 U.S.C. 255)”.

1994—Pub. L. 103-446 substituted “sections 314, 315, 316,” for “sections 230” in introductory provisions.

1991—Pub. L. 102-83 substituted “2406” for “1006” in introductory provisions.

#### § 116. Reports to Congress: cost information

Whenever the Secretary submits to Congress, or any committee of Congress, a report that is required by law or by a joint explanatory statement of a committee of conference of the Congress, the Secretary shall include with the report—

(1) a statement of the cost of preparing the report; and

(2) a brief explanation of the methodology used in preparing that cost statement.

(Added Pub. L. 106-419, title IV, §403(d)(1)(A), Nov. 1, 2000, 114 Stat. 1864.)

#### EFFECTIVE DATE

Pub. L. 106-419, title IV, §403(d)(2), Nov. 1, 2000, 114 Stat. 1864, provided that: “Section 116 of title 38, United States Code, as added by paragraph (1) of this subsection, shall apply with respect to any report submitted by the Secretary of Veterans Affairs after the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 1, 2000].”

### CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS

Sec.	
301.	Department.
302.	Seal.
303.	Secretary of Veterans Affairs.
304.	Deputy Secretary of Veterans Affairs.
305.	Under Secretary for Health.
306.	Under Secretary for Benefits.
307.	Under Secretary for Memorial Affairs.
308.	Assistant Secretaries; Deputy Assistant Secretaries.
309.	Chief Financial Officer.
310.	Chief Information Officer.
311.	General Counsel.
312.	Inspector General.
312A.	Director of Construction and Facilities Management.
313.	Availability of appropriations.
314.	Central Office.
315.	Regional offices.
316.	Colocation of regional offices and medical centers.
317.	Center for Minority Veterans.
318.	Center for Women Veterans.
319.	Office of Employment Discrimination Complaint Adjudication.
320.	Department of Veterans Affairs-Department of Defense Joint Executive Committee.

#### PRIOR PROVISIONS

Prior chapter 3, consisted of sections 201 to 203, 210 to 224, 230, 231, 233 to 236, and 240, prior to repeal by Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 378.

Section 201, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1114, established Veterans’ Administration as an independent agency in executive branch of Government. See section 301 of this title.

Section 202, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1114, related to seal of Veterans’ Administration and authentication of records of Veterans’ Administration. See section 302 of this title.

Section 203, added Pub. L. 94-424, §2(a), Sept. 28, 1976, 90 Stat. 1332; amended Pub. L. 97-258, §2(j), Sept. 13, 1982, 96 Stat. 1062; Pub. L. 98-160, title VII, §702(1), Nov. 21, 1983, 97 Stat. 1009, related to availability of appropriations. See section 313 of this title.

Section 210, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1114; Pub. L. 88-426, title III, §305(15), Aug. 14, 1964, 78 Stat. 424; Pub. L. 89-361, §1(a), (b), Mar. 7, 1966, 80 Stat. 29;

Pub. L. 89-785, title III, §301, Nov. 7, 1966, 80 Stat. 1376; Pub. L. 92-328, title II, §201, June 30, 1972, 86 Stat. 396; Pub. L. 95-202, title III, §301, Nov. 23, 1977, 91 Stat. 1440; Pub. L. 96-22, title V, §502(a), June 13, 1979, 93 Stat. 64; Pub. L. 97-66, title VI, §601(a)(1), Oct. 17, 1981, 95 Stat. 1033; Pub. L. 97-452, §2(e)(1), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 99-166, title IV, §403(a), Dec. 3, 1985, 99 Stat. 957; Pub. L. 99-576, title V, §501, title VII, §701(9), Oct. 28, 1986, 100 Stat. 3285, 3291; Pub. L. 100-527, §15(a), Oct. 5, 1988, 102 Stat. 2644; Pub. L. 102-40, title III, §303, May 7, 1991, 105 Stat. 208, related to appointment and general authority of Administrator and Deputy Administrator. See sections 303, 304, 501, 503, 510, and 711 of this title.

Section 211, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89-214, §1(b), Sept. 29, 1965, 79 Stat. 886; Pub. L. 89-358, §4(h), Mar. 3, 1966, 80 Stat. 24; Pub. L. 91-376, §8(a), Aug. 12, 1970, 84 Stat. 790; Pub. L. 100-687, div. A, title I, §101(a), Nov. 18, 1988, 102 Stat. 4105, related to decisions of Administrator and opinions of Attorney General. See sections 505 and 511 of this title.

Section 212, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89-361, §2, Mar. 7, 1966, 80 Stat. 30; Pub. L. 99-576, title VII, §701(10), Oct. 28, 1986, 100 Stat. 3291, related to delegation of authority and assignment of duties. See section 512 of this title.

Section 213, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89-785, title III, §302, Nov. 7, 1966, 80 Stat. 1376; Pub. L. 91-24, §2(c), June 11, 1969, 83 Stat. 33; Pub. L. 99-576, title VII, §701(11), Oct. 28, 1986, 100 Stat. 3291, related to contracts and acceptance of personal services. See section 513 of this title.

Section 214, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115, required an annual report to Congress by Administrator. See section 529 of this title.

Section 215, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 99-576, title VII, §701(10), Oct. 28, 1986, 100 Stat. 3291, related to publication of laws relating to veterans. See section 525 of this title.

Section 216, added Pub. L. 100-322, title I, §132(a), May 20, 1988, 102 Stat. 506; amended Pub. L. 102-40, title IV, §402(d)(1), May 7, 1991, 105 Stat. 239, related to assistance to certain rehabilitation activities. See section 521 of this title.

Another prior section 216, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 87-572, Aug. 6, 1962, 76 Stat. 307; Pub. L. 88-433, §1(a)-(c), Aug. 14, 1964, 78 Stat. 441, 442; Pub. L. 89-705, §1, Nov. 2, 1966, 80 Stat. 1099, which directed Administrator to conduct research in field of prosthetic appliances, prosthesis, orthopedic appliances, and sensory devices, was repealed by Pub. L. 94-581, title II, §205(c)(1), Oct. 21, 1976, 90 Stat. 2859. See section 7303 of this title.

Section 217, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 99-576, title VII, §701(10), Oct. 28, 1986, 100 Stat. 3291, related to studies of rehabilitation of disabled persons. See section 522 of this title.

Section 218, added Pub. L. 93-43, §4(a), June 18, 1973, 87 Stat. 79; amended Pub. L. 98-528, title I, §101(a)(1), Oct. 19, 1984, 98 Stat. 2686; Pub. L. 99-576, title II, §211, Oct. 28, 1986, 100 Stat. 3257, related to security and law enforcement on property under jurisdiction of Veterans' Administration. See section 901 et seq. of this title.

Section 219, added Pub. L. 93-508, title II, §213(a), Dec. 3, 1974, 88 Stat. 1586; amended Pub. L. 99-576, title VII, §701(12), Oct. 28, 1986, 100 Stat. 3291, related to evaluation of programs and collection of data. See section 527 of this title.

Section 220, added Pub. L. 93-508, title II, §213(a), Dec. 3, 1974, 88 Stat. 1587; amended Pub. L. 96-466, title VII, §701(a), (b)(1), Oct. 17, 1980, 94 Stat. 2215; Pub. L. 98-528, title I, §106(a), (b)(1), Oct. 19, 1984, 98 Stat. 2690, related to coordination and promotion of other programs affecting veterans and their dependents. See section 523 of this title.

Section 221, added Pub. L. 97-37, §2(a), Aug. 14, 1981, 95 Stat. 935, established Advisory Committee on Former Prisoners of War. See section 541 of this title.

Section 222, added Pub. L. 98-160, title III, §301(a), Nov. 21, 1983, 97 Stat. 1003, established Advisory Com-

mittee on Women Veterans. See section 542 of this title.

Section 223, added Pub. L. 100-687, div. A, title I, §102(a)(1), Nov. 18, 1988, 102 Stat. 4106, related to rule-making procedures and judicial review. See sections 501 and 502 of this title.

Section 224, added Pub. L. 100-322, title II, §203(b)(1), May 20, 1988, 102 Stat. 509, §223; renumbered §224, Pub. L. 101-94, title III, §302(d)(1), Aug. 16, 1989, 103 Stat. 628, related to administrative settlement of tort claims. See section 515 of this title.

Section 230, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 86-103, July 23, 1959, 73 Stat. 224; Pub. L. 87-815, §5, Oct. 15, 1962, 76 Stat. 927; Pub. L. 91-338, July 16, 1970, 84 Stat. 437; Pub. L. 93-82, title IV, §401, Aug. 2, 1973, 87 Stat. 196; Pub. L. 95-520, §2, Oct. 26, 1978, 92 Stat. 1820; Pub. L. 96-22, title V, §503(a), June 13, 1979, 93 Stat. 65; Pub. L. 96-385, title V, §501, Oct. 7, 1980, 94 Stat. 1533; Pub. L. 97-295, §4(6), Oct. 12, 1982, 96 Stat. 1305; Pub. L. 99-108, §1, Sept. 30, 1985, 99 Stat. 481; Pub. L. 99-166, title IV, §402, Dec. 3, 1985, 99 Stat. 957; Pub. L. 99-576, title VII, §701(13), Oct. 28, 1986, 100 Stat. 3291; Pub. L. 100-689, title V, §501(a), Nov. 18, 1988, 102 Stat. 4179; Pub. L. 101-237, title VI, §603(a), Dec. 18, 1989, 103 Stat. 2095, related to Central Office and regional offices. See sections 314 to 316 of this title.

Section 231, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116, related to placement of employees in military installations. See section 701 of this title.

Section 232, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116, which authorized Administrator to contract for services of translators without regard to certain provisions of law, was repealed by Pub. L. 91-24, §2(a), June 11, 1969, 83 Stat. 33.

Section 233, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 87-574, §1(1), Aug. 6, 1962, 76 Stat. 308; Pub. L. 89-785, title III, §303(a), (b), Nov. 7, 1966, 80 Stat. 1376, 1377; Pub. L. 99-576, title VII, §§701(14), 702(2), Oct. 28, 1986, 100 Stat. 3291, 3301, related to providing employee's apparel, transportation of employee children, recreational facilities, educational information, reimbursement for personal property, and emergency transportation. See section 703 of this title.

Section 234, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1117; Pub. L. 93-82, title IV, §402(a), (c), Aug. 2, 1973, 87 Stat. 196, related to telephone service for medical officers and facility directors. See section 705 of this title.

Section 235, added Pub. L. 86-116, §1, July 28, 1959, 73 Stat. 265; amended Pub. L. 87-815, §6, Oct. 15, 1962, 76 Stat. 927; Pub. L. 89-300, §1(c), Oct. 28, 1965, 79 Stat. 1110; Pub. L. 96-22, title V, §503(b), (c)(1), June 13, 1979, 93 Stat. 65; Pub. L. 96-465, title II, §2206(g), Oct. 17, 1980, 94 Stat. 2163; Pub. L. 99-576, title VII, §§701(15), 702(3), Oct. 28, 1986, 100 Stat. 3291, 3301, related to benefits to employees at overseas offices who are United States citizens. See section 707 of this title.

Section 236, added Pub. L. 89-300, §1(a), Oct. 28, 1965, 79 Stat. 1110; amended Pub. L. 99-576, title VII, §701(16), Oct. 28, 1986, 100 Stat. 3292, related to administrative settlement of tort claims arising in foreign countries. See section 515 of this title.

Section 240, added Pub. L. 91-219, title II, §214(a), Mar. 26, 1970, 84 Stat. 84; amended Pub. L. 92-540, title IV, §410(a), Oct. 24, 1972, 86 Stat. 1092, described purpose and defined terms for veterans outreach services program.

Section 241, added Pub. L. 91-219, title II, §214(a), Mar. 26, 1970, 84 Stat. 84; amended Pub. L. 92-540, title IV, §410(b), Oct. 24, 1972, 86 Stat. 1092; Pub. L. 93-508, title II, §214(1), (2), Dec. 3, 1974, 88 Stat. 1587; Pub. L. 99-576, title VII, §§701(17), 702(4), Oct. 28, 1986, 100 Stat. 3292, 3301, related to outreach services.

Section 242, added Pub. L. 91-219, title II, §214(a), Mar. 26, 1970, 84 Stat. 85; amended Pub. L. 93-508, title II, §214(3), Dec. 3, 1974, 88 Stat. 1587; Pub. L. 99-576, title VII, §701(18), Oct. 28, 1986, 100 Stat. 3292, related to veterans assistance offices.

Section 243, added Pub. L. 93-508, title II, §214(4), Dec. 3, 1974, 88 Stat. 1587; amended Pub. L. 97-295, §4(7), Oct. 12, 1982, 96 Stat. 1305; Pub. L. 97-306, title II, §201(a),

Oct. 14, 1982, 96 Stat. 1433, related to outstationing of counseling and outreach personnel.

Section 244, added Pub. L. 91-219, title II, §214(a), Mar. 26, 1970, 84 Stat. 85, §243; renumbered §244 and amended Pub. L. 93-508, title II, §214(4), (5), Dec. 3, 1974, 88 Stat. 1587, 1588; Pub. L. 96-466, title V, §501, Oct. 17, 1980, 94 Stat. 2202; Pub. L. 99-576, title VII, §701(19), Oct. 28, 1986, 100 Stat. 3292, related to utilization of other agencies.

Section 245, added Pub. L. 91-219, title II, §214(a), Mar. 26, 1970, 84 Stat. 85, §244; renumbered §245, Pub. L. 93-508, title II, §214(4), Dec. 3, 1974, 88 Stat. 1587, related to an annual report to Congress on the effectiveness of outreach programs.

Section 246, added Pub. L. 95-202, title III, §310(b)(1), Nov. 23, 1977, 91 Stat. 1446; amended Pub. L. 95-336, §6(b), Aug. 4, 1978, 92 Stat. 453; Pub. L. 97-295, §4(8), Oct. 12, 1982, 96 Stat. 1305, related to veterans cost-of-instruction payments to institutions of higher learning.

#### AMENDMENTS

2006—Pub. L. 109-461, title VIII, §811(b), Dec. 22, 2006, 120 Stat. 3447, added item 312A.

2003—Pub. L. 108-136, div. A, title V, §583(a)(2), Nov. 24, 2003, 117 Stat. 1491, added item 320.

1998—Pub. L. 105-368, title IV, §403(c)(1)(B), Nov. 11, 1998, 112 Stat. 3338, substituted "Under Secretary for Memorial Affairs" for "Director of the National Cemetery System" in item 307.

1997—Pub. L. 105-114, title I, §102(a)(2), Nov. 21, 1997, 111 Stat. 2281, added item 319.

1996—Pub. L. 104-106, div. E, title LVI, §5608(b), Feb. 10, 1996, 110 Stat. 702, substituted "Chief Information Officer" for "Chief Information Resources Officer" in item 310.

1994—Pub. L. 103-446, title V, §509(b), Nov. 2, 1994, 108 Stat. 4668, substituted "Center for Minority Veterans" for "Chief Minority Affairs Officer" in item 317 and added item 318.

1992—Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984, substituted "Under Secretary for Health" for "Chief Medical Director" in item 305 and "Under Secretary for Benefits" for "Chief Benefits Director" in item 306.

1991—Pub. L. 102-218, §1(b), Dec. 11, 1991, 105 Stat. 1672, added item 317.

### § 301. Department

(a) The Department of Veterans Affairs is an executive department of the United States.

(b) The purpose of the Department is to administer the laws providing benefits and other services to veterans and the dependents and the beneficiaries of veterans.

(c) The Department is composed of the following:

- (1) The Office of the Secretary.
- (2) The Veterans Health Administration.
- (3) The Veterans Benefits Administration.
- (4) The National Cemetery Administration.
- (5) The Board of Veterans' Appeals.
- (6) The Veterans' Canteen Service.
- (7) The Board of Contract Appeals.
- (8) Such other offices and agencies as are established or designated by law or by the President or the Secretary.
- (9) Any office, agency, or activity under the control or supervision of any element named in paragraphs (1) through (8).

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 378; amended Pub. L. 105-368, title IV, §403(a)(2), Nov. 11, 1998, 112 Stat. 3338.)

#### PRIOR PROVISIONS

Prior section 301 was renumbered section 1101 of this title.

Provisions similar to those in subsec. (a) of this section were contained in section 2 of Pub. L. 100-527, known as the Department of Veterans Affairs Act.

Provisions similar to those in subsec. (b) of this section were contained in section 201 of this title prior to repeal by Pub. L. 102-83, §2(a).

#### AMENDMENTS

1998—Subsec. (c)(4). Pub. L. 105-368 substituted "Administration" for "System".

#### ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of Veterans Affairs are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13247, Dec. 18, 2001, 66 F.R. 66271, set out as a note under section 3345 of Title 5, Government Organization and Employees.

#### DEPARTMENT OF VETERANS AFFAIRS FRANCHISE FUND

Pub. L. 104-204, title I, Sept. 26, 1996, 110 Stat. 2880, as amended by Pub. L. 109-114, title II, §208, Nov. 30, 2005, 119 Stat. 2389, provided in part that: "There is hereby established in the Treasury a Department of Veterans Affairs franchise fund, to be available without fiscal year limitation for expenses and equipment necessary for the maintenance and operation of such administrative services as the Secretary determines may be performed more advantageously as central services: *Provided*, That any inventories, equipment and other assets pertaining to the services to be provided by the franchise fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize the franchise fund: *Provided further*, That the franchise fund may be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further*, That the franchise fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Departmental financial management, ADP, and other support systems: *Provided further*, That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury."

#### RENAMING OF VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION

Pub. L. 102-40, §2, May 7, 1991, 105 Stat. 187, provided that:

"(a) RENAMING.—The establishment in the Department of Veterans Affairs known as the Veterans Health Services and Research Administration is hereby redesignated as the Veterans Health Administration.

"(b) REFERENCES.—Any reference to the Veterans Health Services and Research Administration (or to the Department of Medicine and Surgery of the Veterans' Administration) in any Federal law, Executive order, regulation, delegation of authority, or document or other pertaining to the Department of Veterans Affairs shall be deemed to refer to the Veterans Health Administration."

#### DEPARTMENT OF VETERANS AFFAIRS ACT

Pub. L. 100-527, §§1-12, 14, 16, 18, Oct. 25, 1988, 102 Stat. 2635-2642, 2644, 2645, 2648, as amended by Pub. L. 101-94, title IV, §401, Aug. 16, 1989, 103 Stat. 628; Pub. L. 101-576,